



Permitting for Environmental Results (PER)

NPDES Profile: Arizona and Indian Country

PROGRAM RESPONSIBILITY

State of Arizona: NPDES authority for base program, general permitting, federal facilities, pretreatment, biosolids

EPA Region 9: NPDES authority for all facilities in Indian Country

Program Integrity Profile

This profile characterizes key components of the National Pollutant Discharge Elimination System (NPDES) program, including program administration and implementation, environmental outcomes, enforcement, and compliance. EPA considers profiles to be an initial screen of NPDES permitting, water quality, enforcement, and compliance programs based on self-evaluations by the States and a review of national data. EPA will use the profiles to identify program strengths and opportunities for enhancements. For more information, please contact John Tinger, EPA Region 9, at (415) 972-3518 or Jane Derose-Bamman, Arizona Department of Environmental Quality, at (602) 771-4374.

Section I. Program Administration

1. Resources and Overall Program Management

The State of Arizona:

The base NPDES program authorization, including the program for federal facilities, the pretreatment program, and general permits occurred on December 5, 2002. Authorization for biosolids occurred on March 31, 2004. The NPDES program is administered by the Arizona Department of Environmental Quality (ADEQ). ADEQ received authorization for the NPDES program in December 2002, which included program authorization for pretreatment, federal facilities, and general permits. Litigation is pending on the authorization of the NPDES program brought by the Defenders of Wildlife, mainly due to issues surrounding the transfer of the program and the potential impacts on endangered species.

Table 1: NPDES Universe in State

	Major Facilities	Minor Facilities w/Individual Permits	Minor Facilities w/General Permits	SIUs (including CIUs)	CAFOs
No. of Sources	44 ^a 8 Phase I MS4	114 ^a	40 Phase II 24 CAFO ^b	267	24 existing 150 under new CAFO definitions
% of National Universe	<1%	<1%		1.2 %	<1%

Note: MS4 = municipal separate storm sewer system, CAFO = concentrated animal feeding operation, SIU = significant industrial user, CIU = categorical industrial user.

^aPCS, 6/29/04. The National Data Sources columns on the Management Report (measures #1 and #2) include EPA-issued permits in Indian Country in the State Activity column. The correct permit counts are shown in the Additional Data columns.

^bThe March 2004 ePIFT data reflected in the National Data Sources column on the Management Report (measure #3) did not capture the facilities covered under the CAFO general permit. These facilities are tracked in the State's tracking system, AZURITE.

The Surface Water Permits Unit issues NPDES permits (called AZPDES permits); the Water Quality Division's Data Management Section maintains databases and computer management systems; and the Water Quality Division's Planning Section develops and tracks grants and budgets. The Water Quality Compliance Section carries out compliance and enforcement actions and inspects facilities. The Department's Regional Office inspectors in Tucson and Flagstaff perform compliance inspections and follow-up actions in their regions and coordinate enforcement activities with the Water Quality Compliance Section. The Water Quality Division's Hydrologic Support and Assessment Section prepares the water quality inventory prepared under Clean Water Act (CWA) section 305(b), develops the triennial review of Arizona's water quality standards, reviews and reclassifies Arizona's surface water bodies, designates "unique waters," and develops total maximum daily loads (TMDLs).

ADEQ has 30 full-time equivalents (FTEs) for permitting and compliance and operates on a budget of \$2.4 million, of which about \$1 million is federally funded. The ADEQ Department Director and Deputy Director have changed since program approval; however, no management changes in the water program have occurred. ADEQ added two permit staff in 2003, and after a 9-month vacancy, the pretreatment coordinator position was filled in April 2004.

ADEQ created and offered its AZPDES program training to all staff in Phoenix, Flagstaff, and Tucson in 2002. The Department has offered the EPA NPDES-related training courses to ADEQ staff, hosting both the NPDES Permit Writers' Training Course and EPA whole effluent toxicity (WET) training in 2002 and 2003. In addition, ADEQ held stormwater training sessions for all staff and has partnered with the International Erosion Control Association to offer a conference on erosion control and stormwater. The permitting unit has developed a process for training new staff.

EPA Region 9:

Several Region 9 staff (totaling about one FTE) are assigned as leads for different aspects of EPA's oversight of Arizona's NPDES program. Regional staff responsible for program oversight of Arizona's program also write NPDES permits for 25 facilities in Indian Country, including four major permits, for issuance by Region 9 (PCS, 6/29/04). There are no federal facility permits in Arizona.¹

Regional resources are adequate for oversight of the program. Staffing levels have remained relatively constant since program authorization. Region 9 staff receive training through standard EPA training opportunities: the NPDES Permit Writers' Training Course, the Water Quality Standards Academy, Headquarters training, and the like. The Region also has comprehensive internal training on a variety of issues, including new science, teamwork, management skills, and working with Tribes. Staff members participate in training and workshops on topics specific to the Pacific Southwest.

2. State Program Assistance

EPA Region 9:

The Region determines NPDES priorities by consulting with State program managers and EPA's Office of Water and Office of Enforcement and Compliance Assurance, responding to requests from ADEQ for assistance, and addressing permits or actions that have a high level of public interest or compel the Region's involvement.

3. EPA Activities in Indian Country

EPA Region 9:

EPA coordinates with Tribal authorities when issuing permits in Indian Country. This coordination includes contacting Tribal authorities during the permit-writing process and sharing draft and final permits directly with the Tribe. The level of participation by Tribes varies. Larger governments such as the Navajo Nation and the Hopi have their own environmental departments, which often provide review and comment on EPA permits and accompany EPA inspectors in the field.

Where a Tribe has its own EPA-approved water quality standards, the Tribe reviews the permit and provides certification under section 401 of the CWA prior to the Region's issuing the permit.

The White Mountain Apache Tribe and the Hualapai Tribe have approved water quality standards. Several other Tribes are developing water quality standards programs. The Navajo Nation has expressed interest in obtaining NPDES program authorization.

¹ Note that the Management Report indicates there are 56 major permits; however, 8 of these are MS4 permits and 4 are permits in Indian Country administered by EPA Region 9. The Management Report also indicates that there are 135 minor permits; however, 21 are permits in Indian Country administered by EPA Region 9.

4. Legal Authorities

EPA is conducting a comprehensive review of the State's legal authorities. This review has not yet been completed. As a result, EPA is reserving this section of the profile; when the legal reviews are complete, EPA will update profiles to include the results of the reviews.

5. Public Participation

An evaluation of the State's legal authorities regarding public participation will be included in the legal authority review. As noted above, the legal authority review section of this profile is reserved pending completion of the legal authority review.

The State of Arizona:

Public participation in the AZPDES program is governed by statutory and regulatory requirements. Arizona Revised Statutes (A.R.S.) 49-205 provide requirements regarding the availability of information to the public and A.R.S. 49-208 provide requirements for public participation in general. Also, the Arizona Administrative Code (A.A.C.) contains specific requirements for public notice of permitting actions (A.A.C. R18-9-A907) and public participation and hearings (A.A.C. R18-9-A908(A), (B) and (E)).

For actions that have widespread interest, the Department maintains a list of stakeholders interested in AZPDES issues, emails the stakeholders to solicit comment, and adds any interested person to the list upon request.

The term "public" is not specifically defined in the AZPDES program. The Department interprets "public" to mean any person other than the permittee or applicant. "Person" is defined at A.R.S. 49-201(26) and means "an individual, employee, officer, managing body, trust, firm, joint stock company, consortium, public or private corporation, including a government corporation, partnership, association or state, a political subdivision of this state, a commission, the United States government or any federal facility, interstate body or other entity."

Draft AZPDES permits are shared prior to public notice with the Region and other stakeholders for an external review. Notices of draft permits are published in a local newspaper and also sent directly to a list of stakeholders. Although there are no formal procedures for outreach, ADEQ has conducted outreach for complex permits, including general permits and controversial individual permits, that have involved public meetings and hearings.

General permits and permit applications are available on ADEQ's Web site. Individual permits are not available for public review on the Web site. There are no known barriers to receiving meaningful public comment on draft permits. In addition, permits and fact sheets for most major facilities issued after November 1, 2002, may be accessed via EPA's Web site. Instructions for accessing these documents are available at <http://www.epa.gov/npdes/permitdocuments>.

EPA Region 9:

For EPA-issued permits, EPA follows federal requirements for ensuring sufficient public participation in the NPDES permitting process. Notices of Proposed Action, per title 40 of the Code of Federal Regulations, section (CFR) 124.10, are published in a daily newspaper circulated in the geographic area of the proposed discharge. As part of the public notice process, EPA sends the draft permit and fact sheet to a mailing list of municipal, Tribal, State, and federal agencies, public interest groups, concerned citizens, and any other interested entity or party who has requested individual notices of proposed determinations in the past.

During the public participation process, draft NPDES permits proposed for issuance have a public comment period of a minimum of 30 days following legal public notice of the proposed action. Any person may comment to EPA in writing in response to the proposed permit action. EPA reviews the comments and responds in accordance with 40 CFR 124.17. EPA retains responses in the individual permit files for the public record. If information submitted during the public comment period raises substantial new questions about the draft permit, a new draft permit with a revised fact sheet may be prepared or a final permit with changes explained is issued. If the permit is altered significantly in response to comments, the comment period may be reopened (but limited to new findings) and the proposed permitting action may be made available for public comment again.

During the public comment period, any interested party may request a public hearing, although this seldom occurs in the Region. EPA decides whether to hold a public hearing based on a review of the issues raised and the level of public interest.

Members of the public may also appeal a final permitting decision if they have provided comments and followed the procedure by raising their concerns in a timely manner. Permit appeals for individual permits are heard by the Environmental Appeals Board, which issues its decision based on the administrative record and testimony provided at the hearing. The permit may be upheld or remanded back to EPA for modification. Further appeals in the courts are possible.

For permits issued by EPA in Indian Country where the Tribe has an approved water quality standards program, the Region obtains certification under section 401 of the CWA from the Tribe prior to issuing the permit. Permits issued by EPA in Indian Country have not been posted on the Region's Web site due to the low level of public interest. Aside from comments submitted by permittees, EPA has not received inquiries or comments from the general public on permits issued in Indian Country. There have been no procedural barriers to including meaningful public participation in permit issuance. After a permit is issued, the permit and compliance information is entered into the Permit Compliance System (PCS). This information is available to the public through Envirofacts, which is EPA's Web-based national repository for environmental, permitting, and compliance information. The URL for accessing information on NPDES permits is http://oaspub.epa.gov/enviro/ef_home2.water. The compliance and enforcement status of facilities with NPDES permits can be accessed through EPA's Enforcement and Compliance History Online (ECHO) Web site at <http://www.epa.gov/echo>. These two systems are cross linked.

In addition, Region 9 issues press releases on all enforcement actions taken within the Region to inform the public. The press releases are published on the Region's Web site.

6. Permit Issuance Management Strategy

The State of Arizona:

As of December 31, 2003, 100% (44 of 44) of major permits and 97% (103 of 106) of minor permits were current (less than 180 days after expiration date) in Arizona. There has been no significant change in the rate of permit issuance over the past 3 years, and no permits have been expired for over 2 years. The Region maintains close communication with ADEQ through formal semiannual reviews and other regular meetings to maintain the high level of permit reissuance.

The State's prioritization for permit reissuance is simply based on expiration date because of the low backlog of expired permits. EPA and the State have a goal to keep 100% of permits current. For new facilities, the permit application review is subject to an Arizona licensing time frames rule that imposes deadlines for timely review of applications. ADEQ may be subject to sanctions if the time frames are not met. Therefore, permit issuance for new facilities may receive priority over permit reissuance.

The State is also working toward synchronizing permit issuance (and expiration) by watershed.

Table 2: Percentage of Facilities Covered by Current^a Permits in Arizona
(State-Issued Permits)

	2000	Nat'l Avg.	2001	Nat'l Avg.	2002	Nat'l Avg.	2003	Nat'l Avg.
Major Facilities	N/A	N/A	N/A	N/A	N/A	N/A	100%	84%
Minor Facilities Covered by Individual Permits	N/A	N/A	N/A	N/A	N/A	N/A	97%	81%
Minor Facilities Covered by Individual or Non-stormwater General Permits	N/A	N/A	N/A	N/A	N/A	N/A	91.2%	86%

Source: PCS, 12/31/03. (The ADEQ program was approved in December 2002.) (These values differ from the values in the Management Report (measures #19 and #20) because the Management Report values are as of 6/30/04.)

^aCurrent permits are those permits that are expired less than 180 days. As of 12/31/03, ADEQ did not have any major permits that were expired more than 180 days.

Prior to transfer of the program to ADEQ in December 2002, the Region had achieved a reissuance rate of approximately 89% (major permits) and 88% (minor permits).

EPA Region 9:

Of the permits in Indian Country, which the Region will continue to issue in Arizona, 100% were current at the end of 2003. EPA works closely with the Tribes to ensure that permits are kept current.²

² PCS through 6/29/04 continued to show three Navajo minor permits as expired. These permits were reissued in December 2003. PCS has been updated.

Table 3: Percentage of Facilities Covered by Current^a Permits in Arizona
(EPA-issued permits)

	2000	Nat'l Avg.	2001	Nat'l Avg.	2002	Nat'l Avg.	2003	Nat'l Avg.
Major Facilities	92%	74%	96%	76%	89%	83%	100%	84%
Minor Facilities Covered by Individual Permits	70%	69%	78%	73%	88%	79%	100%	81%
Minor Facilities Covered by Individual or General Permits	N/A	N/A	N/A	N/A	N/A	85%	N/A	86%

Source: PCS, 12/31/00; 12/31/01; 12/31/02; 12/31/03. The National Data Sources columns on the Management Report (measures #19 and #20) do not reflect these values because the June 2004 backlog report did not capture the EPA-issued permits. (See also measures #1 and #2 and table in section I.1.)

^aCurrent permits are those permits that are expired less than 180 days as of the pull date.

7. Data Management

The State of Arizona:

ADEQ accepted responsibility for managing the PCS data system at the time of program delegation. ADEQ staff received training in PCS data management prior to delegation and again in January 2004. ADEQ is in the process of updating and developing a new State system to manage the CWA data. When the State system is completed, ADEQ plans to upload to PCS through the Central Data Exchange (CDX). At present, ADEQ is entering data manually into both systems. The data are being synchronized, and the State system should be completed by the end of 2005.

Arizona is using PCS to track major NPDES permits. ADEQ is entering Water Enforcement National Database (WENDB) data elements as required by the PCS policy statement for major permits, although the Region will continue to enter enforcement data through the end of 2005. ADEQ also uses its own system, the WCET module of AZURITE, for all discharge monitoring report (DMR) data and limits, including major and minor permits. ADEQ developed software to create batch files to upload these data to PCS in the short term. ADEQ plans to transfer these data electronically to PCS until EPA's Integrated Compliance Information System (ICIS) is completed. In FY2005 the minor permits will be uploaded from the State system after the PCS universe of major permits is synchronized in the ADEQ database. Once ICIS is updated to accept ADEQ data, ADEQ will be able to transmit data from WCET to ICIS. When EPA Region 9 is ready, ADEQ will start working on processes for transferring ADEQ data directly to ICIS (to replace PCS in the future) via ADEQ's CDX Internet node.

The Region is working with ADEQ to improve data quality by using PCS major facility data to correct and complete the universe of data in the ADEQ system. The Region has focused on the detailed steps that ADEQ is taking to improve its data quality and has had frequent discussions and monthly conference calls with Arizona's program managers.

The latitude and longitude are entered from permit applications and are verified by global positioning system (GPS) during inspections. Facility latitude and longitude are 70% complete overall, and 80% of pipe discharge points have latitude /longitude data.

Arizona performs reconciliation of the automated PCS quarterly noncompliance report (QNCR) to resolve violations and data discrepancies. ADEQ regularly produces reports from the PCS data retrieval system to ensure the completeness of required data. ADEQ responded to data deficiencies noted by EPA management in FY2003 and has now met data entry standards for 95% of DMRs³ and entered the backlog of all major and minor NPDES permits into PCS.

Arizona uses a unique desktop geographic information system (GIS) system called AZMapper to depict permitted facilities by watershed, county, areas of interest, and the like. ADEQ developed AZMapper in-house. AZMapper links geographic data to data stored in the Department's Oracle databases. The user selects one or more geographic features and then has the option to display Oracle data related to those features. At present, the system accesses and displays only data from the Groundwater Quality and Arizona Department of Water Resources databases. Links to Surface Water Quality and Drinking Water (SDWIS_State) databases are planned for the next AZMapper version (1.4) in December 2004. AZPDES facilities permit data are expected to be accessible via AZMapper later in FY2005. Links to surface and drinking water databases are planned for the next release. AZMapper information is used in drafting permits; for example, to check distances from the discharge to waterbodies listed in the State water quality standards.

EPA Region 9:

For EPA, all NPDES permits issued by the Region in Indian Country are entered by Regional staff into PCS, which is used to manage the Regional NPDES program in Arizona. All compliance data are entered into PCS. PCS data are loaded monthly into the Integrated Data for Enforcement Analysis (IDEA) database, which is one of several systems (including ICIS and the Online Targeting Information System [OTIS]) used by the Region to manage compliance issues and to provide data to management for a more useful presentation of the PCS data. At least quarterly the Region does a quality assurance/quality control (QA/QC) review consisting of runs of PCS data, ICIS, and Superdocket to compare data inputs for accuracy and timelines and to correct any discrepancies. The Region is able to provide adequate support for accurate and timely permit, enforcement, and inspection statistics.

³ Including 100% entry for the quarter July-September 2003, as shown in the Management Report, measure #17.

Section II. Program Implementation

1. Permit Quality

The State of Arizona:

ADEQ ensures that appropriate water quality standards and technical standards are included in permits through knowledgeable permit writers, internal review of all draft permits, external review of more complicated permits that include the Region, and formal and informal communications with the Region. The NPDES Permit Writers' Training Course was taught in Arizona in 2002; all Water Quality Division staff received stormwater training in 2003.

Because this is a new program, the Region reviews almost all permits (about 15 individual permits last year, plus several general permits). Fact sheets have been clear and complete and have addressed the rationale for all permit requirements. Almost no errors were found in draft permits. Where the Region has provided comments, ADEQ has been very willing to respond and incorporate the Region's comments. The Region has provided official written comments, prepublication comments, and verbal discussions on many permits. Although the Region has provided comments on many permitting issues, no general issues have been identified. State permits were not independently evaluated or compared to a national standard. The Region's views are based on an assessment of the QA/QC procedures established by Arizona and ongoing reviews of draft permits by the Region.

ADEQ has developed standard permit language for individual permits. ADEQ has created a spreadsheet to conduct reasonable potential calculations based on EPA's Technical Support Document and a spreadsheet to calculate effluent limitations based on hardness values for use by permit writers.

Arizona has not adopted numeric water quality standards for toxicity but has adopted narrative criteria. Currently, ADEQ incorporates WET testing requirements into its permits for both acute and chronic toxicity, in accordance with EPA's "Technical Support Document for Water Quality-based Toxics Control" (TSD) and ADEQ's "Interim Whole Effluent Toxicity Implementation Guidelines for Arizona." EPA approved ADEQ's interim guidelines in the late 1990s as implementation procedures in conjunction with triennial water quality standards amendments. ADEQ is developing more comprehensive procedures to implement the narrative toxicity criteria. Current permits are incorporating "action levels," the exceedance of which triggers a toxicity evaluation and reduction process. Typical action levels for chronic toxicity are 1.6 chronic toxic units (TUc) as a daily maximum and 1.0 TUc as a monthly median and a pass/fail test for acute toxicity based on 90% survival in 100% effluent.

EPA Region 9:

All EPA Regional permit writers are expected to follow the EPA "NPDES Permit Writer's Manual" (EPA-833-96-003) and TSD when writing permits. Regional permit writers are provided training through occasional permit writers' workshops to ensure that they remain informed of current issues and EPA policies. The Region uses several methods to review permits before issuance to ensure technical and legal quality. The Region does not perform formal permit quality reviews on a routine basis. As part of the national permit quality review conducted in 2000-2001, several issues were identified, including incorrect CFR citations, insufficient DMR data description in the fact sheets, and other inconsistencies.

The Region corrected these issues in subsequent permits and has developed a sheet of standard conditions as an attachment that is included in every permit. The fact sheets are clear and provide justification for permit limits. A senior permit writer or office manager reviews every permit before public notice and during the permit finalization stage.

The Region included WET requirements in all the NPDES permits it wrote in Arizona, including some that had gone through the second round of permitting using toxic pollutant criteria. WET criteria were, in almost all cases, applied at the end of pipe to protect primarily ephemeral or effluent-dependent waters based on federal WET guidance. The dischargers have complied with these requirements.

In writing permits in Indian Country in Arizona, the Region requires toxicity testing where appropriate. Most discharges are from small wastewater treatment lagoons that discharge to ephemeral streams. The Region is planning to update its toxicity guidance.

2. Pretreatment

The State of Arizona:

Arizona received authorization to administer the pretreatment program on December 5, 2002. ADEQ's pretreatment coordinator retired in June 2003, and the position remained vacant until April 2004. As a result, ADEQ has not met its commitments for the pretreatment program because it did not conduct any audits or program reviews during the vacancy.

Prior to authorization, Region 9 had approved 15 pretreatment programs in the State. During 2004 Arizona did not receive any applications for POTW pretreatment programs.⁴ There are approximately 250 significant industrial users (SIUs) in the State. All SIUs have control mechanisms.⁵ ADEQ will focus on developing an accurate estimate of the number of other potential SIUs in Arizona and uncovering categorical users in publicly owned treatment works (POTWs) without approved pretreatment programs.

The Water Quality Compliance Section carries out compliance and enforcement actions and other initiatives pursuant to State statutes, collects and analyzes data, and inspects facilities or other operations subject to permitting and pretreatment. ADEQ is working with EPA Region 9 regarding the developing pretreatment program for the Sturm Ruger SIU in Prescott, which is under an EPA-issued compliance order. ADEQ plans to audit or inspect pretreatment programs annually.

EPA Region 9:

The Region is directly regulating the only SIU in Indian Country in Arizona. There are no approved pretreatment programs in Indian Country because of the small number of SIUs and industrial dischargers to POTWs in Indian Country.

⁴ The National Data Sources column on the Management Report, measure #8, lists only 14 approved programs because 1 POTW has recently accomplished 100% reuse of wastewater and is not entered in PCS. The State and Region are maintaining oversight over this program.

⁵ The National Data Sources column on the Management Report, measure #24, does not show 100% because it reflects out-of-date inspection data for three pretreatment programs.

3. Concentrated Animal Feeding Operations

The State of Arizona:

Arizona has completed its program revisions to address the requirements of the new concentrated animal feeding operation (CAFO) rule. In February 2004 ADEQ adopted revisions to AZPDES program rules consistent with the new CAFO regulations; in April 2004 ADEQ issued a CAFO general permit. There are no CAFOs with individual permits, although 24 facilities are covered under the current general permit issued by EPA and assumed by the State at authorization.⁶ ADEQ estimates that 150 facilities will be covered under the new regulatory requirements. Fewer than 10% of these facilities currently have nutrient management plans (NMPs) in place.

Within the general permit, ADEQ adopted Natural Resources Conservation Service (NRCS) Technical Standard 590 as technical standards. The general permit addresses all minimum control measures consistent with federal requirements for NMPs and the nine minimum control measures. The general permit requires that certified planners write the NMPs to ensure that they are written to comply with all technical standards. ADEQ is working with the Department of Agriculture and the NRCS to update NMP information for producers. ADEQ conducted outreach in early 2004 and continues to conduct outreach meetings with producers.

ADEQ inspects CAFOs at least every 3 to 5 years and in response to complaints. The Arizona Department of Agriculture, through a cooperative agreement with ADEQ and EPA, offers assistance to any CAFO upon request. In addition, the CAFO Education Group, an education and outreach group, offers compliance assistance to CAFOs. ADEQ uses the following criteria to target inspections and enforcement actions: time since last inspection, distance to waterways (impaired or unique waters), historical problems, and history of enforcement actions. ADEQ plans to evaluate NMPs upon inspection and will use EPA's nine minimum standards as the basis for measuring the quality and effectiveness of NMPs.

The Region and ADEQ hold monthly conference calls to discuss implementation. ADEQ has committed to EPA to conduct quarterly meetings with stakeholders (e.g., NRCS, the Arizona Department of Agriculture) to address implementation issues. The Region will continue quarterly reporting to EPA Headquarters on implementation progress.

EPA Region 9:

There are three CAFOs in Indian Country. (Two of the CAFOs are in New Mexico but are included in the Arizona profile because they are on the Navajo Nation and are the responsibility of Region 9.) None of these CAFOs have permits yet, but all have been informed of the requirement to submit an application to the Region. Two of the facilities were inspected by the Region in 2003. The Region has also sent a letter to all Tribes in the Region (approximately 140 entities) informing them of the new CAFO requirements for existing and new CAFO operations. The Region has also done outreach to Tribal entities in Region 9 to describe permitting requirements and how to comply with the new requirements. The Region will issue individual permits to these facilities incorporating requirements of the new

⁶ The National Data Sources column on the Management Report, measure #26, reflects data from the CAFO implementation survey as of March 2004 showing that 23, or 15% of 150, facilities were covered by NPDES permits. According to AZURITE, as of 6/29/04, 24 facilities were covered.

effluent limitations guidelines (ELGs) by the required dates. Although the Region has encouraged early application, the CAFOs have until February 2006 to submit applications.

4. Stormwater

The State of Arizona:

ADEQ is current with all stormwater general permits: ADEQ issued a Phase II municipal separate storm sewer system (MS4) general permit in December 2002 and issued a construction general permit in February 2003. ADEQ is continuing to administer EPA's multisector industrial permit as an AZPDES permit until it expires in October 2005.

The eight Phase I MS4 individual permits, originally issued by EPA and subsequently adopted by the State, expired in early 2002. Although Region 9 began work on reissuance, it did not reissue the permits before ADEQ was authorized to administer the NPDES program. These are complicated permits and have involved much ADEQ negotiation and discussion with stakeholders. ADEQ intends to issue these permits by the end of 2005.

The State tracks stormwater permit issuance information for industrial permittees electronically through Arizona's Water Quality Database (WQDB).

ADEQ has developed an innovative system called "Smart NOI." The Smart NOI (notice of intent) is an innovative Internet application to allow an efficient and user-friendly method for applicants to file for coverage, waiver, or termination of coverage under ADEQ's general permit, AZG2003-001, for stormwater discharges from construction. The effort to develop the Smart NOI was partially funded with an EPA grant. The Smart NOI is available on ADEQ's Web site. It includes an interactive tool to identify the site's latitude and longitude and the nearest waters of the United States.

EPA Region 9:

There are no Phase I MS4 permits in Indian Country or on federal lands in Arizona. There are several potential Phase II MS4s on these lands, but all have qualified for population waivers. Construction sites (about 75) and industrial facilities (40) are covered under the Region's general permits and tracked in EPA's NOI system.

5. Combined Sewer Overflows/Sanitary Sewer Overflows

The State of Arizona:

There are no combined sewers in Arizona.

Neither ADEQ nor the Region has a formal internal procedure in place to notify the public and public health authorities of sanitary sewer overflow (SSO) events. In some situations, ADEQ staff notify the County Health Departments of an SSO event on an ad hoc basis. ADEQ does not have a regulation or policy regarding public or county health department notification of SSOs and is not aware of any county health department regulations requiring public notification of SSOs.

ADEQ does not have a regulation regarding nor does it write AZPDES permit conditions that specifically require reporting or record keeping of SSOs. Nevertheless, some municipal wastewater collection systems report some or all of their SSOs to ADEQ. Spill reports are placed in the individual facility files, but ADEQ does not maintain a database of reported SSOs. Because ADEQ does not require SSO reports or maintain an SSO database, it is not able to observe trends in SSO reporting.

6. Biosolids

The State of Arizona:

On March 31, 2004, ADEQ was authorized to administer the State's biosolids management program; Arizona is one of only six States in the nation authorized to do so. Approximately 90% of Arizona biosolids are applied for agriculture or horticulture. The State also receives a significant volume of biosolids from Southern California, which are used for agriculture or horticulture.

Arizona has a biosolids rule that, like EPA's 40 CFR part 503 rule, is self-implementing and must be complied with regardless of permit status. ADEQ requires applicators to register land application sites before applying biosolids to the land. In addition, ADEQ includes biosolids requirements in permits it issues under the AZPDES program and in conditions placed in aquifer protection permits.

ADEQ requires compliance reports from preparers and appliers of sewage sludge and completed a database for managing biosolids program data in early 2004. The system will be enhanced gradually to meet emerging program needs. Also, field work is ongoing to accurately map fields where biosolids are applied using GPS technology. The AZMapper tool displays fields that have already been mapped. The Water Quality Compliance Assistance Unit inspects facilities and application sites and tracks compliance through monitoring reports.

EPA Region 9:

The Region will focus on tracking compliance by out-of-state (California) POTWs shipping biosolids to Arizona. The Region will continue to assist Arizona with biosolids compliance issues.

Section III. NPDES Compliance Monitoring and Enforcement Response

In a separate initiative, EPA's Office of Enforcement and Compliance Assurance (OECA), EPA Regions, and the Environmental Council of the States have developed a tool for assessing State performance in enforcement and compliance assurance to ensure that States meet agreed-upon minimum performance levels and provide a consistent level of environmental and public health protection nationwide. OECA will use the State profiles to focus these efforts and identify areas needing further discussion and evaluation.

1. Enforcement Program

The State of Arizona:

As per regulations, ADEQ inspects major facilities once a year and minor facilities at least once every 5 years. If violations are noted during the inspection, informal enforcement action may be taken through a notice of violation (NOV). If the facility does not return to compliance within the time provided in the NOV, formal enforcement action is taken with an administrative order. If the violations are severe or the facility does not comply with the administrative order, a civil complaint (with penalties) may be filed. Other enforcement actions occur after notification of spills or discharges. As ADEQ's efforts to run the enforcement side of the program continue to grow, the Region expects an increase in ADEQ's NPDES/AZPDES enforcement activities.

ADEQ uses the "Compliance and Enforcement Handbook" (which is substantially consistent with the procedures in the Federal Enforcement Management System) to determine the appropriateness of enforcement actions. ADEQ has standard language and time lines for enforcement actions. The State does not have its own penalty policy guidance but uses EPA's penalty guidance.

ADEQ has completed one consent order to date under the AZPDES program and is working on the second. For informal enforcement actions, follow-up is the responsibility of the staff person who conducted the inspection. The Region conducts monthly teleconferences with ADEQ enforcement management and staff to provide guidance and oversight on follow-up. ADEQ is consulting with the Region about how to determine economic benefits.

ADEQ ensures that enforcement actions are timely, appropriate to the violation, and appropriately escalated and that they contain adequate penalties by following the procedures in the "Compliance and Enforcement Handbook." Because only a single action has been completed since ADEQ assumed NPDES authority, the Region is not able to fully evaluate ADEQ's consistency with the provisions in the "Compliance and Enforcement Handbook." Through monthly calls, the Region is working with ADEQ to provide for adequate follow-up of enforcement actions.

EPA Region 9:

In Indian Country, the Region tracks DMRs for minor permits manually and tracks DMRs for major permits with PCS, which the Region maintains. For Tribally owned facilities (major and minor facilities) in significant noncompliance, the Region works with the Tribes to bring the facilities into compliance and issues administrative orders (per the Tribal Enforcement Policy) as appropriate. Enforcement

conforms to the “U.S. EPA Guidance on the Enforcement Principles Outlined in the 1984 Indian Policy,” dated January 17, 2001.

2. Record Keeping and Reporting

The State of Arizona:

ADEQ maintains several compliance and enforcement databases. The key enforcement database is the Inspections, Compliance, and Enforcement (ICE) database. Major source discharger information is also maintained in PCS.

EPA Region 9:

The Region uses ICIS to maintain records on inspections and enforcement information. Compliance assistance is tracked on the Regional Compliance Assistance Tracking System (RCATS).

3. Inspections

The State of Arizona:

ADEQ inspects major facilities once a year and minor facilities at least once every 5 years. Arizona is using its State system (AZURITE) to track inspections, and PCS has not been kept up-to-date. Arizona is in the process of compiling all AZURITE data to be inputted directly into PCS (see section on Data Management).

The Phoenix ADEQ office maintains a GIS that allows permit writers to target specific watersheds. Inspection staff at the Phoenix office also have access to this information and use it to target construction and industrial stormwater inspections. The Southern Regional Office and Northern Regional Office do not have access to this information and have a more scattered approach to inspections. ADEQ is very responsive to complaints and discharge/spill reports.

ADEQ has split the State into priority watersheds and targets three of those watersheds each year.

EPA Region 9:

Facilities in Indian Country are inspected by EPA Region 9. On the Navajo Reservation, facilities are inspected by both the Navajo Nation EPA and the Region. The Region inspects major facilities once a year and minor facilities with individual permits at least once every 5 years. The majority of facilities subject to general permit requirements are in the construction sector. Inspections at construction sites are driven by complaints received.

4. Compliance Assistance

The State of Arizona:

ADEQ regularly invites municipal inspectors to join inspection training exercises, and the informal NOV process allows ADEQ inspectors to give facilities a chance to achieve compliance before facing formal enforcement. This “ramping up” of the enforcement process does work with a large number of dischargers.

EPA Region 9:

The Region gives wastewater treatment facilities the opportunity to demonstrate compliance before facing formal enforcement and gives compliance assistance during inspections. Rural Community Assistance Corporation provides assistance to wastewater treatment facilities through contracts with the Region. The Region has conducted stormwater training on the Navajo Nation and at the Region's annual Tribal conference. Tribes also attend stormwater training conducted by States. The Region does not measure compliance assistance outcomes.

Section IV. Related Water Programs and Environmental Outcomes

1. Monitoring

The State of Arizona:

The ADEQ surface water monitoring plan uses a rotating basin approach and relies on fixed station networks as well as other site-specific monitoring. ADEQ assesses 2 watersheds per year and has assessed nearly all watersheds in 5 years (assessing 9 out of 10). ADEQ tries to collect adequate in-stream data for calculation of background and calibration of models. ADEQ has provided an outline for a comprehensive monitoring strategy, but there is insufficient detail to evaluate how well ADEQ will meet all 10 elements. The Region anticipates that ADEQ will provide a complete monitoring strategy by October 2004 that will include all elements. ADEQ frequently amends its continuous planning process (CPP) to describe its annual monitoring efforts. ADEQ was involved in the Western Environmental Monitoring and Assessment Program (EMAP) pilot for perennial stream sampling based on a probabilistic survey design. When the assessment using EMAP data is completed, technically 100% of perennial streams will be assessed.

EPA Region 9:

The Region coordinates with the State's monitoring program by providing technical assistance and advice for ADEQ's targeted monitoring approach. No TMDLs have been developed in Indian Country in Arizona; therefore, data to determine wasteload allocations have not been needed. The Region does not coordinate NPDES permit issuance in Indian Country with Tribal or ADEQ monitoring programs.

2. Environmental Outcomes

The State of Arizona:

In Arizona, 50% of river miles and 28% of lake acres are attaining water quality standards; there are no estuaries in the State. The only potential trend is that as more lakes are assessed, more lakes are found not to be attaining water quality standards, primarily due to nutrients or mercury contamination, based on the 2002 integrated report. ADEQ has also made good progress in preparing an integrated list of impaired water bodies prepared under CWA section 303(d) and a section 305(b) report. By presenting integrated conclusions in a GIS format, ADEQ has produced a document that is a valuable tool for presenting water quality information to the public.

For 303(d) listing, in accordance with Arizona's Impaired Water Identification Rule (A.A.C. R18-11-605(D)(2)(b)), ADEQ lists a water body as impaired where there is more than one exceedance of an aquatic and wildlife chronic water quality standard.

3. Water Quality Standards

The State of Arizona:

EPA reviews and approves each water quality standards action taken by ADEQ under CWA section 303(c). The process involves working with ADEQ while the State is amending its water quality standards and thoroughly reviewing the triennial submissions prior to approval. Through this process EPA ensures that the water quality standards conform to federal requirements and that implementation procedures are developed, where necessary. Moreover, the fact that the water quality standards and permit programs are in the same office ensures close coordination between standards development and permitting needs.

ADEQ adopted E. coli standards for the protection of both full and partial body contact designated uses in the last triennial review (February 2003). Numeric nutrient standards have been adopted for a number of surface waters, and ADEQ also has narrative nutrient criteria. ADEQ is developing procedures to implement the narrative criteria, as well as procedures to implement narrative toxicity criteria and antidegradation requirements. The triennial review schedule has generally been met, and it is not coordinated with NPDES permitting.

The most difficult water quality standards implementation issue is deriving permit requirements for toxicity from narrative criteria. This is especially true in Arizona because most of the waters are either ephemeral or effluent-dependent, resulting in limits being applied at end of pipe without dilution credits. As part of ADEQ's efforts to develop narrative toxics implementation procedures, it will define how the criteria will be applied in the permitting context.

EPA Region 9:

The White Mountain Apache and Hualapai Tribes have EPA-approved water quality standards, which are implemented in EPA-issued permits. The water quality standards for waters of the Hualapai Tribe will be approved by the end of September 2004. Where there are no Indian Country water quality standards approved under the CWA, the Region may look to Tribally adopted water quality standards, federal water quality criteria, or Arizona water quality standards for guidance, depending on the availability and proximity to Arizona State waters. Permit writers review designated uses, TMDLs, and applicable water quality standards to determine necessary limitations, and they include an assessment in the fact sheet.

4. Total Maximum Daily Loads

The State of Arizona:

ADEQ has been relatively successful in implementing its TMDL schedule and has approved approximately 25% of its TMDLs. ADEQ completes 6 to 14 TMDLs per year, and although a large number of TMDLs remain to be completed, ADEQ is progressing on approving TMDLs on schedule. ADEQ has been flexible to avoid delays by switching to impaired lakes during drought years when lack of stream flow prevents TMDL development of those water quality-limited segments. There have been few delays (fewer than three) in issuing TMDLs, and the delays have typically lasted about 1 year. Delays have occurred in some stream segments due to the lack of flowing water, which prevents obtaining additional monitoring data. Delays are associated with mercury-impaired lakes where the

technical complexity requires that more parameters be monitored for a longer period than is the case for simpler TMDLs. Mercury TMDLs have yet to identify any significant point sources, although this might occur in a future TMDL near Bagdad, Arizona, where mining is associated with mercury inputs. This is similar to Pena Blanca Lake, a mercury TMDL completed in 1999, where a mercury-laden tailings pile was a very significant source (more than 90%) and was subject to removal action by the U.S. Forest Service in 2000. Region 9 Water Division staff developed the Pena Blanca TMDL (under a consent decree), and then the Region worked with the Forest Service on the removal action.

EPA Region 9:

The Region is no longer developing TMDLs for the State. However, the Region provides technical assistance upon request to the State in the development of TMDLs. Specifically, the Region developed two mercury TMDLs for Lake Arivaca and Lake Pena Blanca in 2000. No TMDLs have been developed for impaired waters in Indian Country.

5. Safe Drinking Water Act

The State of Arizona:

Drinking water intake structures are protected through designated beneficial uses and drinking water quality criteria adopted in ADEQ's water quality standards. The State has few surface sources of drinking water other than reservoirs. All are protected by water quality standards approved by the Region. The State also has an aquifer protection permit program, which has overlapping coverage with NPDES, to ensure the protection of groundwater.

Section V. Other Program Highlights

The State of Arizona:

ADEQ's Smart NOI program is an innovative program for processing construction permit NOIs.

ADEQ operates an extensive aquifer protection program that collaborates with the NPDES program to protect groundwater and surface waters.

ADEQ has developed a de minimis general permit to address low-threat wastewater discharges (e.g., well dewatering, hydrostatic testing, reclaimed water).

The Arizona legislature has built in an assessment process for the AZPDES program (Laws 2001, Chapter 357, Sec. 15). That section stipulates that an assessment of the AZPDES program must be performed by the Arizona legislature by no later than December 2007. Components of the assessment include an evaluation of the effectiveness of the State program (number of individual permits issued and the average time to process permits, cost of issuing permits, number of permits that are appealed and disposition of those appeals, number of permits in which primary authority to issue the permit was assumed by EPA, number of enforcement actions taken and resolution of those enforcement actions); whether the program is being implemented in a manner consistent with statutory intent; and recommended statutory, regulatory, or process changes to improve the performance of the program. At least one public hearing will be held to discuss the findings of this assessment.

Water Quality Division

Karen Smith, Director

Water Permits Section

Michele Robertson, Manager

- * Surface Water Permits Unit
- * WW APP Unit
- * Mining APP Unit
- * Industrial/Drywell APP and WW Design Review Unit

Water Quality Compliance Section

Mike Traubert, Manager

- * Data Management Unit
- * Compliance Assurance Unit
- * Enforcement Unit
- * Field Services Unit

Hydrologic Support and Assessment Section

Linda Taunt, Manager

- * TMDL & Assessment Unit
- * Surface Water Monitoring & Standards Unit
- * Groundwater Monitoring Unit
- * Watershed Management Unit

Data Management Section

Wayne Hood, Manager

Water Quality Planning Section

Carol Aby, Manager

- * Planning and Grants Unit
- * WQ Improvement Grant Unit

Drinking Water Section

Jeff Stuck, Manager

- * SWAP Unit
- * Program Development Unit
- * Technical Engineering Unit
- * Rule Development Unit

NPDES Management Report, Fall 2004

Arizona

			Profile Section	GPRA Goal	Nat. Avg.	National Data Sources		Additional Data	
						State Activities	EPA Activities	State Activities	EPA Activities
NPDES Progress									
Universe	1	# major facilities (6,690 total)	I.1		n/a	56	0	52	4
	2	# minor facilities covered by individual permits (42,057 total)	I.1		n/a	135	0	114	21
	3	# minor facilities covered by non-storm water general permits (39,183 total)	I.1		n/a	0	0	24	
	4	# priority permits (TBD)	I.6			--	--		
	5	# pipes at facilities covered by individual permits (142,761 total)	I.7		n/a	702	--		
	6	# industrial facilities covered by individual permits (32,505 total)	I.1		n/a	21	88		
	7	# POTWs covered by individual permits (15,197 total)	I.1		n/a	11	60		
	8	# pretreatment programs (1,482 total)	II.2		n/a	14	--	15	
	9	# Significant Industrial Users (SIUs) discharging to pretreatment programs (22,158 total)	II.2		n/a	267	--		
	10	# Combined Sewer Overflow (CSO) permittees (831 total)	II.5		n/a	0	--		
	11	# CAFOs (current and est. future) (17,672 total)	II.3		n/a	150	--		
	12	# biosolids facilities (TBD '05)	II.6			--	--		
NPDES Program Administration	13	State or Region assessment of State NPDES program (none (N)/assessment (A)/profile (P))	I.1	50 states 2004	n/a	A, P	P		
	14	% pipes at facilities covered by individual permits w/ lat/long in PCS	I.7		46.3%	80.1%	--		
	15	State CAFO legal authority expected (mo/yr)	II.3	2005	n/a	2/04	n/a		
	16	# Withdrawal petitions/legal challenges (22 total)	I.4		n/a	1	n/a		
	17	DMR data entry rate	I.7		95%	100%	--		
	18	# permit applications pending (1,011 total)	I.6		n/a	10	--		
NPDES Program Implementation	19	% major facilities covered by current permits	I.6	90%	83.7%	78.6%	n/a		100.0%
	20	% minor facilities covered by current individual or non-storm water general permits	I.6	90% 12/04	87.0%	87.4%	n/a		100.0%
	21	# major facilities w/permits expired >10 yrs. (56 total)	I.6		n/a	0	0		
	22	% priority permits issued as scheduled (TBD '05)	I.6	95% 2005		--	--		
	23	% pretreatment programs inspected/audited during 5 yr. inspection period	II.2		85.3%	28.6%	--		
	24	% SIUs w/control mechanisms	II.2		99.2%	95.9%	--	100.0%	
	25	% of CSO permittees with long-term control plans developed or required	II.5	75% 2008	82.2%	n/a	--		
	26	% CAFOs covered by NPDES permits	II.3		35%	15%	--	16%	
	27	% biosolids facilities that have satisfied part 503 requirements (TBD '05)	II.6			--	--		
	28	# Phase I storm water permits issued but not current (76 total)	II.4		n/a	8	0		
	29	# Phase I storm water permits not yet issued (5 total)	II.4		n/a	0	0		
	30	Phase II storm water small MS4 permits current (Y/N/D (draft) (35 States)	II.4	100% states 2008	n/a	Y	n/a		
	31	Phase II storm water construction permit current (Y/N/D (draft) (49 States)	II.4	100% states 2008	n/a	Y	Y		
NPDES Compliance Monitoring and Enforcement Response	32	% major facilities inspected	III.3		71%	44%	7%		
	33	(inspections at minors) / (total inspections at majors and minors)	III.3		76%	73%	88%		
	34	% major facilities in significant non-compliance (SNC)	III.1		20%	24%	--		
	35	% SNCs addressed by formal enforcement action (FEA)	III.1		14%	0%	--		
	36	% SNCs returned to compliance w/o FEA	III.1		70%	67%	--		
	37	# FEAs at major facilities (666 total)	III.1		n/a	0	0		
	38	# FEAs at minor facilities (1,660 total)	III.1		n/a	0	0		

Explanation of Column Headers:

Profile Section: For each measure, this column lists the section of the profile where the program area (including any additional data for the measure) is discussed.

National Data Sources: The information in these two columns is drawn from two types of sources:

(1) EPA-managed databases of record for the national water program, such as PCS, the National Assessment Database, and the National TMDL Tracking System. NPDES authorities are responsible for populating PCS with required data elements and for assuring the quality of the data. EPA is working to phase in full use of NAD and NNTS as national databases.

(2) Other tracking information maintained by EPA Headquarters for program areas such as CAFOs, CSOs, and storm water.

The [definitions document](#) accompanying this Management Report provides a detailed definition of each data element in the National Data Sources columns.

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State Activities: Information in these columns reflects activities conducted by the State program. (Shaded cells in these columns indicate that the work may not be entirely the State's responsibility, but a breakdown of the data into EPA and State responsibilities is unavailable.)

EPA Activities: Information in these columns reflects activities conducted by the EPA Region within the State.

NPDES Management Report, Fall 2004

Arizona

		Profile Section	GPRA Goal	Nat. Avg.	National Data Sources		Additional Data		
					State Activities	EPA Activities	State Activities	EPA Activities	
Water Quality Progress									
Universe	39	River/stream miles (3,419,857 total)	IV.2		n/a	12,895	n/a		
	40	Lake acres (27,775,301 total)	IV.2		n/a	168,586	n/a		
	41	Total # TMDLs in docket at end of FY 2003 (52,795 total)	IV.4		n/a	225	--		
	42	# TMDLs committed to in FY 2003 management agreement (2,435 total)	IV.4		n/a	n/a	n/a		
	43	# Watersheds (2,341 total)	IV.2		n/a	--	--		
Water Quality Administration	44	On-time Water Quality Standards (WQS) triennial review completed (42 States)	IV.3		n/a	Y	n/a		
	45	# WQS submissions that have not been fully acted on after 90 days (32 total)	IV.3	<25% submissions	n/a	n/a	0		
Water Quality Implementation	46	State is implementing a comprehensive monitoring strategy (Y/N) (TBD)	IV.1	all states 2005	--	--	--		
	47	% river/stream miles assessed for recreation	IV.2		13.8%	18.7%	n/a		
	48	% river/stream miles assessed for aquatic life	IV.2		22.0%	18.3%	n/a		
	49	% lake acres assessed for recreation	IV.2		49.4%	50.1%	n/a		
	50	% lake acres assessed for aquatic life	IV.2		48.5%	50.1%	n/a		
	51	# outstanding WQS disapprovals (23 total)	IV.3		n/a	0	n/a		
	52	WQS for E. coli or enterococci for coastal recreational waters (12 States)	IV.3	35 states 2008	n/a	n/a	n/a		
	53	WQS for nutrients or Nutrient Criteria Plan in place (13 States)	IV.3	25 states 2008	n/a	Y	n/a		
	54	Cumulative # TMDLs completed through FY 2003 (10,807 total)	IV.4		n/a	60	--		
	55	# TMDLs completed in FY 2003 (2,929 total)	IV.4		n/a	11	0		
Environmental Outcomes	56	# TMDLs completed through FY 2003 that include at least one point source WLA (5,036 total)	IV.4		n/a	9	--		
	57	% Assessed river/stream miles impaired for swimming in 2000	IV.2		--	0.7%	n/a		
	58	% Assessed lake acres impaired for swimming in 2000	IV.2		--	6.6%	n/a		
	59	# Watersheds in which at least 20% of the water segments have been assessed and, of those assessed, 80% or more are meeting WQS (440 total)	IV.2	600 2008	n/a	--	--		

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