



Permitting for Environmental Results (PER)

NPDES Profile: Delaware

PROGRAM RESPONSIBILITY

State of Delaware: NPDES authority for base program and general permitting

EPA Region 3: NPDES authority for federal facilities, pretreatment, biosolids

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, contact Kevin C. Donnelly, Delaware Department of Natural Resources and Environmental Control, at (302) 739-4860 or Robert Chominski, EPA Region 3, at (215) 814-2162.

Section I. Program Administration

1. Resources and Overall Program Management

The State of Delaware:

The State of Delaware was authorized to administer the NPDES program in 1974, with further authorization to issue general permits in 1992. In turn, that authority has been delegated to the Surface Water Discharges Section within the Delaware Department of Natural Resources and Environmental Control's (DNREC) Division of Water Resources. EPA still administers the federal facilities, pretreatment, and biosolids programs. The original memorandum of agreement (MOA) between EPA and DNREC was last modified in 1992 to address delegation of authority for the State's NPDES General Permit Program. The State water pollution control regulations were last amended on May 14, 2003; EPA Region 3 has advertised (69 Federal Register 6289, February 10, 2004) its intention to approve Delaware's amended regulations and NPDES program modification. In addition, the Department updated its regulations for the construction and operation of wastewater/pollution control facilities and added regulations to outline the administrative procedures for evaluating and issuing State water quality certifications (under which the State certifies that an activity will be conducted in such a manner that it will not violate the applicable surface water quality criteria or standards).

The universe of individual NPDES permitted industrial and municipal "point source" dischargers in Delaware, as found in the Permit Compliance System (PCS) database, includes 56 major and minor permittees as of July 2004. Major industries include chemical and plastics manufacturing, petroleum refining, and poultry and food processing. The total number of dischargers has declined over the past several years for a number of reasons: alternatives to the direct discharge of treated wastes became available (e.g., land treatment, the creation or expansion of central sewer districts and connection to a publicly owned treatment works [POTW]); the facility chose coverage under the State's NPDES General

Stormwater Permit Program regulations; or the facility closed. An additional 250 industrial stormwater dischargers are covered by the State's General Stormwater Permit Regulations. Delaware has only one large municipal separate storm sewer system (MS4) that was required to seek NPDES permit coverage under Phase I of EPA's Storm Water Program; that permit was issued to New Castle County and the Delaware Department of Transportation (DELDOT) as co-permittees. Three small MS4s are regulated under Phase II of the Storm Water Program. There are five designated Phase II MS4s in the State, and to date three have received permits. DNREC is still determining the need for coverage of the remaining two MS4s (Delmar and Camden-Wyoming). DNREC is evaluating the possibility of granting waivers; the extent to which each town is responsible for storm sewer operation and maintenance; whether the permit issued to DELDOT covers the MS4 in both towns; and how best to communicate with both towns.

Concentrated animal feeding operations (CAFOs) are regulated through an MOA jointly between DNREC and the Delaware Department of Agriculture (DDA), and in conjunction with the Delaware Nutrient Management Commission. Delaware's Nonpoint Source Program focuses on addressing urban and agriculture runoff, erosion and sedimentation control, and groundwater contamination. Erosion and sedimentation from construction activities are controlled by the State's Sediment and Stormwater Management Program, which is administered by DNREC's Division of Soil & Water Conservation. The Sediment and Storm Water Management Program is responsible for administering and implementing the State's construction general permit. In addition, the Sediment and Storm Water Management Program delegates certain elements of the program (plan review, construction inspection, and maintenance inspection) to various State agencies and county agencies.

The current (State Fiscal Year [FY] 2004) annual operating budget for the Surface Water Discharges Section is nearly \$994,000. In 1995 the State had a budget of \$559,070 to administer the program. Currently, DNREC has 16 positions: 7 engineers (4 permit writers, 1 section manager, 2 vacancies); 5 compliance staff; 2 environmental scientists; and 2 administrative specialists (1 position vacant).

Funding for the NPDES permit and compliance-related programs in this section comprises approximately 50% State general fund, 40% fees, and 10% EPA section 106 grant funds. Fees have not changed since 1991. Staff within the Surface Water Discharges Section also issue permits for the construction of wastewater collection, transmission, and treatment facilities; issue permits for the disposal or utilization of wastewater sludges and sludge products; and provide support to the Board of Certification that licenses operators of wastewater facilities. DNREC believes that its Surface Water Discharges Section is small enough that a formal training program is deemed unnecessary because training requirements must be tailored to the individuals with a unique set of skills and duties. The Surface Water Discharges Section takes advantage of EPA-sponsored training opportunities such as the NPDES Permit Writers' Training Course and provides on-the-job training using internal procedures and requirements. Section policy requires inspectors to be wastewater operators licensed at level III or higher. The State's wastewater operator's licensing regulations include a requirement for continuing education to stay current and expand skills. Two of the unit's three inspectors are licensed level IV wastewater operators. In addition, there are four professional engineers in the Section; all four have earned advanced degrees. Two staff members in the Section are pursuing master's degrees.

EPA Region 3:

For all pretreatment programs in undelegated States, such as Delaware's program, the Region has assigned a staff person who is responsible for all oversight work, with the exception of some

enforcement responsibilities and inspections other than audits. These responsibilities include reviewing the annual reports and conducting audits. The Water Protection Division's Office of Compliance and Enforcement is the lead for enforcement, while the Regional Office of Enforcement, Compliance, and Environmental Justice generally conducts the pretreatment compliance inspections, which are less detailed than the pretreatment audits.

The Region retains authority for federal facilities, and therefore it issues individual stormwater permits for federal facilities in Delaware; one staff person is assigned to this.

For the biosolids program, EPA Region 3 has one staff member, the Biosolids Coordinator, devoted to all Region 3 States. No Region 3 State has authorization for the biosolids program. States have not pursued delegation of the biosolids program, in part because EPA has not been able to provide additional funding as an incentive. If States were to pursue program delegation and increase the resources assigned to the program, this could increase efficiency in the implementation of the program and eliminate the dual biosolids program implementation at the State and federal levels.

Table 1: NPDES Universe in Delaware

FY2004	Major Facilities	Minor Facilities with Individual Permits	Minor Facilities with General Permits	SIUs (including CIUs)	CAFOs
No. of Sources	21	35	0	61	50
% of National Universe	0.3%	0.08%	0%	0.3%	0.2%

Notes: SIUs = significant industrial users, CIUs = categorical industrial users.

2. State Program Assistance

EPA still administers the federal facilities, pretreatment, and biosolids programs in Delaware. The State has not expressed an interest in assuming NPDES authority for federal facilities or pretreatment, but Region 3 will work with the State regarding the biosolids program component because the State has indicated a willingness to assume authorization.

3. EPA Activities in Indian Country

EPA Region 3:

There are no federally recognized tribes in Delaware.

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 Delaware:

DNREC provides for public participation in permitting and related policy decisions, but the agency does not have a separate formal policy for public involvement on NPDES issues. Public notice requirements are outlined in State regulations and statutes. The Surface Water Discharges Section maintains a list of interested individuals and organizations that receive copies of the public notice and the permit fact sheet when the Section's tentative determinations on a permit are advertised. Access to information is controlled by the State's statutes and regulations. The public is given an opportunity to provide meaningful input on permit decisions by requesting hearings, participating in hearings, submitting comments on draft permits, and so forth. The State solicits public involvement on policy matters. The State solicits public comment through standing committees, such as the Nutrient Management Commission, in the case of CAFO permits. For draft permits that are considered to be of high public interest, the Division has proactively held public meetings and targeted outreach prior to formal public notice. The public is given access to information in DNREC's files, subject to the State's Freedom of Information Act (FOIA). DNREC's Web site includes a Web page for FOIAs. DNREC maintains its own Web site that provides a list of major and minor permittees, description of the NPDES permit process, current public notices, NPDES application forms, and a general overview of compliance requirements in the State.

Private citizens and representatives of key interest groups are appointed to stakeholder groups and Department advisory committees. DNREC has asked diverse groups of residents to serve on Tributary Action Teams in watersheds where total maximum daily loads (TMDLs) have been established. These teams are charged with developing pollution control strategies for reducing water pollution and implementing the TMDLs. Once TMDLs are set—for excess nutrients, such as nitrogen and phosphorus, dissolved oxygen, or harmful bacteria, among other pollutants—the Tributary Action Teams participate in developing implementation strategies. Other teams will be formed as additional TMDLs are developed. Each active team is engaging citizens in this process: some are holding public forums on water pollution, some are publishing articles in newspapers, and some are holding community group meetings. In every case, the goal is to develop broad support for the Pollution Control Strategy designed specifically for each watershed. In addition, the Department maintains a Web site for the Teams and publishes an electronic newsletter, "Tributary Times," to facilitate learning among the Teams and other interested parties.

EPA Region 3:

In Delaware, EPA Region 3 solicits public participation and input on draft federal facility individual permits through a 30-day public notice. All individual draft permits issued to federal facilities in Delaware are also available on EPA's Web site. The draft individual stormwater permit for Dover Airforce Base was made available for public comment in Delaware newspapers in July 2004.

As part of EPA's initiative to place NPDES permits on the Web through Envirofacts, major permits issued since November 1, 2002, including several permits and fact sheets issued by the State, are

available through EPA's Web site. Instructions for accessing these documents are available at <http://www.epa.gov/npdes/permitdocuments>. The two major permits that Delaware has issued since November 1, 2002, have been posted on the Web site.

6. Permit Issuance Management Strategy

The State of Delaware:

Of the 56 individual NPDES permits in the State as of August 2004, 21 are major permits and 35 are minor permits. Two major facilities have closed or will be closing—Kaneka (DE0000647) and Metachem (DE0020001). One of these major facilities, General Chemical (DE0000655), will soon become a minor facility. According to PCS data appearing in the National Data Sources column of the Management Report, measure #19, DNREC has 13 expired major permits as of June 2004, equivalent to 38.1% of major permits being current.¹ EPA has objected to drafts for 3 of the remaining 10 major permits and is working with DNREC to resolve the issues. Four of the 10 expired major permits have been expired more than 2 years, and 2 have been expired more than 10 years. For minor permits, the National Data Sources column of the Management Report, measure #20, shows that DNREC had seven expired permits and two MS4 permits not issued (Delmar and Camden-Wyoming) prior to June 2004, equivalent to 74.3% of minor permits being current.² One of the four expired minor permits has been expired more than 2 years, and none have been expired more than 10 years.

EPA has made the NPDES major permit backlog in Delaware one of its highest priorities. EPA has been asserting that DNREC should reduce its backlog of expired major permits for some time. In the past 3 years (2001 to 2003), DNREC has averaged issuing one major permit a year, a trend that falls well short of reducing the current backlog numbers. On March 1, 2004, DNREC formally requested the assistance of Region 3's Water Protection Division in a concerted effort to address the NPDES permit backlog. DNREC is sharing pre-notice draft permits with EPA to obtain input early in the permit development process rather than waiting until the final draft permit is made available for public comment. Monthly conference calls are conducted between EPA and DNREC to check on the status of expired permits. DNREC has two expired permits with issues relating to sections 316(a) and 316(b) of the Clean Water Act (CWA). DNREC has requested EPA technical assistance to resolve the issues and to investigate the use of technology, including expert systems to reduce the workload required to prepare NPDES permits. DNREC and EPA have recently formed a task force to address Delaware's major NPDES permit backlog and have used EPA's latest memo regarding "Permitting for Environmental Results: Permit Issuance and Priority Permits" for direction. As a result, the task force has set in place a plan to reduce the NPDES major permit backlog to 10 percent by the end of FY2005. DNREC submitted an "Overall Permit Issuance/Backlog Reduction Plan" to EPA on May 13, 2004, which contains a list of expired permits that will be issued, a prioritization scheme, and a schedule to track the status of expired permits. Part of the plan incorporates EPA contractor assistance to develop four draft permits for DNREC to

¹ This number should actually be 52.4%, accounting for the Uniqema permit (DE0000621) issued on 12/11/03, the Selbyville wastewater treatment plant permit issued on 6/24/04, and the Lewes sewage treatment plant (STP) permit (DE0021512) issued on 8/16/04, but not yet updated in PCS.

² The number should actually be 82.9%, accounting for the Sun Corp permit (DE0050288) issued on 4/1/04, Mountaire Selbyville permit (DE0050326) issued on 7/1/04, and Sea Watch International permit (DE0051098) voided (now covered under a general permit for stormwater).

accomplish this milestone. In June 2004 EPA retained contractor support for the drafting of the oldest backlogged permit in Delaware, the NRG Indian River Power Plant.

Table 2: Percentage of Facilities Covered by Current Permits in State

	2000	Nat'l Avg.	2001	Nat'l Avg.	2002	Nat'l Avg.	2003	Nat'l Avg.	2004 as of 8/04
Major Facilities	66.7%	74%	73.9%	76%	73.9%	83%	47.8%	84%	52%
Minor Facilities Covered by Individual Permits	90.2%	69%	80%	73%	97.3%	79%	77.8%	81%	82.9%
Minor Facilities Covered by Individual or General Permits	90.2%	N/A	80%	N/A	97.3%	85%	77.8%	86%	82.9%

Source: PCS, 12/31/00; 12/31/01; 12/31/02; 12/31/03. (The values in the "2003" column are PCS data as of 12/31/03. The values in the National Data Sources column of the Management Report, measure #19 and #20, are PCS data as of 6/30/04.)

7. Data Management

DNREC does not handle large amounts of data that require sophisticated systems for analyzing and reporting information. With only 56 individual NPDES permittees and 250 industrial stormwater permittees, DNREC believes that its program staff can review each entry individually for quality control and current information. Discharge monitoring report (DMR) data are checked for quality by the inspector and a second staff person during data entry. PCS data are used to develop permit renewals and generate reports to EPA. DNREC's opinion is that the number of permit holders in the State is manageable without PCS. PCS is not used as a primary management tool at the State level because more detailed data in paper format and staff spreadsheets and databases can be used easily to provide a more complete picture of the status of priorities. DNREC is in the process of converting to use of the Interim Data Exchange Format (IDEF) for transferring State data into PCS. The State has not participated in the PCS data quality improvement effort to date, but using IDEF will require data cleanup prior to use of the data. The State focuses on keeping complete and current data on DMRs and inspections and has not kept pace in closing out enforcement actions and updating compliance schedules. There appears to be no tracking of basic permit and compliance information for sanitary sewer overflows (SSOs) and combined sewer overflows (CSOs) in PCS. For CAFOs, this is a new program with one individual permittee to date. (A second individual CAFO permit went on public notice on July 14, 2004.) As the program develops, this type of information will be loaded into PCS. The pretreatment and biosolids programs are not delegated to the State and are currently run by EPA. The State does intend to use ICIS-NPDES (modernized PCS) in place of its current database. The State enters all WENDB data, as well as latitude/longitude data, for facilities and outfalls. EPA periodically provides the State with data statistics regarding data gaps or deficiencies to focus on for improvement. The State reviews the data for errors and when necessary makes the corrections in PCS to improve the data quality.

Facility and outfall level latitude and longitude information is required to be entered into PCS as part of the State's Section 106 grant workplan. Delaware has entered 100% of the facility latitude/longitude data for major facilities, and outfall latitude/longitude data entry for major facilities is at 47%. For minor facilities, 97% of facility latitude/longitude data has been entered into PCS, but only 6% of outfalls have such information in PCS. The combined latitude/longitude entry rate for outfalls at major and minor facilities is 29%.

Section II. Program Implementation

1. Permit Quality

The State of Delaware:

DNREC believes that with a relatively small number of permits, the issue is not so much quality control or volume among many permit reviewers as it is communication among staff at DNREC and at EPA. DNREC uses evaluation memos, draft permits, and fact sheets to share document decisions and review justification of permit conditions before release to the facility and the public. The basic NPDES program has been generally stable in numbers and includes experienced staff. DNREC has not relied on a formal self-assessment. The Division Head and Section Manager continuously evaluate program performance and identify areas for improvement of their annual planning and budgeting process. The State also gets continuous feedback from EPA Region 3 about issues that need improvement.

DNREC requires whole effluent toxicity (WET) testing when appropriate, following federal guidance. About one-third of industrial and municipal permittees conduct chronic and acute testing, under three tiers of frequency requirements. The permit provides specific criteria for passing or failing WET tests. Tests are conducted by specialized laboratories, and the State reviews the data provided by the facility and its contractors.

Facilities that discharge wastewater directly into surface waters or into POTWs may be required to conduct toxicity testing of their discharges as part of their NPDES permits. Any discharge that is expected to contain toxic pollutants requires bioassay studies and a toxicity reduction schedule where toxicity is confirmed. DNREC may require additional or more stringent effluent limitations or standards necessary to achieve the water quality standards established under federal and State water quality regulations.

EPA Region 3:

The last formal State assessment of the whole permitting process was conducted in 1996 and included all Region 3 delegated States. Region 3 used a contractor (SAIC) to perform file reviews, assist in interviews with State permit writers and managers, and conduct a simulated permit exercise distributed to each of the State permitting authorities. The mock permit exercise was designed to assess the methods used to calculate and apply water quality-based effluent limitations (WQBELs).

EPA Region 3 and its States have developed an NPDES draft permit checklist to use in developing draft NPDES permits. This checklist was developed by the States and the Region with help from EPA Headquarters, with the need to address the central tenets of the program in mind, to ensure the quality of draft NPDES permits. The checklist was conceived to reduce resources spent on permit oversight and ensure consistency while serving as a management tool for the States and EPA, adding quality control, and including State certification that draft permits meet all regulatory requirements. The checklist was also intended to facilitate expedited review by EPA. Since the checklist's inception in 2000, DNREC has used it in the development of one permit.

For the past 18 years, EPA Region 3 and Region 3 States have held an annual “States NPDES Meeting” to discuss NPDES permit issues. In May 2003, close to 80 State participants joined representatives from other federal agencies, the River Basin Commissions, and EPA Headquarters and Regional staff to discuss the latest policy, procedures, and expectations in the NPDES compliance, permits, and TMDL programs. The meeting also included separate breakout sessions on coal mining issues and enforcement and compliance assistance. DNREC staff always participate in such meetings.

EPA Region 3 reviews State-submitted permits using its own NPDES permit checklist and review of permit applications, DMRs, water quality model information, fact sheets, and an internal Permit Tracking System (PTS) database that tracks the regulatory history of NPDES permits in the Region. Region 3 developed and maintains PTS as a tool to supplement the national PCS database information. Information in PTS assists the Region’s NPDES Permits Team and Division management in tracking draft permit reviews and permit development; provides detailed information such as locations of CSO and stormwater outfalls; and allows the Region to identify permitting issues such as CAFO information, CWA section 303(d)/TMDL requirements, potential impacts related to CWA sections 316(a) (thermal discharges) and 316(b) (cooling water intakes), and the like.

In June 2003 Region 3’s NPDES Permits Team adopted “NPDES Draft Permit Review Standard Operating Procedures” (SOPs) that document the tasks used during Region 3’s review of State-developed draft permits. The SOPs covers topics such as administrative requirements, water quality and technology reviews, communications and coordination, special conditions, and Region 3 procedures for the permit objection process. The SOPs will assist the Region in providing consistency and added quality to NPDES permit reviews across its States.

Region 3 has developed a program that tracks the 12 oldest expired major permits in the Region. The list is constantly updated (as one permit is issued, another backlogged permit takes its place) so that the 12 longest-expired permits are always on the list. Most of these permits have complex permit determinations and are resource-intensive. DNREC currently has five expired major permits on this list.

Under the MOA between DNREC and EPA, Region 3 historically has reviewed all of DNREC’s draft major NPDES permits. In addition, in 1998 EPA Region 3 requested that draft minor permits with approved TMDLs be submitted for review and comment. One reason for the current backlog in the State is the complex environmental issues affecting these permits. For a small state, Delaware has a large number of approved TMDLs, which affect approximately 40, or 71%, of all NPDES permits in the State. Permit issuance has been affected by TMDLs that require “zero” discharge of pollutants, TMDLs for polychlorinated biphenyls (PCBs), and State litigation settled in 1990 regarding water quality standards for toxic pollutants.

Other barriers to permit issuance include the use of intake credits, dioxin and mercury discharges, waters of the U.S./State issues, 316(a) and 316(b) determinations, and erosion/corrosion credits. EPA has objected to three major permits because of the issues mentioned above and is working with DNREC to resolve the issues.

2. Pretreatment

The State of Delaware:

The State has not expressed a desire to pursue authorization to implement the pretreatment program.

EPA Region 3:

The Region implements the pretreatment program in Delaware. There are six approved pretreatment programs in the State, consisting of 61 significant industrial users. All significant industrial users discharging to the POTWs are covered by permits that are less than 5 years old. The qualities of the permits are reviewed during POTW audits. The Region has identified two categorical industrial users without control mechanisms that are discharging to POTWs without approved pretreatment programs. Control mechanisms for both users are being developed. This is only a recent development. Both users previously discharged to POTWs with approved programs, but the portion of the service area that includes these two users now drains to a newly constructed POTW that does not have an approved pretreatment program. Because the design flow of the new POTW is below 5 million gallons per day, the Region has not required the new POTW to develop a program. Because the Region cannot issue an NPDES permit to these users, the control mechanism will consist of an information package describing the category that the user falls in, the applicable limits and monitoring requirements, a summary of the General Pretreatment Regulations, and a copy of the General Pretreatment Regulations. The Region does not regulate non-categorical users that discharge to POTWs without approved pretreatment programs.

The annual reports are due by February 28 and March 31 of each year as a condition of the POTWs' NPDES permits. The Region reviews each annual report yearly, with priority of review given to POTWs with past problems. As part of the annual report review, the Region evaluates the POTW program on the basis of a number of different measures, which include the POTW's influent, effluent, and sludge monitoring data; NPDES and sludge disposal compliance; program implementation (sampling, inspection, permit issuance, industrial user compliance); and adequacy of the approved program (legal authority, local limits). Based on this review, a letter is sent to the POTW discussing program weaknesses along with any recommendations or requirements for improvement. POTW responses to the letter are evaluated to determine whether the weaknesses are being appropriately addressed.

The Region schedules each POTW with an approved program for an audit every 5 years. All Delaware POTW programs were audited in the past 5 years. After the audit is conducted, the Region writes a report that details the required and recommended actions for improvement of the POTW's program. The report is sent to the POTW with a cover letter explaining the requirements and asking for a response. The response to the required actions is tracked to ensure that the deficiencies are appropriately addressed. Cases are referred to enforcement as needed.

The Region uses the measures to determine areas of improvement for the overall program in addition to individual POTW programs. For example, several years ago the Region identified a high rate of significant industrial users in significant noncompliance. After analyzing the data based on the 19 prescribed measures, the Region was able to isolate the problem and develop corrective action. The Region has initiated a process whereby POTWs with higher significant noncompliance rates now submit quarterly reports on significant industrial user compliance and POTW enforcement. This allows the Region to more closely track the POTWs' actions and provide real-time guidance on appropriate actions in response to violations. As a result, the rate of significant industrial users in significant noncompliance

at any time during the calendar year has fallen significantly from calendar year 2001 (14.3%, typical of previous years) to calendar year 2002 (3.3%, the last year for which statistics are available).

The Region has also determined, on the basis of POTW influent, effluent, and sludge, that some POTW local limits need further refinement. Although there is generally no evidence of pass-through or interference, monitoring data indicate that POTWs at times exceed the established local limit influent goals. To address this issue, the Region has started to include the influent, effluent, and sludge evaluation in the local limits review process. Not enough data are available at this time to evaluate the effectiveness of this approach.

3. Concentrated Animal Feeding Operations

The State of Delaware:

Delaware is drafting a CAFO program that is expected to be consistent with federal regulations. The program is being developed cooperatively by DNREC, DDA, and the Delaware Nutrient Management Commission. The agencies are working to develop the program by the April 14, 2005, deadline. The expectation is that EPA will have the proposed program for review in the fall of 2004. However, EPA has identified one part of the CAFO program that appears to be inconsistent with the federal rule: provisions for the temporary stockpiling of manure. The agencies are working to try to resolve the issue through a series of meetings in consultation with EPA Headquarters.

DNREC has delegated responsibility for the CAFO program to DDA but will still be involved with the program to some extent. Although DDA will be the primary administrator of the program, DNREC is still technically and legally responsible for the CAFO NPDES program as a whole. It is expected that once the final regulations and strategy are approved and the program has been functioning for a while, either DDA or the Nutrient Management Commission will pursue full and complete delegation of the program.

The State has an active nutrient management program that requires nutrient management plans (NMPs) to include best management practices (BMPs) and capital improvements for most animal feeding operations. The State also requires all business operations that apply nutrients to more than 10 acres or manage 8,000 pounds of animals to have nutrient management plans. Currently, a State CAFO work committee is working to align the CAFO requirements with existing programs and requirements in Delaware. The individual effectiveness of NMPs will be determined through an MOA between DNREC and DDA. The State has established nutrient management certification requirements for those who prepare NMPs.

To date, one CAFO (beef) has been permitted in Delaware. About 48 large poultry operations are expected to need coverage by 2006. A draft permit for one additional CAFO, Delaware Park (a horse racing operation), was made available for public comment in July 2004.³

³ The National Data Sources column on the Management Report, measure #26, indicates that 50% of CAFOs have NPDES permits. This is because the Region overestimated the State's permitting plans in reporting for the March 2004 quarterly CAFO implementation survey. The estimation has since been revised, and the Additional Data column reflects the one permitted CAFO mentioned above.

4. Stormwater

The State of Delaware:

Overall, Delaware has four stormwater permits (individual) in place for its MS4 permittees (one under Phase I and three under Phase II). All four permits are current. Delaware is revising its general permit for stormwater associated with industrial discharges and construction activities. The State has a permit-by-rule approach in its stormwater regulations, which went into effect on September 15, 1998, and expired on September 13, 2003. EPA is in the process of determining whether the regulations are still enforceable and how to resolve the issue. Delaware has one Phase I MS4 discharger, New Castle County, which has been permitted under Phase I regulations. The permit for New Castle County was issued April 9, 2001, and will expire April 30, 2006.

Delaware has five identified Phase II MS4s. The State has decided to issue individual permits to its Phase II MS4s. It has issued three Phase II MS4 permits and is still deliberating about how to address the remaining two MS4s (Delmar and Camden-Wyoming). DNREC is evaluating several questions: the possibility of granting waivers; the extent to which each town is responsible for storm sewer operation and maintenance: whether the permit issued to DELDOT covers the MS4 in both towns; and how best to communicate with both towns. The State does maintain an electronic tracking system for notices of intent (NOIs), and NOIs are available to the public at DNREC's Web site at <http://apps.dnrec.state.de.us/noi/searchnoi.aspx>.

For stormwater associated with industrial discharges and construction activities, the State uses the general permit program as part of regulations adopted by the State. The general permit program regulations for construction activities are administered by DNREC's Division of Soil and Water. Since 1991, the State has required all construction activities disturbing more than 5,000 square feet to apply for and obtain coverage under the general permit for construction activities. As part of the application process, the State requires that all permittees have an approved stormwater management plan equivalent to EPA's stormwater pollution prevention plan. Delaware's regulations concerning stormwater discharges associated with construction activities went into effect September 15, 1998, and were effective for 5 years. The regulations expired on September 15, 2003. EPA is now trying to determine whether the regulations are still enforceable and how they can be extended until new regulations have been finalized.

EPA Region 3:

The NPDES Program is delegated to Delaware, with the exception of federal facilities and pretreatment.

Dover Air Force Base has been identified as a small MS4 requiring permit coverage. EPA Region 3 has drafted an individual stormwater permit, made available for public comment in July 2004, to cover discharges from the MS4 and industrial stormwater discharges from this facility. Construction activities at Dover Air Force Base that disturb more than 1 acre of land are covered under the construction general permit for stormwater discharges construction general permit issued by EPA on July 1, 2003. As of March 2004, Dover Air Force Base has not applied for coverage under the construction general permit for any construction.

The remaining 18 federal facilities in Delaware do not need MS4 permit coverage due to their small size and the nature of their activities. EPA Region 3 contacted all 18 federal facilities in Delaware in October

2002, notifying them that they must apply through the National NOI Center for general permit coverage for stormwater emanating from industrial sites or construction sites 1 acre or greater in size. Most facilities indicated that they do not perform industrial or construction activities that require such permit coverage. One federal facility, Delaware Air National Guard, obtained industrial stormwater permit coverage under the Multi-Sector General Permit on October 1, 2003, and construction stormwater general permit coverage on October 23, 2003. This facility, as of March 2004, is still covered under both general permits.

5. Combined Sewer Overflows/Sanitary Sewer Overflows

The State of Delaware:

The State originally had two CSO communities, Seaford and Wilmington. In 2003 Seaford separated its combined sewer system, and it is no longer considered a CSO community. Because of the small number of CSO communities, DNREC chose to address CSO communities case by case, incorporating the appropriate permit conditions to address each community's CSOs as its NPDES permit came up for renewal.

In response to EPA's 1989 National CSO Strategy, the City of Wilmington and DNREC agreed to certain CSO-related provisions in the city's NPDES permit for its wastewater treatment system. Those conditions included an assessment of the city's combined sewer system, development of a CSO operating plan, management measures to maximize in-system storage and treatment of wet-weather flows at the city's wastewater treatment plant (WWTP), and an assessment of CSO impacts on water quality. Outcomes of this initial CSO planning effort included a \$30 million expansion of wet-weather treatment capacity at the WWTP, commitment of additional resources to CSS system inspection and maintenance, and modifications at one outfall (CSO 30) to increase system storage.

The city is implementing a nine minimum controls program in accordance with the expectations of the 1994 CSO Policy. The city has documented its program and performance measures in a series of annual reports, submitted to both DNREC and EPA, since 1997. In 2002 the city and DNREC agreed to several enhancements to the city's nine minimum controls program, which were memorialized in a consent agreement.

On December 3, 2003, the city submitted its draft enhanced long-term control plan (LTCP) to DNREC for review and approval. The enhanced LTCP comprises a three-phased approach that integrates the continued implementation of cost-effective CSO controls with the assessment and development of appropriate wet-weather objectives and TMDLs that account for all sources of wet-weather impacts in the Christina basin.

The city has a comprehensive public notification and education program, including CSO signs at every CSO outfall and areas of access to CSO receiving waters; community meetings; development and distribution of a CSO brochure entitled "Sensible Solutions"; a biweekly public service announcement on local radio and the city's television station, channel 22, on CSOs and conditions that cause them; and the development and maintenance of an interactive CSO Web site at <http://www.wilmingtoncso.com>.

Each year the City submits an annual report documenting CSO activities. The 2003 annual report states that on a system-wide, annual average basis, an estimated 75% of combined flow entering the system during wet-weather events is captured for treatment at the city's wastewater treatment plant.

For SSOs, EPA Region 3 information identifies Kent County (DE0020338) as the only POTW with SSOs in Delaware. The Region has no information regarding SSOs from this facility. In general, information regarding SSOs in the State is extremely limited.

6. Biosolids

The State of Delaware:

EPA Region 3 is responsible for the implementation of the biosolids program for the State of Delaware. Delaware has a State biosolids program in place but has not applied for authorization of the federal program.

Delaware's sewage sludge regulation, Part III B of Guidance and Regulation Governing the Land Treatment of Wastes, was revised in October 1999 to incorporate Part 503. Authority comes from 7 Delaware Code, Chapter 60, Environmental Protection Act. Inspections are completed at the generator site at least seasonally, at the application site before and after application, and at all distribution and marketing operations bimonthly. All reports are manually reviewed for compliance with Delaware's regulation and specific permit requirements. The reports are manually filed.

EPA Region 3:

EPA Region 3 is responsible for administering the federal Part 503 Sewage Sludge Use or Disposal Regulation for the State of Delaware. To date, Delaware has not sought program authorization for the federal Part 503 requirements. Delaware has shown interest but has not submitted authorization packages to date due to lack of resources.

All publicly, privately, and federally owned facilities that generate or treat sewage sludge, as well as any person who uses or disposes of sewage sludge or domestic septage, must submit a sewage sludge NPDES Form 2S permit application. Region 3 reviews and tracks the sewage sludge permit applications; however, the Region has not issued any sewage sludge permits to facilities in Delaware. The Part 503 requirements are self-implementing, meaning EPA does not need to issue permits to take an enforcement action. However, the following information is incorporated into the State-issued NPDES permit for sewage sludge:

The permittee shall comply with all existing Federal and State laws and regulations that apply to its sludge use or disposal practice(s) including, but not limited to, Federal Regulations 40 CFR Part 258, Section 28 "Liquids Restrictions" and the Department's Guidance and Regulations Governing the Land Treatment of Wastes, August 1988. If the Department determines that additional requirements or permit conditions are needed to insure compliance with the referenced regulations, or if the Federal Government promulgates new regulations under Section 405(d) of the Act governing, (a) the treatment or disposal of sewage sludge, (b) sewage sludge management practices, or (c) concentrations of pollutants in sewage sludge, this permit may be reopened, and after notice and opportunity for public hearing, modified accordingly during its term.

EPA Region 3 developed a sewage sludge DMR form that is used by facilities that are required to report to EPA on February 19 of each year (i.e., all major facilities and any minor facilities required to have a pretreatment program). The report information is entered into PCS. EPA Region 3 obtains a printout from PCS to determine the amount of sewage sludge generated annually and the amount of sewage sludge that is used or disposed of (i.e., land applied, surface disposed, sent to a municipal solid waste landfill, or incinerated and sent to another facility for treatment). Currently, more than 99% of Delaware's sewage sludge is being land applied or distributed for reuse.

EPA Region 3 developed a sewage sludge inspection form for POTWs that use or dispose of their sewage sludge and an inspection form for the land appliers of sewage sludge. To date, EPA Region 3 has not inspected any POTWs or land appliers in Delaware for the Part 503 requirements. When an inspection is performed, this information is entered into PCS or the Integrated Compliance Information System (ICIS).

When EPA Region 3 receives a sewage sludge complaint from a citizen in Delaware, the Region first coordinates with the State to gather any information that may be helpful in resolving the complaint. Complaints are tracked in EPA Region 3's citizen complaint database.

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 Delaware:

Delaware deals with violations case by case, relative to the nature of the impact on the receiving stream, the extent of problem, and the responsiveness of the permittee. DNREC staff review all DMRs and use spreadsheets and State databases to track monthly compliance and long-term compliance trends of all individually permitted facilities.

Delaware has only one CSO community (Wilmington). Critical elements of the LTCP are included in each permit. This provides an enforceable mechanism and flexibility by "approving" the LTCP in 5-year increments. One possible improvement to the enforcement program would be to increase the use of a compliance order, consent order, or a consent decree to require the implementation of LTCPs approved by DNREC, ultimately making all LTCP schedules judicially enforceable. Such enforcement mechanisms should include the deadline for bringing CSO discharges into compliance with the water quality-based requirements of the CWA and should identify the CSO WQBELs in effect (pursuant to the permittee's NPDES permit) and to be achieved through LTCP implementation.

Delaware has a "Compliance and Enforcement Response Guide" that outlines its approach to noncompliance. Delaware ensures a fair and balanced approach to noncompliance by using a Department-wide enforcement panel that takes into account the nature and extent of the impact and the responsiveness of the permittee and applies a uniform matrix to calculating penalties. Enforcement escalates when permittee responsiveness is lacking.

Delaware uses a penalty policy that has components similar to EPA's. New statutes in Delaware require the release of information on chronic violators and criminal penalties for deliberately false submissions.

No formal stormwater enforcement cases have been identified since the beginning of the program. Deficiency notices have been used to achieve compliance when necessary.

Delaware has demonstrated that field presence is a critical element in overall permittee compliance. This is best illustrated by the fact that there has only been one major facility in significant noncompliance over the past 6 years. Minor facilities are reported to be approximately 99% in compliance.

2. Record Keeping and Reporting

The State of Delaware:

Delaware maintains accurate and current records of performance that are available to the public. No deficiencies were reported to Delaware from an EPA audit performed in September 2002.

3. Inspections

The State of Delaware:

Delaware states that it reviews all aspects of the varied NPDES programs. Each minor facility with an individual permit is inspected at least three times a year, and major facilities are inspected at least monthly. Facilities covered under general permits are inspected once every 3 years. Delaware states that it uses EPA criteria for assessing significant noncompliance. The State performs a compliance sampling inspection on every major facility at least once a year.⁴

Delaware follows EPA guidance for targeting sectors for inspection. Given the small number of facilities, all facilities get ample attention. However, whether there is any other prioritization strategy is unclear. EPA believes Delaware may need more rigid timelines for compliance and greater correlation to science-based studies on affected surface waters (i.e., greater coordination with watershed assessment groups). The Compliance and Inspection Branch is involved with permit development and participates in the Surface Water Discharges Section's NPDES status meetings.

Coordination and communication with EPA may be an area for continual improvement. Delaware received no feedback from an EPA audit of the compliance program conducted in September 2002.

4. Compliance Assistance

The State of Delaware:

Assistance is provided and relied on heavily. Delaware believes it excels in this area. Inspectors have much previous experience in plant/facility management. Delaware uses assistance under CWA section 104(g) to help when appropriate. The State also promotes a "mentor/buddy" system involving new and experienced operators.

Delaware believes that the noncompliance rate and how quickly a facility returns to compliance are key indicators of the success of compliance assistance.

⁴ The National Data Sources column on the Management Report, measure #32, shows that 91% of major facilities were inspected in fiscal year 2003. This is inconsistent with Delaware State records, showing 100% of major facilities inspected, due to incomplete PCS data entry.

Section IV. Related Water Programs and Environmental Outcomes

1. Monitoring

The State of Delaware:

Delaware's Surface Water Quality Monitoring Program has five major components:

- TMDL-Related Monitoring
- General Assessment Monitoring
- Toxics in Biota Monitoring
- Toxics in Sediment Monitoring
- Biological Assessment Monitoring

Delaware's FY2004 CWA section 106 grant includes a grant condition to update the State's monitoring program in accordance with EPA's March 2003 guidance, "Elements of a State Water Quality Monitoring Program." Delaware intends to complete the update to its monitoring program plan by September 30, 2004. Currently, Delaware has a comprehensive ambient monitoring network that collects samples quarterly. This basic monitoring network is supplemented under the auspices of the State's Whole Basin Management program, which cycles more intensive monitoring through the State's five subbasins on a rotating schedule. This intensive supplemental monitoring is used to develop TMDLs, providing an adequate basis for the development of wasteload allocations (WLAs) for NPDES permittees. Because of the small geographic size of Delaware, few statistical (probabilistic) approaches to monitoring have been necessary to date. Delaware is now exploring use of some statistical approaches in the development of nutrient criteria, bacteria assessment, and biological monitoring. Several active citizen monitoring programs have also been developed throughout the State, which augment the data collected by DNREC. The purpose of the Ambient Surface Water Quality Monitoring Program is to collect data on the chemical, physical, and biological characteristics of Delaware's surface waters. The information collected under this program is used to:

- Describe general water quality conditions in the State
- Identify long-term trends in water quality
- Determine the suitability of Delaware's waters for water supply, recreation, fish and aquatic life, and other uses
- Monitor achievement of water quality standards
- Identify and prioritize high-quality and degraded waters

- Support the TMDL program
- Evaluate the overall success of Delaware's water quality management efforts

DNREC recognizes the need to use its personnel and financial resources efficiently and effectively. To that end, surface water quality monitoring is conducted in a manner that focuses available resources on the Whole Basin Management concept. This program calls for DNREC, in partnership with other governmental entities, private interests, and all stakeholders, to focus its resources on specific watersheds and basins (groups of watersheds) within specific time frames. The Whole Basin Management program in Delaware operates on a 5-year rotating basis. In addition to the planning and preliminary assessment steps, Whole Basin Management will include intensive basin monitoring, comprehensive analyses, management option evaluations, and resource protection strategy development. Public participation and ongoing implementation activities will occur throughout the Whole Basin Management process. This new approach enables DNREC to comprehensively monitor and assess the condition of the State's environment with due consideration of all facets of the ecosystem.

Biological assessment monitoring is one of five major components of Delaware's Surface Water Quality Monitoring Program. The biological monitoring program is a major tool used by DNREC to assess the conditions of surface waters. It includes the assessment of indigenous biological communities and physical habitats of streams, ponds, estuaries, and wetlands. The goal of the program is to establish numeric biological criteria in State water quality standards to complement both existing chemical criteria and other assessments focused on fish tissue monitoring and bioassay testing. Standard methods have been developed and tested for assessing the biological community and habitat quality of nontidal streams, and draft numeric criteria are under development. Efforts over the next few years will focus on the development of methods for assessing estuaries and ponds and for assessing the quality and quantity of wetlands.

A lack of sufficient discharger-specific monitoring data still exists, prohibiting the State from establishing in-stream background concentrations for most permit limit calculations. Many effluent limits are calculated with the zero background assumption. Enhancement of the monitoring program and possible in-stream monitoring requirements for permittees could eliminate or verify the zero background assumption.

2. Environmental Outcomes

The State of Delaware:

The Management Report shows that Delaware has assessed 92.7% of river/stream miles and 31.5% of lake acres for recreation and aquatic life. (The State reports that it assessed all 2,954 acres of "significant publicly owned lakes.") Water quality and biological data for Delaware's surface waters are collected under Delaware's Ambient Surface Water Quality Monitoring Program and Biological Monitoring Program within DNREC.

As shown in the Management Report, of the 92.7% of river and stream miles assessed for recreation and aquatic life, and of the 31.5% of lake acres assessed for recreation and aquatic life, 95.7% of river and stream miles were impaired for swimming in 2000 and 69.2% of lake acres were impaired for swimming in 2000.

3. Water Quality Standards

The State of Delaware:

As a result of DNREC's latest triennial review, the Department submitted revisions to its water quality standards to EPA on September 17, 2004.⁵ EPA is reviewing them.

In 1998 Delaware published its current Continuing Planning Process for Water Quality Management in conformance with section 303(e)(1) of the CWA. This document describes the coordination of the water quality management activities of DNREC and its partner agencies.

DNREC uses EPA guidance for assessing "reasonable potential" and establishing WQBELs. The basis for each WQBEL, and that for all other effluent limitations and permit conditions, is outlined in the permit fact sheet. Discharges to impaired waters of any pollutants of concern are capped at existing levels until the TMDL/WLA is established. Permits include reopening clauses for establishing new limits upon adoption of a TMDL.

The translation of WLAs to permit limits is dependent upon how the WLA is written; a numeric WLA is translated into a permit limit using the statistical tools outlined in EPA's guidance. The State does not separately track the universe of permits that are implementing TMDLs. Most of the State's waters are impaired, and the water body and its status are noted in the permit databases. Therefore, most permitted discharges are to impaired waters for which a TMDL has been, is being, or will be developed.

DNREC does not take background concentrations into account when calculating WQBELs due to lack of information to do such a determination. This is an opportunity for enhancement of the State program.

Delaware has had enterococci criteria for more than a decade. DNREC submitted a revision to EPA for approval on September 17, 2004. EPA approved that change on November 4, 2004, but deferred approval of a provision of the criteria indicating that the criteria apply only to enterococcus bacteria determined by the Department to be of non-wildlife origin. EPA is working with DNREC to resolve the issues that EPA has with the State's enterococci criteria.

DNREC provided a draft nutrient criteria plan and EPA has provided comments. DNREC is working to address EPA's concerns by December 1, 2004.

4. Total Maximum Daily Loads

The State of Delaware:

Measures #41, #42, #54, #55, and #56 of the Management Report describe the status of TMDL commitments and progress in Delaware.

Delaware has issued some stringent TMDLs, led by the Inland Bays TMDL that requires "zero" discharge of phosphorus and nitrogen. This has affected issuance of NPDES permits to incorporate these

⁵ The triennial review was completed on 7/11/04. Because the data for the National Data Sources column of the Management Report for measure #44, "On-time Water Quality Standards (WQS) triennial review completed," were based on activity as of 1/1/04, Delaware's triennial review was not captured.

types of WLAs. Delaware was one of the first States in the Region to use trading approaches to address TMDL WLAs in permits.

EPA is under a consent decree that established commitments and schedules for TMDL development. EPA developed a number of major interstate TMDLs for Delaware over the past year. The Region also developed the updated dissolved oxygen TMDL for the Appoquinimink River in December 2003, covering the mainstem and upstream tributaries. EPA also developed the PCB TMDL for the Delaware River, and the Region is working on the high flow TMDL for the Christina River. The Region is also reviewing modifications that the State is making to its Murderkill TMDL.

The Region reviews all major and minor draft NPDES permits with approved TMDLs to ensure that the appropriate WLAs are included. Recently, DNREC has issued minor permits without the WLAs found in the approved TMDL. DNREC is in the process of revising its process to capture minor permits as well.

The 2003 EPA Region 3/States NPDES meeting was combined with the second annual EPA Region 3/States TMDL Meeting because of the growing number of TMDLs that directly affect permit limits. Close to 80 State participants joined representatives from other federal agencies, the River Basin Commissions, and EPA Headquarters and Regional staff to discuss the latest policy, procedures, and expectations in the NPDES compliance, permits, and TMDL programs.

5. Safe Drinking Water Act

The State of Delaware:

DNREC has regulatory authority for the environmental water quality of water that is either in an aquifer or on the land's surface. The Delaware Division of Public Health (DPH) has authority for water that is removed from the ground and is being used as drinking water. Together, DPH and DNREC protect the waters of Delaware; DPH monitors public water supplies, protecting the consumer, while DNREC protects water as a natural resource.

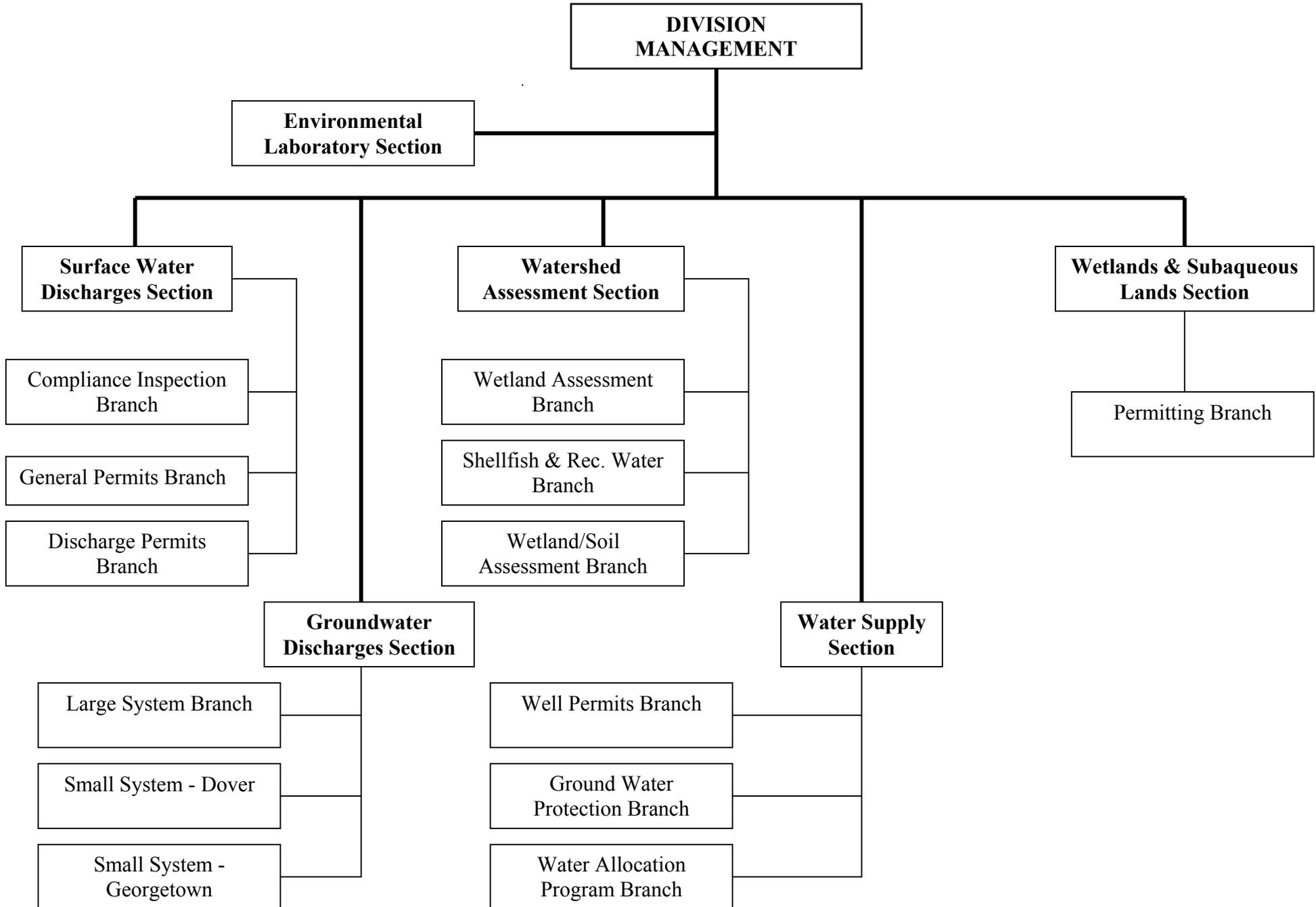
The State of Delaware has only four surface water-based public water supply intakes, all in the northern part of the State; the remaining supply is from wells. All point sources upstream of the public water supply intakes are minor NPDES permitted sources. Because public water supply is a designated use, DNREC uses EPA guidance for assessing "reasonable potential" and establishing WQBELs.

Section V. Other Program Highlights

The State of Delaware:

Delaware is fully covered by three National Estuary Programs: the Delaware Inland Bays Program, contained wholly in the State; the Delaware Estuary Program, shared with New Jersey and Pennsylvania; and the Chesapeake Bay Program, covering Maryland, Virginia, Pennsylvania, the District of Columbia, West Virginia, and Delaware. DNREC participates actively in all three programs. Each program has significant issues related to NPDES permits, including excess nutrients and PCBs.

**DELAWARE DEPARTMENT OF NATURAL RESOURCES & ENVIRONMENTAL CONTROL
DIVISION OF WATER RESOURCES**



NPDES Management Report, Fall 2004

Delaware

			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	21	0		
	2	# minor facilities covered by individual permits (42,057 total)	I.1		n/a	35	0		
	3	# minor facilities covered by non-storm water general permits (39,183 total)	I.1		n/a	0	0		
	4	# priority permits (TBD)	I.6			--	--		
	5	# pipes at facilities covered by individual permits (142,761 total)	I.7		n/a	196	--		
	6	# industrial facilities covered by individual permits (32,505 total)	I.1		n/a	34	0		
	7	# POTWs covered by individual permits (15,197 total)	I.1		n/a	15	0		
	8	# pretreatment programs (1,482 total)	II.2		n/a	n/a	6		
	9	# Significant Industrial Users (SIUs) discharging to pretreatment programs (22,158 total)	II.2		n/a	n/a	61		
	10	# Combined Sewer Overflow (CSO) permittees (831 total)	II.5		n/a	1	--		
	11	# CAFOs (current and est. future) (17,672 total)	II.3		n/a	50	--		
	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%	29.1%	--		
	15	State CAFO legal authority expected (mo/yr)	II.3	2005	n/a	4/05	n/a		
	16	# Withdrawal petitions/legal challenges (22 total)	I.4		n/a	0	n/a		
	17	DMR data entry rate	I.7		95%	100%	--		
	18	# permit applications pending (1,011 total)	I.6		n/a	1	--		
NPDES Program Implementation	19	% major facilities covered by current permits	I.6	90%	83.7%	38.1%	n/a	52.4%	
	20	% minor facilities covered by current individual or non-storm water general permits	I.6	90% 12/04	87.0%	74.3%	n/a	82.9%	
	21	# major facilities w/permits expired >10 yrs. (56 total)	I.6		n/a	2	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%	n/a	100.0%		
	24	% SIUs w/control mechanisms	II.2		99.2%	n/a	100.0%		
	25	% of CSO permittees with long-term control plans developed or required	II.5	75% 2008	82.2%	100.0%	--		
	26	% CAFOs covered by NPDES permits	II.3		35%	50%	--	2%	
	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	1	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	3/2/0	D		
	31	Phase II storm water construction permit current (Y/N/D (draft)) (49 States)	II.4	100% states 2008	n/a	N	Y		
NPDES Compliance Monitoring and Enforcement Response	32	% major facilities inspected	III.3		71%	91%	4%	100%	
	33	(inspections at minors) / (total inspections at majors and minors)	III.3		76%	44%	78%		
	34	% major facilities in significant non-compliance (SNC)	III.1		20%	0%	--		
	35	% SNCS addressed by formal enforcement action (FEA)	III.1		14%	n/a	--		
	36	% SNCS returned to compliance w/o FEA	III.1		70%	n/a	--		
	37	# FEAs at major facilities (666 total)	III.1		n/a	0	1		
	38	# FEAs at minor facilities (1,660 total)	III.1		n/a	0	2		

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 NTTS 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.

Additional Data: These columns provide additional data in cases where information from other data sources differs from information in the National Data Sources column for reasons such as different timing of the data "snapshot." Additional data should generally adhere to the same narrative definitions as data in the National Data Sources, and should be derived using similar processes and criteria. Our goal is to work with the States on these discrepancies to ensure consistent and accurate reporting. A State contact is available who can respond to queries. The profiles discuss each additional data element.

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

Delaware

		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	2,704	n/a		
	40	Lake acres (27,775,301 total)	IV.2		n/a	9,388	n/a		
	41	Total # TMDLs in docket at end of FY 2003 (52,795 total)	IV.4		n/a	758	--		
	42	# TMDLs committed to in FY 2003 management agreement (2,435 total)	IV.4		n/a	32	0		
	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	N	n/a	Y	
	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%	92.7%	n/a		
	48	% river/stream miles assessed for aquatic life	IV.2		22.0%	92.7%	n/a		
	49	% lake acres assessed for recreation	IV.2		49.4%	31.5%	n/a		
	50	% lake acres assessed for aquatic life	IV.2		48.5%	31.5%	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	Y	n/a		
	53	WQS for nutrients or Nutrient Criteria Plan in place (13 States)	IV.3	25 states 2008	n/a	N	n/a		
	54	Cumulative # TMDLs completed through FY 2003 (10,807 total)	IV.4		n/a	84	--		
	55	# TMDLs completed in FY 2003 (2,929 total)	IV.4		n/a	14	0		
Environmental Outcomes	56	# TMDLs completed through FY 2003 that include at least one point source WLA (5,036 total)	IV.4		n/a	--	--		
	57	% Assessed river/stream miles impaired for swimming in 2000	IV.2		--	95.7%	n/a		
	58	% Assessed lake acres impaired for swimming in 2000	IV.2		--	69.2%	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	--	--		

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 NTTs 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.

Additional Data: These columns provide additional data in cases where information from other data sources differs from information in the National Data Sources column for reasons such as different timing of the data "snapshot." Additional data should generally adhere to the same narrative definitions as data in the National Data Sources, and should be derived using similar processes and criteria. Our goal is to work with the States on these discrepancies to ensure consistent and accurate reporting. A State contact is available who can respond to queries. The profiles discuss each additional data element.

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.