



Permitting for Environmental Results (PER)

NPDES Profile: Montana and Indian Country

PROGRAM RESPONSIBILITY

State of Montana: NPDES authority for base program, general permitting, federal facilities
EPA Region 8: NPDES authority for biosolids, pretreatment
EPA Region 8: 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, contact Bonnie Lovelace, Montana Department of Environmental Quality, at (406) 444-4969 or Rosemary Rowe, EPA Region 8, at (406) 457-5020.

Section I. Program Administration

1. Resources and Overall Program Management

The State of Montana:

Montana received authorization for the NPDES program on June 10, 1974, and received additional authorization for federal facilities on June 23, 1981, and for a general permits program on April 29, 1983. Montana is not authorized for pretreatment or biosolids. There are 41 major facilities and 134 minor facilities covered by individual permits,¹ and 150 facilities are covered by general permits, excluding construction stormwater permits. The Montana Pollutant Discharge Elimination System (MPDES) program operates in conjunction with programs for groundwater permitting, certification under the Clean Water Act (CWA) section 401, and State-issued authorizations for turbidity and pesticide application. All these programs are part of the Water Protection Bureau (WPB), Permitting and Compliance Division, of Montana's Department of Environmental Quality (DEQ). Water quality standards, total maximum daily loads (TMDLs), and water quality monitoring are part of the Water Quality Planning Bureau, Planning, Prevention, and Assistance Division, of DEQ, which operates under a separate budget from the WPB. Contact information for selected programs is as follows:

¹ The number of major facilities covered by individual permits differs from the National Data Sources column of the Management Report, measure #1, because two dischargers are now covered under the superfund cleanup process rather than NPDES. These facilities have been inactivated in Permit Compliance System (PCS).

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The MPDES program issues and modifies individual permits, general permits, stormwater permits, and concentrated animal feeding operation (CAFO) permits, and provides technical and public assistance. The MPDES program also performs compliance inspections and compliance assistance, and makes enforcement referrals. In addition, MPDES staff members enter data into and maintain the Permit Compliance System (PCS) and internal databases, and they collect permit fees.

A WPB organizational chart is provided. The WPB is divided into the Water Quality Discharge Permit Section and the Compliance and Technical Support Section. Within the Permit Section, there is one supervisor, three stormwater permitting staff, three groundwater permitting staff, and five MPDES permit writers. These permitting staff also conduct compliance inspections. In the Compliance Section, there is one supervisor, four support staff, and two database staff. The supervisor of this section also oversees the compliance work conducted by the Permit Section. In addition to the MPDES program, the WPB is also responsible for groundwater permitting, certifications under CWA section 401, and State permits for turbidity and pesticides. During fiscal year (FY) 2004 (July 1, 2003, to June 30, 2004), Montana's monetary resources for the MPDES program were as follows:

Fee Support of MPDES Permitting	\$871,135
Fee Support for Formal Enforcement	33,182
Additional EPA State grant funding under CWA Section 106 for the Nondegradation Program	131,484
EPA Section 106 Support for Groundwater, Also Used/Combined for CAFOs (\$44,488 for CAFOs; \$139,276 for groundwater)	183,764
Additional 2004 Support for New CAFO Staff	49,112
TOTAL	\$1,268,677

There has been a 100% turnover rate among non-stormwater permit writers in the past 3 years. In the past 6 months two permit writers have resigned. Permit writers complete EPA's NPDES Permit Writers' Training Course and follow permit writing procedures established in Montana's regulation. Daily interaction with more experienced staff and weekly staff meetings provide additional training. The staff members also rely on EPA guidance documents. Montana conducts its own training for inspectors based on EPA's NPDES Compliance Inspection Manual. The current program manager has attended EPA's

NPDES inspector training. Montana sent two staff persons to the Train the Trainer NPDES Inspector Training program in Denver this summer.

When the State received NPDES authorization in 1974, Montana determined that 8.65 full-time equivalent (FTE) staff positions would be required to administer the program. The budget was \$508,258. In 1992, the Montana NPDES program had six FTEs, including three permit writers. In 1995, the program had 8.5 FTEs, including 2.5 FTEs dedicated to stormwater. Staffing levels have increased over the years as the program expanded to address other areas such as stormwater and CAFOs. However, it is not clear that the staffing levels have kept pace with the increasing scope of the program. Until recently the CAFO program was implemented by 0.4 FTE. A new CAFO staff person has recently been added for one FTE. A new manager position has been created to oversee compliance and technical support, and a permit writer has also been added. EPA and Montana have been working together to see how resources and staff capabilities can be enhanced. Additional training for new staff and a plan to address resource shortages might be necessary.

EPA Region 8:

EPA Region 8 directly implements the NPDES program in Region 8. NPDES activities in Indian Country involve individual permits, general permitting, federal facilities, pretreatment, and biosolids. EPA Region 8 also directly implements certain programs in Region 8 States, as shown in the table below.

Table 1: EPA Region 8 Direct Implementation Responsibilities

	Individual Permits	General Permits	Federal Facilities	Pretreatment	Biosolids
Colorado			X	X	X
Montana				X	X
North Dakota				(Authorization in Process)	X
South Dakota					
Utah					
Wyoming				X	X
27 Tribal Governments	X	X	X	X	X

EPA Region 8 is organized into six primary offices: Office of Partnerships and Regulatory Assistance (OPRA); Office of Enforcement, Compliance, and Environmental Justice (ECEJ); Office of Ecosystems Protection and Remediation (EPR); Office of Technical and Management Services (TMS); Office of Communications and Public Involvement (OCPI); and Office of Regional Counsel (RC).

There are nine FTEs, including a supervisor in the Water Permits Unit (a part of OPRA) who are responsible for implementing the overall NPDES program in Indian Country, implementing the programs for which States have not been authorized (Table 1), and providing State oversight.

There is one FTE in the Water Quality Unit (a part of ECEJ) who is responsible for direct implementation and State oversight of the stormwater program.

There are seven FTEs, including a supervisor, in the NPDES Enforcement Unit (also a part of ECEJ) who are responsible for enforcement and compliance of the overall NPDES program in Indian Country, enforcement and compliance for programs for which States have not been authorized (Table 1), and State oversight.

There is also one FTE in the EPA Montana Operations Office who is responsible for all NPDES program activities (permitting and enforcement) associated with seven Tribal governments, programs for which the State of Montana is not authorized, and State oversight.

As of September 2004 the total universe of permits issued by EPA Region 8 in all Region 8 States and Indian Country was as follows:

- 5 major individual permits
- 104 minor individual permits
- 184 biosolids general permit coverages
- 96 Indian Country lagoon general permit coverages

In Montana, EPA has issued 15 individual surface water discharge permits, including 1 general biosolids permit coverage.² EPA Region 8 has also granted six general permit coverages in Indian Country located in Montana.³

EPA Region 8 permit writers attend the week-long national NPDES Permit Writers' Training Course usually within their first year in the NPDES Permits program. In EPA Region 8's Permits Unit, one staff member is a course instructor who can give guidance and instruction on an individual basis. This is done as part of on-the-job training for new permit writers. All permit writers are also encouraged to attend the National Water Quality Standards Academy to receive training on the implementation of water quality standards.

² The National Data Sources column of the Management Report, measure #2, shows 16 minor facilities covered by EPA-issued individual permits because it is based on data as of June 2004, rather than September 2004. EPA Region 8 has verified that data in PCS are currently correct.

³ The National Data Sources column of the Management Report, measure #3, shows 0 facilities covered by EPA-issued general permits in Montana. The ePIFT data that served as the source for the National Data Sources column for this measure included only aggregated data for Region 8, rather than data broken down by State. EPA Region 8 has verified that data in PCS are currently correct.

The Water Permits Unit places a high priority on meeting training requests from the States. For example, when States indicate that they have several new permit writers, the Region has been successful in getting the national NPDES Permit Writers' Training Course offered in Region 8. Recent requests for whole effluent toxicity (WET) training have led Region 8 to make arrangements with Region 6, a Region that has exceptional WET expertise, to develop and deliver WET training tailored to the Region 8 States.

EPA Region 8 provides specialized training every year for pretreatment and biosolids. The specialized training is discussed in the pretreatment and biosolids sections of this profile. In addition, Region 8 conducted training for stormwater inspectors in 2002, and hosted the NPDES inspector training in 2001 and a "train the trainer" program for NPDES inspectors in 2004.

With limited resources it has been difficult to establish and maintain strong expertise in the various NPDES program areas. EPA Region 8 encourages EPA Headquarters to facilitate the establishment of different work models that can more efficiently meet the technical needs of the NPDES program (e.g., technical advisory groups and national experts to serve multiple regions, and advanced NPDES training, problem solving meetings where State and EPA experts are brought together to address complex issues).

2. State Program Assistance

EPA Region 8:

EPA Region 8 provides ongoing coordination and assistance to the State of Montana. Coordination and assistance activities are discussed throughout this profile.

3. EPA Activities in Indian Country

EPA Region 8:

Region 8 permitting and coordination activities with Tribes are discussed throughout this profile in various program areas.

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 Montana:

The Montana Constitution provides the public with the right to reasonable opportunity for participation in agency decisions. Montana law (Montana Code Annotated [MCA] 2-3-102(2) and 2-3-103) requires agencies to provide the public notice and opportunity to comment on pending agency actions of

significant public interest including all rulemaking proceedings. An agency action is defined as “the whole or part of the adoption of an agency rule, the issuance of a license or order, the award of a contract, or the equivalent denial thereof.”

Montana has adopted procedures for public involvement in MPDES permit decisions that are equivalent to the federal requirements at title 40 of the Code of Federal Regulations (CFR) section 123.25. The rules require that a statement of basis or a fact sheet be prepared for every individual permit. A public notice is issued providing the tentative determination to issue or deny the permit and giving notice that a draft permit and an environmental assessment have been prepared. The rule does not define the term “public.”

Notice of comment periods, draft permits, statements of basis and fact sheets are placed on DEQ’s Web page at <http://www.deq.state.mt.us/pubcom.asp>. Final permits are not included on the Web site. As of September 2004, three Montana permits were posted on EPA’s Web site at <http://cfpub.epa.gov/npdes/permitissuance/genpermits.cfm>. DEQ’s Web site at <http://www.deq.state.mt.us/wqinfo/index.asp> also provides water quality information. This site provides organizational information, laws, rules, permitting information, and bulletins related to water quality in Montana. Information about enforcement actions can be found at <http://www.deq.state.mt.us/press/index.asp> and http://www.deq.state.mt.us/enf/status_reports.asp. Montana’s Web site provides a wide range of water quality and permitting information to the public.

For each facility, the WPB maintains an administrative record that includes permit and compliance information for the past 5 years. All information in the permit files is available for public review except information that is a trade secret under the Montana Trade Secrets Act and information protected by the Montana Constitution’s right to privacy. In addition, information in litigation, enforcement, and investigation files can be privileged or otherwise exempt from disclosure while a proceeding is pending.

Public notice of draft permits must be given by mailing a copy of the notice to persons who have requested to be placed on a mailing list. For major and general permits, the notice must be published in a daily or weekly newspaper within the area affected by the facility. The public notice must allow at least 30 days for public comment. Public notice of a hearing must be given at least 30 days before a hearing. During the public comment period, a public hearing can be requested if none is scheduled. When the permit is issued, DEQ prepares a response to comments that must specify which provisions, if any, of the draft permit have been changed in the final permit decision and why. The response must also describe and respond to all significant comments made during the comment period.

When DEQ issues a final permit decision, it must notify each person who submitted written comments or requested notice of the decision. The notice must include procedures for appealing the permit.

Montana commits significant resources to direct training and outreach to stakeholders, particularly when new regulations go into effect. Such training includes MPDES work at the annual water school, CAFO training efforts, and stormwater construction permitting training to consultants and agencies.

The public has free access to the past 5 years of permitting information, including notices of intent (NOIs) and compliance information for all facilities. Program files are also open to the public. Montana does not have any reservations about who is considered a member of the public. Montana’s statutory

requirements for public participation are followed. There are no legal barriers to obtaining information or to meaningful participation.

EPA Region 8:

For permit issuance, EPA Region 8 follows the federal public participation requirements in title 40 of the Code of Federal Regulations (CFR) part 124. Region 8 provides public notice of its proposed permit actions by publishing the public notice in a local newspaper in the area near the permit action. The public notice is also sent to all persons who have identified themselves as “interested persons” and to the agencies identified in 40 CFR section 124.10. The Region maintains an NPDES permit Web site where the draft permit and statement of basis are available for downloading. The notice period is typically 30 days. If there is significant interest, EPA may hold a public meeting or a hearing. For any hearing, EPA provides at least 30 days notice and leaves the comment period open for at least 15 days after the close of the hearing or meeting to receive all comments. When there are federally approved water quality standards affecting the permitting action, EPA solicits certifications under CWA section 401 from the appropriate Tribe or State. Otherwise, the Region will provide certification under CWA section 401 for the proposed permit. EPA addresses all significant comments before issuing a final permit. Copies of the response to comments, statement of basis, and final permit are provided to anyone who commented on the permit and these documents are also made available on the NPDES permit Web site. If changes have been made to the permit or comments have been made on it during the comment period, the permit will not go into effect for at least 30 days after issuance. Parties that have commented on the draft permit may appeal the issuance of the permit to the Environmental Appeals Board within 30 days of issuance of the permit.

EPA Region 8 provides a notice of, and opportunity to comment on, proposed administrative penalty assessments for alleged NPDES violations. The “Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits” (40 CFR part 22) outline how administrative actions and hearings are conducted, including how any person may comment on and participate in the action (40 CFR section 22.44). To comment on or participate in an administrative penalty assessment the interested party must notify the Regional Hearing Clerk in writing within 30 days of the public notice. The interested party can then present written comments for the record while it is open, and will be notified at least 20 days prior to a hearing, if one is scheduled, to present evidence.

Formal enforcement actions are filed with the Regional Hearing Clerk and posted on the Internet at <http://www.epa.gov/Region8/compliance/rhc.html>.

All administrative records are maintained in the NPDES Records Center. Public records are available for public review during normal business hours and can be obtained under the Freedom of Information Act.

6. Permit Issuance Management Strategy

The State of Montana:

According to October 25, 2004, data provided by Montana, the percentage of major facilities covered by current permits is 49%. The percentage of minor facilities covered by current individual or general

permits is 50%.⁴ For major facilities, 14 permits have been expired for more than 2 years. For minor facilities covered by individual permits, 65 permits have been expired more than 2 years. No permits have been expired for more than 10 years.⁵ Expired permits for which the permittee applied for renewal remain in effect by rule until the renewal is processed. The Table 2 shows the trends in the percentage of current permits over the past 4 years. Actions the State has initiated to reverse the downward trend in current permits are discussed below.

**Table 2: Percentage of Facilities Covered by Current Permits in Montana
(State-Issued Permits)**

	2000	Nat'l Avg.	2001	Nat'l Avg.	2002	Nat'l Avg.	2003	Nat'l Avg.
Major Facilities	50%	74%	63%	76%	61%	83%	58%	84%
Minor Facilities Covered by Individual Permits	60%	69%	59%	73%	52%	79%	45%	81%
Minor Facilities Covered by Individual or Non-stormwater General Permits	N/A	N/A	N/A	N/A	45%	85%	66%	86%

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

The MPDES program has submitted a list of priority permits scheduled for issuance by September 30, 2005, and a backlog reduction plan. Montana expects to maintain a balance between permit backlog reduction and the other core duties of the program, including the following:

- Compliance inspections
- Technical assistance and public involvement
- Training of consultants and permit applicants
- Issuance of new permits, including coal bed methane
- Groundwater permits and other authorizations

⁴ These values differ from those in the National Data Sources column of the Management Report, measures #19 and #20, because of the timing of the PCS queries.

⁵ The 2 permits shown as expired for more than 10 years in the National Data Sources column of the Management Report, measure #21, are now covered under the superfund cleanup program rather than the NPDES program.

- Database development
- Staff performance appraisal and work objectives

According to the State's self-assessment, the MPDES program prioritizes its permit work load as listed below:

Priority	Permit Action
1	Permit Transfers, Priority Modifications
2	New Permits
3	Major Permits expired for more than 2 years
4	Major Permits
5	General Permits
6	Minor Permits with Facility Upgrades in Progress
7	Other Minor Permits
8	Other Permits
9	Other Permit Modifications

In 2003 EPA awarded a task order under a national Government Services Administration contract for the production of 20 fact sheets for Montana expired permits, including both minor and major permits. The contractor completed the task order in December 2003. These fact sheets are expected to be used for priority permits to be issued in FY2005. In its self-assessment, Montana acknowledges that meeting the national permit issuance goals will be difficult.

Montana has made good use of general permits to address stormwater, fish farms, suction dredges, sand and gravel operations, and domestic sewage lagoons.

Other actions the MPDES program is taking to address permit issuance rates and permit quality are as follows:

- developing implementation procedures for processing permits
- incorporating applicable water quality-based effluent limits (WQBELs) and technology-based effluent limits (TBELs) into permits
- developing permit writing tools (spreadsheets)
- updating water quality-based models relied on for permitting activities

EPA Region 8:

EPA Region 8 does not have a specific permit issuance strategy other than a goal to keep all permits current. To maximize the Region's resources, Region 8 issued general permits to cover lagoons in Indian Country in five of its six States. Approximately 96 facilities in the Region are covered by these 5 general permits, saving significant permit unit resources. Also, where there are similar industries in the same location, the Region groups permitting actions together, saving on administrative costs and resources while taking cumulative impacts into consideration during permit issuance.

For Indian Country located in Montana, 11 of 15 individual surface water discharge permits and 1 biosolids permit coverage issued by EPA Region 8 in Indian Country in Montana are current. Two of the expired permits have been made available for public comment. The other two expired permits were administratively extended while EPA finalized the reissuance of the lagoon general permit for Indian Country. The general permit was recently finalized, and EPA is working with the Tribes to transition the two permits to the general permit. To date, EPA Region 8 has granted six general permit coverages in Indian Country located in Montana.⁶

7. Data Management

The State of Montana:

The MPDES program uses PCS as its data system for everything except stormwater construction and construction dewatering authorizations. A separate database in Advanced Revelations is used to manage stormwater and dewatering permits. Montana enters data directly into PCS through a secure Web-based application.

Montana plans to fully implement ICIS-NPDES (modernized PCS) with direct entry as is now done with PCS. At the time that conversion to the new Oracle enterprise-wide database is complete, Montana will reassess how data entry into ICIS-NPDES is accomplished.

Montana has entered Water Enforcement National Data Base (WENDB) data elements for major permits. Missing WENDB data elements for minor permits are entered as permits are renewed. Permit application forms are used to collect latitude and longitude data for facilities' outfalls missing these data in PCS. Latitude and longitude are verified using topographic maps and Montana Natural Resource Information Center's Topographic finder. Montana is entering into a contract arrangement to complete entry of historic data to eliminate gaps. This includes funding provided by EPA. Contract signing is expected by December 31, 2004, and the effort is expected to be complete in State fiscal year 2005. Montana has made considerable progress in cleaning up missing or incorrect PCS data.

Data entry in PCS is required within approximately 2 weeks of Discharge Monitoring Report (DMR) receipt. State data entry personnel proof each DMR that has been entered and make any corrections needed. Within 55 days of the close of the reporting period, data are entered, proofed, and considered accurate. Montana's rate of DMR data entry is 100%.

⁶ The National Data Sources column of the Management Report, measure #20, shows that 81.3% (13 of 16) of minor facilities covered by EPA-issued permits are covered by current permits. This is based on data as of June 2004 and does not include the six facilities covered by general permits. EPA Region 8 has verified that data in PCS are currently correct. (See also Section I.1 and measures #2 and #3.)

EPA Region 8:

The EPA Region 8 NPDES program has a records management system, which dictates the content and organization of all files, including permitting and compliance information and enforcement actions. Some information regarding enforcement actions, such as penalty calculations, are maintained in enforcement-sensitive files.

The Region uses PCS as well as other databases for pretreatment, biosolids, and Indian Country permitting to manage data.

The PCS responsibilities for enforcement, inspections, and DMR data entry belong to the Planning and Targeting Program in ECEJ. The PCS responsibilities for permit actions are in the Water Permits Unit in OPRA.

The pretreatment program relies on a pretreatment database that tracks annual report information, including headworks loadings and significant industrial users (SIUs). This is not an official EPA-supported database and cannot be guaranteed as an ongoing management tool. The pretreatment coordinator developed and uses the database as a management tool. There are no upload capabilities to transfer data to PCS.

EPA Region 8 relies on the Biosolids Data Management System (BDMS). BDMS was developed to improve biosolids compliance monitoring, improve the management of biosolids, and provide a standardized reporting format for biosolids. BDMS is a user-friendly program developed to aid utilities in the central storage and retrieval of biosolids data. The program is designed so that a utility can electronically transmit data to the EPA and States and prepare paper reports. The current version of BDMS is BDMS version M or BDMS for Municipalities. Region 8 has used various versions of BDMS for the past 10 years. Limited capabilities have been developed to upload data from BDMS to PCS. The Region uses PCS for the biosolids general permit.

EPA Region 8 can provide accurate and timely data on permit actions, enforcement, and inspections. The program inputs all inspection and enforcement information into PCS and ICIS-NPDES. The Region reviews and reconciles the two databases quarterly to ensure that the data are complete and accurate. Data entered into PCS are updated twice a week. The Integrated Data for Enforcement Analysis (IDEA) database is refreshed monthly.

PCS Data Quality Targets: The following information is entered into PCS within 5 working days of receipt of a report, application, or action: (1) permit facility data, (2) compliance schedule data, (3) enforcement action data, (4) single-event violation data, (5) permit events data, and (6) evidentiary hearing data.

The following information is entered into PCS within 10 working days of receipt of a report, application, or action: (1) pipe-schedule data, (2) parameter-limits data, (3) inspection data, (4) pretreatment compliance inspection and audit data, and (5) measurement/violation data.

PCS Quality Assurance: PCS data quality is evaluated on the basis of an objective assessment of each of the following four measures:

- Timeliness – the extent to which the data covering a specific interval of NPDES program activity are promptly entered into PCS
- Accuracy – the extent to which the data recorded in PCS reflect the correct, true, or reported values
- Completeness – the extent to which the required data are reported and recorded in the system
- Consistency – the extent to which the values of the data elements use the standard definitions or codes and the extent to which these definitions and codes are used in the same way by all users

All WENDB data elements are entered; however, latitude and longitude are not always entered because the information is not always available. Regardless of whether latitude and longitude are provided with the permit application, inspectors routinely collect facility latitude and longitude data using global positioning systems (GPS) when conducting inspections.

To ensure that DMR data are accurately entered into PCS, an audit report is compiled after data entry and verified against the DMRs.

The EPA Region 8 Laboratory performs laboratory audits as resources allow. NPDES inspectors often perform a brief inspection of the laboratory at facilities that perform some or all of their own testing. Region 8 uses the DMR quality assurance results to target laboratory audits.

EPA Region 8 maintains its inventory of regulated sources in PCS. For the facilities directly regulated by Region 8, the Region relies heavily on the receipt of permit applications for development of an inventory. The Region is also inventorying CAFOs in Indian Country (refer to the CAFO section of this profile). EPA has inventoried all Tribal wastewater facilities through inspection efforts. The Region will soon begin updating its inventory of SIUs that are not in approved pretreatment programs.

PCS tracks the compliance and enforcement activities conducted under the NPDES program through the quarterly noncompliance report (QNCR). The QNCR is a pre-programmed report that is generated quarterly and lists the NPDES permits that are in noncompliance according to federal guidelines. Permits that are in significant noncompliance are flagged and tracked with the QNCR; pretreatment violations also appear in the QNCR. The PCS data administrator works with individual States on technical and data entry problems and how to use the different data entry screens. The Region offered PCS training this past summer after the PCS national meeting.

All six Region 8 States have one or more grants under the Environmental Information Exchange Network Grant Program. These grants fund State environmental agencies' development of integrated data management systems, performance of data quality analyses of existing databases, electronic reporting, and/or enhanced public access to data. These grants tend to cut across individual environmental programs and do not single out NPDES activities.

Section II. Program Implementation

1. Permit Quality

The State of Montana:

In 2000 the MPDES program conducted an internal review of existing permits and found that nearly all did not accurately address Montana's water quality standards or federal effluent limits guidelines. Permits also did not accurately reflect Montana's mixing zone regulations and nondegradation policies. EPA conducted a permit audit in 2000 that showed that Montana improperly used an automatic total suspended solids (TSS) limit of 100 milligrams per liter for all waste stabilization facilities, inappropriately suspended pH monitoring, and provided inadequate support for WQBELs in the statement of basis. A 2000 National Permit Review identified problems in some Montana permits with applying the mixing zone regulations and lack of detail in the statement of basis to support effluent limitations.

According to Montana's self-assessment, the MPDES program has included WQBELs in all new individual permits based on the water quality standards. A fact sheet or statement of basis documents the "reasonable potential" analysis for each permit. Actions taken by Montana to resolve the permit quality issues are discussed below.

The current process for developing water quality-based limits follows procedures established by EPA in the Technical Support Document (EPA/505/2-90-001) and is modified for the unique provisions of Montana's water quality standards (such as design conditions, averaging periods). Permit writers are assigned to specific industrial categories, such as petroleum refineries, coal mines, or CAFOs, so that they develop familiarity with the operation of that industrial sector and the applicable effluent limit guideline. All permits go through a two-tiered internal review process (peer review and internal department review) before public notice. The State is also developing updated fact sheet templates for specific industrial categories and publicly owned treatment works (several types) that incorporate federal effluent limit guidelines and identify parameters of concern for water quality-based limits. The State is working with a consultant to further refine and develop these fact sheet templates and incorporate enhanced permit writing tools. The consultant will also assist with standardized procedures and data requirements for water quality-based limit and mixing zone analysis.

The MPDES program conducts a reasonable potential analysis for toxicity. A limit for toxicity is included if effluent is determined to exhibit toxicity unless specific chemicals are sufficient to attain the narrative prohibition on toxicity. The whole effluent toxicity (WET) requirements that are incorporated into permits are based on federal WET regulations. Typically, the State conforms to the Region 8 guidance document related to WET testing to determine how to incorporate WET limits into permits. The Montana WET coordinator is also the PCS and DMR compliance coordinator. Montana works with each permittee in a compliance assistance effort and, if necessary, enforcement to resolve any WET issues that arise.

To ensure that the data used to develop limits are of high quality, the MPDES program participates in the DMR quality assurance (QA) program for major permittees. The primary laboratory used by most of the

minor permittees also participates in the DMR QA program. Montana does not have a laboratory accreditation program for the MPDES program. DMR data and test methods are reviewed during compliance inspections.

The training of permit writers is addressed in section I.1, Resources and Program Management. Montana has completed a request for proposals for preparation of a permit writer's manual. Standardized national permit quality tools will be considered for inclusion in the document.

The MPDES program reviews its permit quality through an internal review of all individual and general permits conduct by an initial supervisor, internal peer review within the permitting program, internal review in the department, and a final supervisor review. In addition EPA Region 8 intends to review all permits issued by MPDES at least until the permit backlog is reduced.

There have been no withdrawal petitions filed with EPA for the MPDES program. In the past year, two permits have been appealed. Over the past 5 years, four notices of intent to sue and six complaints have been filed.

EPA Region 8:

For permits in Region 8 where EPA is the NPDES authority, WQBELs are included in permits where the discharge may cause or contribute to an exceedance of the water quality standard. The WQBELs are calculated using a mass balance or derived from modeling. For Indian Country, in cases where no EPA-approved water quality standards are present, designated uses are evaluated and appropriate CWA section 304(a) water quality criteria and/or adjacent State water quality standards are used as a basis for WQBELs. WQBELs for discharges to impaired waters are established as the criteria and applied at the end of pipe. EPA Region 8 interprets this as not causing or contributing to the impairment.

None of the discharges permitted by EPA Region 8 are to waters listed as impaired and subject to TMDLs. If this situation presents itself in the future, the Water Permits Unit will work closely with the TMDL program to ensure the wasteload allocation is appropriately reflected in the permit.

EPA Region 8 relies on EPA's National Tracking System to track permits that are implementing TMDLs.

CWA section 303(c)(2) requires that States and authorized Tribes submit new or revised water quality standards to EPA for review and approval. This review process provides the mechanism by which EPA Region 8 ensures that the numeric standards are protective of designated uses. Where EPA Region 8 finds that the State or Tribal water quality standards are not protective, the Region has authority to disapprove those water quality standards. And, if the State or Tribe fails to correct a disapproved water quality standard, EPA has authority, under CWA section 303(c)(4), to promulgate protective federal water quality standard. EPA Region 8 works extensively with the States and Tribes before they adopt new or revised water quality standards to ensure that the water quality standards are scientifically defensible and protective.

EPA Region 8 does not have a formal process in place to ensure timely and appropriate permits. The Water Permits Unit is evaluating (1) management tools to ensure timely issuance of permits, and

(2) national permit quality tools (“National Permit Quality Review Checklist” and the “Central Tenets”) to verify that appropriate conditions are included in all permits.

For the narrative criteria “no toxics in toxic amounts,” appropriate acute and chronic WET limits are applied. Other narrative criteria may be placed as a narrative limit in a permit, where appropriate. Reasonable potential for WET is determined using the technical support document (TSD) procedure. With other toxics, the TSD procedure is not used, usually because of the lack of sufficient data points (small facilities with infrequent discharges). Reasonable potential for these pollutants to cause or contribute to a violation of water quality standards is determined case by case. EPA Region 8 developed a Region 8 WET guidance and boilerplate language to ensure the program complies with the federal WET regulations.

Technology-based limits are imposed for facilities that fall under effluent limitation guidelines, and secondary treatment technology requirements are imposed for municipal facilities as appropriate. When a permit application is received, the permit writer evaluates whether any effluent limitation guidelines apply. If there is uncertainty, other permit writers and the appropriate EPA Headquarters effluent limitation guidelines contact are consulted.

2. Pretreatment

The State of Montana:

Montana is not authorized to administer the pretreatment program.

EPA Region 8:

There are six approved pretreatment programs in Montana.

To help implement the pretreatment program, EPA Region 8 has developed and held a 3-day annual pretreatment workshop for the past 13 years. The pretreatment workshop also includes an in-depth ½ day training session on biosolids issues.

The pretreatment program also relies on a pretreatment database that tracks annual report information, including headworks loadings and SIUs. This is not an official EPA-supported database and cannot be guaranteed as an ongoing management tool. The pretreatment coordinator developed and uses this database as a management tool.

To identify potential SIUs, Region personnel follow up each audit by reviewing phone books and water and wastewater billing records, and drive through likely industrial areas. In addition, electronic copies of newspapers are reviewed and have assisted in identifying new and expanding businesses. The on-site work is critical to ensuring that publicly owned treatment works (POTWs) are effectively identifying users.

Region 8 approves new pretreatment programs as needed. Pretreatment program audits are completed on approximately 20% of the POTWs in the Region per year (i.e., the goal is to audit each program once

every 5 years).⁷ Program audits typically have a number of required actions that are tracked and verified by the program and during pretreatment compliance inspections by the enforcement staff. These audits are very effective at keeping programs updated and implementation consistent with federal requirements. An exit interview is held at the end of each audit to summarize the major findings.

After an audit is conducted, reports are mailed out within 2 weeks. A POTW must respond to EPA within 30 days of receipt of the report. In some cases, EPA specifies the time frame that the POTW must comply with to address any deficiencies found. In other cases, EPA requests the POTW to provide the date of completion for the required action. All audit reports and significant noncompliance/reportable noncompliance determinations are provided to the EPA enforcement program for formal follow-up if the deficiencies are of a serious nature.

All municipalities with approved pretreatment programs are required to submit annual reports. The annual report review for Montana facilities is targeted for completion within 60 days of receipt of the reports. Follow-up is included in the 60 days except where local limits revisions and grease control programs are found to be necessary. These activities require varying amounts of time to complete.

Some SIUs are located in areas where there are approved pretreatment programs, while others are not. Over 99% of the identified SIUs in approved programs in Montana have control mechanisms in place. EPA does not issue permits or control mechanisms to SIUs where an approved pretreatment program does not exist because, because there is no federal authority to do so. Industrial users in nonapproved programs, if violating, may be issued a formal enforcement action.

3. Concentrated Animal Feeding Operations

The State of Montana:

In the third quarter of 2004, the total number of CAFOs in Montana was reduced from 99 to 94 because of the closure of five facilities.⁸ There are now 79 CAFOs covered under Montana's general CAFO permit. One individual permit was recently issued to a facility, and there are seven applications for individual permits. The total number of CAFOs currently permitted and/or in the process of obtaining permit coverage is 87. DEQ is in the process of obtaining permit applications from the remaining seven facilities through compliance assistance or enforcement.⁹

The MPDES program will continue to identify unpermitted CAFOs through compliance inspections and during routine inspection trips and will work with producers to have them submit an application in a timely manner. If unsuccessful, the facility is referred to the Enforcement Division to be placed on an

⁷ One approved pretreatment program in Montana was not inspected or audited in the 1998-2003 period covered under Management Report measure #23. However, that program was inspected in May 2004.

⁸ The National Data Sources column of the Management Report, measure #11, is based on data as of March 2004, prior to these closures.

⁹ The National Data Sources column of the Management Report, measure #26, indicates that 100% of CAFOs are permitted. When the Region reported this information in March 2004, it was based on the assumption that efforts to issue permits to the remaining facilities would proceed more quickly than they have.

administrative order (one of the seven applications mentioned above is the result of an administrative enforcement action).

In addition, the MPDES program continues to conduct outreach activities such as presentations, workshops with producer groups, coordination with the Natural Resources Conservation Service and Montana State University Extension Service, to ensure that all unpermitted CAFOs submit their applications by the deadlines specified in the revised federal regulations.

The general permit evaluates site-specific conditions and requires compliance with technology-based effluent limitation guidelines. The waste management plan must be updated annually to quantify the amount of animal wastes generated and demonstrate how wastes are treated through land application. Permitted CAFOs are inspected once every 5 years to determine whether the waste management plans are being implemented.

The State is on a two-track process to issue permits to all CAFOs. The lawsuit/court order challenging the use of a general permit required that Montana issue individual permits to CAFOs or prepare an environmental impact statement to support the use of a general permit. The issuance of individual permits is resulting in a significant workload, but Montana plans to meet the renewal time frames for permits. In addition, the State has requested funding in the next legislative session to pay for the environmental impact statement required in the lawsuit. If an environmental impact statement is completed, the State may return to the use of a general permit.

EPA and the State agreed that the State would adopt CAFO requirements at least as stringent as the February 12, 2003, federal rules and issue NPDES permits to CAFOs by the deadlines established in those rules. The formal process of adopting the new CAFO rules has been initiated. The statutory process requires a recommendation from the Water Pollution Control Advisory Council (WPCAC), followed by initiation and adoption of the rules by the Board of Environmental Review (BER) using the process required by the Secretary of State. The WPCAC asked the program to conduct another set of stakeholder involvement meetings before advancing to the BER. This process has been completed (the WPCAC met on October 28, 2004), and the program will proceed to the BER on December 3, 2004, for the second step in formal initiation of the rulemaking. This additional process will delay the rulemaking for one BER meeting, but the rules will be complete in early 2005.¹⁰

EPA Region 8:

Permitted CAFOs are inspected, at a minimum, once during the life of the permit or once every 5 years. Region 8 has used ground surveys, aerial flyovers, and surveys of USGS aerial photographs to inventory AFOs and CAFOs in Indian Country. Region 8 has surveyed or inspected 13 of the 26 Tribes in the Region for high-priority CAFOs, and 12 CAFOs have been identified. FY2005 funding has been acquired to inventory or inspect four more reservations.

Four CAFOs in Region 8 have submitted applications for EPA-issued permits. The Region issued permits to two facilities in Region 8 (one in South Dakota and one in Wyoming) prior to the effective

¹⁰ The National Data Sources column of the Management Report, measure #15, indicates that the revisions were expected to be completed by April 2004. This information is based on an estimate in March 2004, prior to the WPCAC's request for additional stakeholder meetings.

date of the February 12, 2003, revisions to the federal CAFO rules. Two applications were submitted after February 12, 2003, and EPA Region 8 is drafting permits for them. The permits will include all requirements of the February 12, 2003, CAFO rules. The quality and effectiveness of nutrient management plans will be evaluated during site inspections.

CAFOs that have not submitted permit applications will be addressed in accordance with the “Region 8 Guidance for Compliance Monitoring, Compliance Assistance and Enforcement Procedures in Indian Country.”

4. Stormwater

The State of Montana:

The MPDES program has current general permits for both Phase I and Phase II construction activity (small and large construction are covered in the same general permit), industrial activity, mining, and oil and gas activity. The MPDES program issued the general permit for small municipal separate storm sewer systems (MS4s) on November 5, 2004. All seven of the small MS4s in Montana submitted permit applications by March 2003.¹¹

All permit applications, NOIs, and required submittals are tracked using internal electronic databases. Permit authorization information, except for construction, is entered into PCS. Collective electronic databases include application, permittee, site, discharge, inspection, monitoring, submittal, fee, and related compliance information. Montana has invested considerable time and effort in providing education and training for the regulated community.

EPA Region 8:

EPA Region 8 is the NPDES permitting authority for storm water discharges associated with industrial and construction activity for federal facilities in Colorado and for facilities located in Indian Country in Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming.

In Region 8, EPA-permitted discharges associated with industrial activity are covered by EPA’s October 30, 2000, Multi-Sector General Permit (MSGP), except for facilities in Montana Indian Country, which are covered by the April 16, 2001, MSGP. See <http://www.epa.gov/region08/water/stormwater/industrial.html> and <http://cfpub.epa.gov/npdes/stormwater/msgp.cfm>) EPA-permitted discharges associated with construction activity are covered by EPA’s July 1, 2003, Construction General Permit (see <http://www.epa.gov/region08/water/stormwater/construction.html>). There are no EPA-permitted MS4s in Indian Country within Region 8.

EPA Headquarters maintains a database of all MS4 permits throughout the country (both EPA-issued and State-issued). EPA Region 8 maintains on its Web site a list of all applicants who have submitted NOIs for MS4 permits (State-issued and EPA-issued). NOI data for construction and industrial permits for EPA permits are maintained electronically in the NOI Processing Center’s NOI database.

¹¹ The National Data Sources column of the Management Report, measure #30, is based on information as of July 1, 2004, prior to the issuance of the small MS4 general permit.

DMR data for EPA-issued stormwater permits are not tracked electronically. The construction general permit does not require monitoring in the traditional sense. The small MS4 permit does not require effluent monitoring. The following industrial sectors require effluent monitoring:

- Cement manufacturing
- Feedlots
- Fertilizer manufacturing
- Petroleum refining
- Phosphate manufacturing
- Steam electric
- Coal mining
- Mineral mining and processing
- Ore mining and dressing
- Asphalt emulsion

5. Combined Sewer Overflows/Sanitary Sewer Overflows

The State of Montana:

Montana does not have any combined sewer overflows (CSOs). Montana conducts inspections of sanitary sewer overflow (SSO) in concert with inspections of all municipal facilities. Overflows that reach State waters are treated as violations requiring either technical assistance or formal enforcement.

For several years, Montana has experienced a drought. Consequently, SSOs have been minimal and not all SSOs reach State waters. Both State and local government have duties related to SSOs and any identified threat to public health. If a threat to drinking water is identified, the State will follow the Administrative Rules of Montana (ARM) 17.38.239 to notify the public. This rule incorporates 40 CFR part 141. For other health related concerns, the Montana Department of Public Health and Human Services and local health officials can implement the broad powers in title 50 of the MCA to protect the public. The Performance Partnership Agreement contains a commitment for an SSO response plan by December 31, 2004. Montana is on schedule to complete the SSO response plan on time. Montana has created a tracking system for SSOs that allows tracking of occurrences and inspections separate from other inspections. In addition, since EPA corrected the PCS data limitation on entering the separate inspections if conducted on the same date as regular compliance inspections, Montana is entering the SSO data directly into PCS.

EPA Region 8:

There are no combined sewer systems in Indian Country in Region 8.

SSOs are reported under the bypass provisions included in EPA-issued permits. For permits issued in Indian Country, the permittee must notify the EPA enforcement program and the respective Tribal government. EPA relies on the Tribe to notify the public and public health authorities. For bypasses that could endanger public health or the environment, the permittee must also notify EPA Region 8's Preparedness, Assessment, and Emergency Response Program.

6. Biosolids

The State of Montana:

Montana is not authorized to administer the NPDES biosolids program.

EPA Region 8:

There are 28 facilities in Montana that have been granted coverage under the Regional general permit for biosolids. This general permit became effective in August 2002 and does not cover facilities or operations that incinerate sewage sludge. The general permit covers details on the generation, treatment and monitoring, and the use and disposal of biosolids, along with the amount and location of biosolids. Use and disposal of biosolids covers land application, disposal at a landfill, and surface disposal.

Region 8 uses PCS to track biosolids general permit issuance. In addition, the Region uses BDMS to help improve compliance monitoring and biosolids management. BDMS also provides a standardized reporting format and aids utilities in the central storage and retrieval of biosolids data. This system allows utilities to electronically transmit data to EPA and to prepare reports. The current version of BDMS is BDMS version M, or BDMS for Municipalities.

In Montana, 64% of the biosolids produced are treated by land application, and 31% of the facilities use land application.

The Region 8 coordinator is relied on extensively at the national level. Region 8 is a member of the Pathogen Equivalency Committee and is designated as a Biosolids Center for Excellence.

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 Montana:

The Montana DEQ and EPA Region 8 have signed a consolidated cooperative enforcement agreement (CCEA) that describes what constitutes timely and appropriate enforcement actions for authorized programs CWA, Clean Air Act, Resource Conservation and Recovery Act, Safe Drinking Water Act, and Underground Storage Tank Act). For the CWA, the CCEA uses EPA's definitions of significant noncompliance, reportable noncompliance, technical review criteria, quarterly noncompliance report (QNCR), and the exceptions list (now replaced by the watch list) to identify violations in need of an enforcement response. The CCEA addresses only violations at major facilities and consequently does not address stormwater or CAFO violations. The CWA portion of the CCEA is generally consistent with Region 8's Enforcement Response Guide, although it does not contain response actions for specific violations. According to the CCEA, Montana sends out warning letters or violation letters in response to all violations. The letters must be sent out within 45 days of discovery of the violations. Violations may be referred for formal enforcement within 90 days of the discovery if the violation is not resolved in response to the warning or violation letter or if the facility is in noncompliance for two quarters. If necessary, the CCEA requires that an administrative order be issued within 120 days of discovery.

Updating the CCEA appendix to include significant violation definitions for stormwater and CAFO violations was discussed in the 2004 Montana-EPA Region 8 annual review of the CCEA. Updates to include these new definitions should occur within 9-12 months.

Violations are identified through citizen complaints, inspections, and reviews of self-monitoring data. DEQ's Enforcement Division investigates citizen complaints and reports of spills or releases that enter State waters. Violations are prioritized for enforcement if they pose an imminent threat to human health and the environment or if the violation is likely to cause water pollution. Definitions and procedures described in ARM 17.30.2001 et seq. are also used to classify the type and magnitude of the violation and the appropriate enforcement response.

DEQ is authorized to issue emergency, corrective action or compliance orders to require any necessary corrective measures. Administrative penalty orders may also contain corrective action requirements. DEQ issues the appropriate type of order as necessary. If a violator fails to comply with an order, the case may be elevated to district court to seek a court order to ensure the required corrective action is accomplished.

Within the MPDES program, any noncompliance that is found in any manner (for example, through inspections or monitoring) receives attention. In most cases, either compliance assistance is provided to determine how the facility can return to compliance and/or a violation letter is issued. Many noncompliance problems are resolved at this point and are never elevated to the penalty collection scenario that accompanies the next level of the process. However, for facilities that receive a violation letter, the fee discount available for remaining in compliance is removed from annual fee invoices. This can be quite significant. Permitted facilities in Montana receive a 25% discount on permit fees for remaining in compliance with their permit. Any permit violation results in the loss of this discount. Depending on the classification of the facility, 25% of the permitting fee can be from several hundred dollars to several thousand dollars.

Montana relies upon its Enforcement Response Manual to determine the significance of violations and enforcement response for violations that are not covered by the CCEA. Warning or violation letters are sent as a first response to all violations. If the response to these letters is inadequate or the violation is significant, formal enforcement, including penalties, is warranted. The Enforcement Response Manual does not define what NPDES violations are considered significant but does provide criteria to evaluate the significance of the violation.

Compliance with warning and violation letters and with formal enforcement actions is tracked in PCS except for stormwater violations. The Enforcement Division maintains an Oracle database that tracks compliance with orders.

Annual regional enforcement evaluations since 2000 have identified some problems in following the time frames of the CCEA and in collecting penalties assessed for the economic benefit or savings to the violator resulting from the violator's action. These reviews focus on significant noncompliance violations, which by definition exclude stormwater and CAFO violations. EPA plans to do periodic file reviews of inspections and compliance and enforcement activities for stormwater.

The table below compares Montana's performance against national performance in seven areas for the time period 2000-2003. Inspections are discussed in the Inspection Section of this profile. The percentage of Montana major facilities in significant noncompliance (performance measure #3) varies from 12% to 21% with no clear trends. The national percentage of major facilities in significant noncompliance ranges from 18% to 25% and is greater than Montana's percentages for 2000-2003. The percentage of instances of significant noncompliance in Montana addressed by formal enforcement actions is zero for all 4 years (performance measure #4). The national percentage remains constant at 13-14%. Instances of significant noncompliance in Montana have been resolved by informal enforcement actions such as warning or violation letters. Some instances of significant noncompliance were the result of data entry errors, which have been corrected. Performance measure #5 shows that 100% of Montana facilities in significant noncompliance returned to compliance on their own in 2000-2002, while the national percentage was 70-76%. In 2003, Montana's percentage was 83% while the national average was 70%.

Performance Measure	2000	2001	2002	2003
Percentage of Major Facilities Inspected/National Percentage of Major Facilities Inspected	52%/70%	65%/77%	53%/69%	95%/71%
Percentage of Minor Facilities Inspected/National Percentage of Minor Facilities Inspected	58%/75%	70%/75%	66%/77%	71%/76%
Percentage of Major Facilities in SNC/Percentage of National in SNC	12%/25%	21%/23%	14%/18%	12%/20%
Percentage of SNC Addressed by Formal Enforcement Actions/Percentage of National Addressed by Formal Enforcement Action	0%/14%	0%/13%	0%/14%	0%/14%
Percentage of SNC Facilities Returned into Compliance on Their Own/National Percentage of Facilities Returned to Compliance on Their Own	100%/73%	100%/76%	100%/73%	83%/70%
Total State and EPA Formal Enforcement Actions at Major Facilities, State/EPA	0	0	0	0
Total State and EPA Formal Enforcement Actions at Minor Facilities, State/EPA	0	0	0	0

Note: SNC = significant noncompliance.

The Management Report also shows no formal enforcement actions taken at either major or minor facilities. However, the Montana self-assessment provided the total number of formal enforcement actions and total amounts of penalties for 2001-2003. These actions were taken for stormwater and CAFO violations, which do not show up in the report as enforcement actions taken at minor facilities. Over the time period of 2001–2003, Montana had 29 formal enforcement cases continued from June 30, 2001; initiated 15 additional cases; and collected \$113,921 in penalties from cases settled during that time period. For the same 3-year period, supplemental environmental projects (SEPs) worth \$1,030,877 have been completed.

Montana used a set of administrative rules to calculate penalties. The annual reviews for the past 4 years show that the penalties assessed under Montana’s penalty rules are consistent with, or slightly lower than, what EPA would have assessed for the same violation. EPA has noted some problems with DEQ’s calculation and collection of the economic benefit portion of the penalties.

Montana’s administrative, civil, and criminal penalty authorities are described in the State’s Water Quality Act. Penalties are calculated in accordance with ARM 17.30.2001 et seq. Montana’s goal is to assess penalties that are commensurate with the severity of the violation and that recover the economic benefit of noncompliance. The penalties calculated under the existing authority and rules are considered adequate.

Montana does not have an MPDES enforcement response guide; however, DEQ is considering development of such a guide for the MPDES program. DEQ follows notification requirements specified in Montana's Water Quality Act. Section 75-5-617, MCA, states that unless the violation represents an imminent threat to human health or the environment, DEQ must first issue a letter notifying the person of the violation and requiring compliance. Therefore, at a minimum, DEQ sends a "section 617 violation letter" to all alleged violators.

Section 75-5-631, MCA, of Montana's Water Quality Act states that in an action seeking penalties, DEQ must take into account the economic benefit or savings to the violator resulting from the violator's action. The penalty calculation rules contained in ARM 1.30.2001 et seq. include a process to factor economic benefit in cases where DEQ determines that a penalty is appropriate and an economic benefit has accrued.

EPA Region 8:

EPA Region 8's Enforcement Response Guide directs the Region's enforcement process. The guide indicates that an enforcement action should be initiated before a facility appears on the quarterly noncompliance report for the second quarter for the same parameter. For enforcement actions filed with the Regional Hearing Clerk, the facility may appeal and/or request a meeting or hearing. The rules and procedures of the courts are followed. EPA Region 8 is guided by its Regional Tribal Policy when dealing with Tribal facilities. EPA Region 8 has created a Case Development Guide that gives further guidance on penalty calculations and case development.

The escalation process is defined in Region 8's Enforcement Response Guide and the Guidance for Compliance Monitoring, Compliance Assistance and Enforcement Procedures in Indian Country.

EPA Region 8 uses PCS to track the noncompliance of the regulated community. The Region's Enforcement Response Guide and Regional Tribal Policy indicate the proper enforcement response and the timeline for issuing the enforcement. Formal enforcement is taken for significant noncompliance at a major facility.

The administrative orders issued in Region 8 are not open for appeal. Respondents are generally given 30 days to file an answer to administrative penalty orders. If settlement cannot be reached during settlement negotiations or alternative dispute resolution, cases are heard by administrative law judge. Generally the administrative law judge would determine the timeline for the hearing process.

The Region routinely inspects the more than 180 wastewater treatment facilities on Tribal lands, the vast majority of which are not major facilities. The appropriate enforcement response is then guided by the Region 8 Guidance for Compliance Monitoring, Compliance Assistance and Enforcement Procedures in Indian Country.

The Regional Enforcement Response Guide is applied to the pretreatment and the wet weather programs for which the Region has authority. Significant violations are determined during inspections and/or review of DMRs entered into PCS. Region 8 has also recently drafted a stormwater enforcement response guide. For SIUs, significant noncompliance is defined by regulation. The Region uses a checklist to determine significant noncompliance at approved pretreatment programs.

EPA Region 8 uses the national CWA penalty policy. The penalties are calculated in accordance with the policy and take into consideration the economic benefit and the gravity of noncompliance. Region 8 follows the national SEP policy. Region 8 also follows the Supplemental Guidance to the Interim Clean Water Act Settlement Policy (March 1, 1995) for violations of the construction stormwater regulations.

The following table summarizes enforcement actions taken by EPA Region 8 in all Region 8 States and Indian Country.

	Administrative Orders	Administrative Penalty Orders	Penalties Collected
FY2001	18	7	\$40,000
FY2002	8	6	\$295,952
FY2003	34	9	\$163,776

All penalties included, at a minimum, the economic benefit to the violator.

The Region 8 NPDES program encourages SEPs and follows EPA's SEP guidance. The Regional Environmental Justice program has taken an active role in negotiating SEPs, which benefit the impacted community.

Injunctive relief for civil enforcement actions taken by Region 8 in all Region 8 States and Indian Country for each of the past 3 years was: \$372,968 in FY2001, \$323,335 in FY2002, and \$154,200 in FY2003. The Region made referrals to the Department of Justice in FY 2001, two referrals in FY2002, and six referrals in FY2003.

2. Record Keeping and Reporting

The State of Montana:

The State maintains a file for each MPDES discharge permit or general permit authorization. The file contains the permit's administrative record, DMRs, correspondence with the permittee, programmatic violation letters, and formal enforcement actions.

Montana tracks all data related to enforcement cases in an Oracle database, the Enforcement Compliance Information System (ECIS).

DMR data are entered into PCS within 2 weeks of receipt. PCS is used to track inspections except construction stormwater inspections. Until recently, Montana did not code its CAFO and stormwater inspections in PCS with the appropriate codes.

EPA Region 8:

Administrative orders generally require facilities to submit to EPA periodic reports, monitoring results, or other data. The enforcement unit uses these data to determine compliance with the enforcement action

and the CWA, and determine whether escalation is necessary. Generally, the response to violations of administrative orders is determined by the Region's Enforcement Response Guide.

3. Inspections

The State of Montana:

Montana prepares an annual inspection plan that identifies target facilities, and the State submits the plan to EPA for review. The FY2004 plan calls for inspection of all major facilities and 94 minor facilities that have not been inspected in the past 5 years. For permitted stormwater discharges, Montana inspects approximately 10% to 15% of the permitted universe annually. The State tries to inspect a variety of facilities based on applications, terminations, complaints, and compliance problems as well as routine inspections. CAFOs are inspected during the first year of operations, upon termination, if located in priority watersheds, and upon request. About 50% of CAFO inspections are conducted on unpermitted facilities as a result of citizen complaints. Approximately 25% of all permitted CAFO facilities are inspected annually.

Outside of agreements contained in the Performance Partnership Agreement, the State does not have specific plans to target inspections based on risk, sector, pollutant, or geographic location. Montana approaches targeted inspections in two ways. First, as new programs or permit types are added to the program, that sector is targeted. (For example, MS4 permitting results in new inspection targets.) Second, EPA identifies sectors on occasion and Montana works through the Performance Partnership Agreement process to plan any efforts.

Montana's percentage of major facilities inspected increased from 52% in 2000 to 95% in 2003. The percentage of minor facilities inspected increased from 58% in 2000 to 67% in 2003. Inspections at minor facilities represented 71% of the total facilities inspected in 2003. Montana has shown a significant positive trend over the past 4 years in the percentage of major and minor facilities inspected. In 2003, Montana exceeded the national average for major inspection coverage and the inspection target agreed upon with EPA.

EPA Region 8:

EPA Region 8 has direct implementation authority for the pretreatment program in Colorado, Montana, North Dakota, and Wyoming. The approved programs and SIUs not in approved programs are inspected, at a minimum, once during the life of the permit, or once every 5 years. The Region has developed a schedule to perform the inspections on a rotating basis to achieve complete coverage of the regulated community. For 2005, Region 8 committed to inspect 75% of the approved programs for which it is the approving authority through permit compliance inspections or audits and all SIUs in nonapproved programs with significant violations.

The Tribal lands in Region 8 are also under the direct authority of EPA. EPA conducts inspections and provides compliance assistance in the field on a regularly scheduled basis. As with pretreatment, Region 8 has developed a schedule to inspect the Tribal facilities at least once during the life of the permits. There is only one major facility on Tribal land in Region 8.

Along with the municipal lagoons, EPA Region 8 has direct implementation authority for the CAFOs on Tribal lands. The Region has developed a system to inventory and inspect the reservations for CAFOs. The Region has inventoried 13 of 26 reservations in Region 8, and will inventory 4 more in 2005. During the inspections, inspectors provide compliance assistance to the facilities.

Region 8 has four major federal facilities under its authority in Colorado. The Region inspects these facilities every other year and monitors compliance using PCS. This year Region 8 will inspect all federal facilities in Colorado. The Region is also conducting stormwater inspections at the federal facilities in Colorado and in Indian Country.

Along with its direct implementation areas, the Region conducts two oversight inspections a year with each State in the Region.

Facilities are inspected in accordance with established schedules. If monitoring data entered into PCS indicate that violations are occurring at a facility, that facility will be moved up on the inspection list. Proper enforcement is initiated in accordance with the Region's Enforcement Response Guide.

File reviews are an integral part of field inspections and Region 8 typically reviews at least part of a facility's files during an inspection. NPDES permit conditions often drive file reviews by defining the frequency and scope of file contents.

EPA Region 8 conducts inspections for the base program (major and minor facilities) on a schedule to ensure minimum coverage. The Region has also targeted priority sectors, primarily stormwater and CAFOs, to maximize field presence and enforcement in these sectors.

4. Compliance Assistance

The State of Montana:

Montana's MPDES program works with the Air, Energy, and Pollution Prevention Bureau to develop educational materials and training workshops for the regulated public. Technical assistance and training for the public, consultants, and permit applicants consumes a substantial portion of the program's resources. Permit writers and inspectors provide technical assistance to permittees. Montana uses compliance data and input from other oversight agencies and professional associations to identify educational and training needs. Environmental performance is tracked throughout the year and used to determine future educational efforts.

A number of programs and individuals at DEQ offer services in compliance assistance. The MPDES program offers site-specific assistance through visits and opportunities to discuss regulatory concerns and ways to meet compliance requirements. During inspections of permitted sites this same assistance is offered. The MPDES program offers significant training opportunities by participating in or fully sponsoring training efforts. Each year program staff attend and make presentations to a variety of interest groups to educate and inform them of regulatory requirements and to offer problem solving assistance. In addition, each rulemaking effort involves an extensive effort to work with stakeholders in formulating rules and technical circulars through presentations, working task forces, professional meetings, and conferences.

DEQ provides assistance with innovative strategies and pollution prevention through the Planning, Prevention, and Assistance Division in addition to the compliance assistance it provides through the MPDES program. This additional assistance varies annually according to the resources available and current needs. In 2003 pollution prevention assistance focused on stormwater management. In 2004 and 2005 that focus is changing to Environmental Management Systems.

The Water Pollution Control State Revolving Fund program provides technical assistance to managers and operators of wastewater treatment systems serving Montana communities and industries. This assistance is provided in two primary forms: (1) technical review and inspections of wastewater treatment systems with respect to treatment capacity, management, operation and maintenance, compliance with State and federal regulations, and fiscal stability; and (2) training program development and delivery to operators and managers of wastewater treatment systems.

DEQ uses various processes to measure the outcomes of compliance assistance activities. The outcomes vary based on the facility receiving the assistance: permitted facilities where minor deficiencies were noted during inspections and the deficiencies are corrected immediately or within a specified time frame; and unpermitted facilities that have been identified and required to obtain a discharge permit. DEQ conducts meetings to provide outreach and information regarding regulations and to assist in determining whether permit coverage is required. In addition, DEQ provides rules and regulations on its Web site in an effort to make program information readily accessible; the outcome is an increasingly informed regulated community. Montana also numerically tracks some forms of compliance assistance for workload analysis. Phone calls, site visits, training, and other efforts are tracked.

EPA Region 8:

The Region mainly provides compliance assistance in Indian Country. If a long-term compliance problem is identified, the Region develops a compliance assistance plan as outlined in the Region 8 Guidance for Compliance Monitoring, Compliance Assistance and Enforcement Procedures in Indian Country.

Compliance assistance activities are entered into the Regional Compliance Assistance Tracking System (RCATS) database. However, outcomes are not currently measured.

Section IV. Related Water Programs and Environmental Outcomes

1. Monitoring

The State of Montana:

The statewide Water Quality Monitoring Program (WQMP) is housed in a separate division from the MPDES program. The Water Quality Planning Bureau in DEQ's Planning, Prevention, and Assistance Division is responsible for assessing whether State waters meet the beneficial uses and other water quality standards.

EPA has completed a detailed monitoring program review with DEQ and WQMP staff. At present, the State does not have a written monitoring strategy that satisfies all elements identified in the Elements of a State Monitoring Program Guidance. State staff will continue to work with EPA Regional monitoring staff to submit a draft strategy.

As a result of State litigation, WQMP staff have focused monitoring on meeting the needs of preparing the State's list of impaired water bodies under CWA section 303(d) and establishing TMDLs. To accomplish this work, WQMP has divided the State into four major basins: Columbia, Upper Missouri, Lower Missouri, and Yellowstone. WQMP has four monitoring coordinators assigned to each basin; two of the positions are vacant. The monitoring schedule driven by the court-ordered TMDL schedule, DEQ has divided the State into 91 TMDL Planning Areas and the WQMP conducts annual work load analysis within each assigned basin to meet the TMDL planning schedule.

WQMP conducts the field work for the Environmental Monitoring and Assessment (EMAP) Western Pilot, which incorporates a probabilistic design. Final analysis of the EMAP data should occur by 2007 and will be used to provide an assessment with a known confidence level of wadeable streams in Montana.

The State monitoring program does not provide adequate in-stream data for permits. Little compliance monitoring or monitoring related to determining wasteload allocation is conducted by the State at this time. Compliance monitoring is handled by the permittees. As a consequence of the lack of information for the MPDES program, the permitting program must allot resources to initiate a program of monitoring to use for permitting, causing a further strain on permit backlog reduction efforts. The Management Report shows that the percentage of lake acres assessed for recreation is well above the national average. This is a notable accomplishment and its progress should continue. The Management Report also shows that the percentage of river/stream miles assessed for both recreation and aquatic life and the percentage of lake acres assessed for aquatic life are below the national average.

The MPDES staff have encountered difficulties in exporting data from PCS to be used in drafting permits.

The MPDES program might find that use attainability analyses (UAAs) are necessary as a monitoring need.

The State's comprehensive monitoring strategy will address the manner in which it will improve the number of State waters assessed in order to enhance the understanding and characteristics of surface water quality throughout the State.

2. Environmental Outcomes

The State of Montana:

Of Montana's lake acres, 74.4% have been assessed for recreation (which is above the national average of 49.4%) and 40.9% have been assessed for aquatic life (the national average is 48.5%). Of river/stream miles, 4.4% have been assessed for recreation and 6.0% have been assessed for aquatic life. Both of these figures are below the national averages of 13.8% and 22%, respectively.

Although the total assessment percentages are low, these percentages are significantly higher (close to 20% for aquatic life) when calculated as percentage of perennial stream miles assessed.

At present, there are no trend data for how assessment and monitoring efforts impact water quality. As more streams are assessed, additional water quality impacts are sometimes noted, although in some cases this assessment effort documents recovery from historical impacts. Over time, monitoring and assessment will continue to play a role in prioritizing protection and restoration efforts as well as playing an educational role such that there will be a positive impact on water quality.

Monitoring and assessment work is performed at scales varying from a statewide network to evaluate water quality trends in major water bodies to local project activities often integrated into CWA section 303(d) reassessments and TMDL development. The TMDLs and associated water quality restoration plans, in addition to the State Nonpoint Source Plan, represent many of the State's watershed-level strategies for protection of water quality. The focus is on water bodies and watersheds where impairments exist. The percentage of assessed stream miles where a given beneficial use is not supported is 61% for aquatic life support; 84% for cold water fishery; 68% for warm water fishery; 21% for primary contact (recreation); 39% for drinking water supply; and 9% for agricultural as well as industrial supply. The most common causes of impairment by percentage of total impaired miles include siltation, which is typically fine sediment (38%); other habitat alterations often linked to fine or coarse sediment (68%); metals (35%); nutrients (29%); flow alteration (43%); and thermal modifications (14%). Environmental priorities in assessment and TMDL programs and any related TMDL and water quality implementation strategies are a reflection of these statistics for impacted beneficial use and impairment causes.

EPA Region 8:

EPA Region 8 tracks the environmental effects and results of enforcement actions using the case conclusion data sheets that are a part of the Integrated Compliance Information System (ICIS) tracking system. Pollutant loading reductions are calculated for all enforcement actions and tracked in ICIS as well.

3. Water Quality Standards

The State of Montana:

The State has met triennial review schedules. The State water quality standards include essentially all of EPA's criteria recommendations for toxic pollutants under CWA section 304(a). In addition, the State has developed and adopted numeric standards for pesticides for which EPA has yet to develop national recommendations. Because these standards are numeric values, their implementation, through the permitting process, is relatively straightforward. The State water quality standards also include implementation procedures for nondegradation (antidegradation) and mixing zones. Montana makes adjustments and updates to water quality standards as issues and needs arise. Once a need is identified, the effort to make the requisite change is prioritized and completed as part of the State's normal workload.

The State has recognized the need to refine its designated uses to more appropriately address the level of protection and implementation issues presented by ephemeral and intermittent water bodies. The State recently adopted eight new use classifications applicable to low flow waters. The revisions to the standards will allow the State, on a case-by-case basis, to appropriately adjust the level of protection applied to such waters, aiming for site-specific standards that are neither under- nor over-protective for these types of water bodies.

The State standards include a provision for temporary standards that can be used to facilitate the remediation of damaged water resources. The temporary standards provision, which includes a remediation plan, provides the basis for permit writing that recognizes the initial condition of the damaged resource, prevents backsliding, and responds to improvements in water quality as remediation progresses.

The State is working on a statewide plan that will form the basis for developing nutrient standards. In the mean time, the State has a process that it has applied to site-specific situations. The site-specific nutrient standards for the Clark Fork River grew out of a collaborative effort that involved a range of interested parties, including the dischargers to the river, the State, and EPA. The approach used to derive the standards was published in a peer-reviewed journal.

In preparation for adoption of E. coli as its bacterial standard, the State is conducting statewide total coliform and E. coli monitoring to get a sense of the current ambient levels of both in Montana waters. EPA has not officially released guidance directing the switch to E. coli; however, Region 8 has asked the State to adopt the E. coli standard based on draft guidance.

As with other States, more specific guidance on the implementation of the State narrative standards would likely facilitate more straightforward implementation in permitting for those situations where there are no numeric standards for the pollutant of interest.

To implement Montana's antidegradation policy through permits, the State uses the following process. In drafting an MPDES permit, the permit writer must determine whether the proposed discharge of pollutants is a new or increased source as defined in ARM 17.30.702(18). If the proposed discharge is not a new or increased source, the nondegradation requirements do not apply and the permit effluent

limit is based on State water quality standards. If the proposed discharge is a new or increased source and the discharge is to a high-quality State water (as defined in 75-5-103(10), MCA), the permit writer must determine whether the pollutant will cause significant degradation. For new or increased sources, the nondegradation rules (ARM 17.30.715) use different criteria for determining significant degradation based on the category of each pollutant in Montana Circular WQB-7 Numeric Water Quality Standards, which categorizes pollutants as carcinogens, carcinogens/radioactive, toxic, toxic with a bioconcentration factor (BCF) of more than 300, harmful, or nutrients. If the proposed discharge will cause significant degradation, the permittee has the following options: submit additional information to demonstrate that the pollutant discharge will not cause significant degradation; reduce the pollutant load to a level that will not cause significant degradation; submit an application for an authorization to degrade State waters; or appeal the determination to the Board of Environmental Review. The third option, an authorization to degrade State waters, is allowed pursuant to ARM 17.30.706-708. Although the option to degrade State waters has been allowed in rule for over 10 years, DEQ has never received an application for an authorization to degrade State waters. For new or increased sources of pollutants the permit effluent limits may be based on maintaining pollutant loads at levels that will not cause significant degradation of high-quality State waters.

4. Total Maximum Daily Loads

The State of Montana:

In order to meet a court-driven TMDL schedule, DEQ has divided the State into 91 TMDL Planning Areas. To date, DEQ has completed approximately 74 nonpoint source TMDLs and 199 point source/MPDES TMDLs.¹² TMDL work is being conducted in about 54 of the 91 TMDL Planning Areas. As more watershed-scale TMDLs are produced over the next several years, wasteload allocations will be assigned to current permit holders. Increased coordination between the programs will be necessary.

Within the DEQ, several organizational units are assigned water quality-related duties that require coordination:

- The Water Protection Bureau in the Permitting and Compliance Division is responsible for the issuance of permits governing discharges to State waters. Coordination includes providing opportunity for in-house review of permits before the public notice process. WPB also consults with other units for their concerns on how water quality standards are applied, TMDLs, and State Revolving Fund loans and grants for the project.
- The Public Water Supply and Subdivisions Bureau in the Permitting and Compliance Division is responsible for reviewing subdivision applications for creation of lots less than 20 acres, including review of engineering and nondegradation review of wastewater systems. The bureau trains and certifies operators of wastewater systems, and approves engineering plans. Coordination includes stormwater and nondegradation consultation with the WPB and notification to applicant that a permit to discharge is needed. The bureau trains operators in the requirements of permitting, monitoring,

¹² These numbers differ from those in the National Data Sources column of the Management Report, measures #54 and #56, because of TMDLs that the Region has not yet entered into the National TMDL Tracking System (NTTS) at the time the data were pulled and TMDLs incorrectly identified in NTTS as nonpoint source only.

and other regulatory provisions associated with wastewater and notifies other units of changes to systems affecting their permittees.

- The Technical and Financial Assistance Bureau in the Planning, Prevention, and Assistance Division is responsible for the Water Pollution Control State Revolving Fund. Coordination includes interaction with permitting units and TMDLs to incorporate effluent limits or other requirements as construction plans for wastewater treatment plants are reviewed and coordination with permitting units on operation and maintenance inspections, technical assistance, and enforcement actions. The bureau has developed an Internet-based interactive map application that displays public water supply wells and surface water intake locations together with potential contaminant sources, such as wastewater discharge points.
- The Water Quality Planning Bureau in the Planning, Prevention, and Assistance Division is responsible for the development and adoption of water quality standards, including temporary and site-specific standards; development of TMDLs; and monitoring of State waters. Coordination includes commenting on permits offered for in-house review, assisting other units in understanding the need for and the application of water quality standards, and coordination with other units on TMDL-related issues.

These units are in communication on a daily or weekly basis. As each permit is prepared, standards, TMDL conditions, plan and specification review, and design considerations might be factors in the preparation. For TMDL preparation, identifying any point source discharges and their contribution to pollutants of concern is critical to the allocation of pollutant loads. In addition, the permitting and planning programs review together the Water Quality Restoration Plans and TMDL draft documents.

In addition to the normal informal discussions and comments on documents prepared by each work unit, the management members of the units schedule regular monthly meetings with a prepared agenda to discuss issues that require better direction, such as written procedures, or problem resolution. The agenda might include operational procedures, specific project issues, and rulemaking. During each rulemaking, work units that wish to comment may do so during informal comment processes offered by each unit as stakeholder efforts are under way and at the regular meetings. There are also regular monthly meetings between the TMDL program and EPA regarding TMDL work plans and progress, approach to TMDL preparation, and public involvement. Although these meetings focus on TMDL plans and progress, the permitting unit schedules attendance to keep abreast of the issues that might affect point source permitting.

EPA Region 8:

None of the discharges permitted by EPA Region 8 are to listed waters with TMDLs in place. If this situation changes, the Water Permits Unit would work closely with the TMDL program to ensure that any wasteload allocation are appropriately reflected in permits.

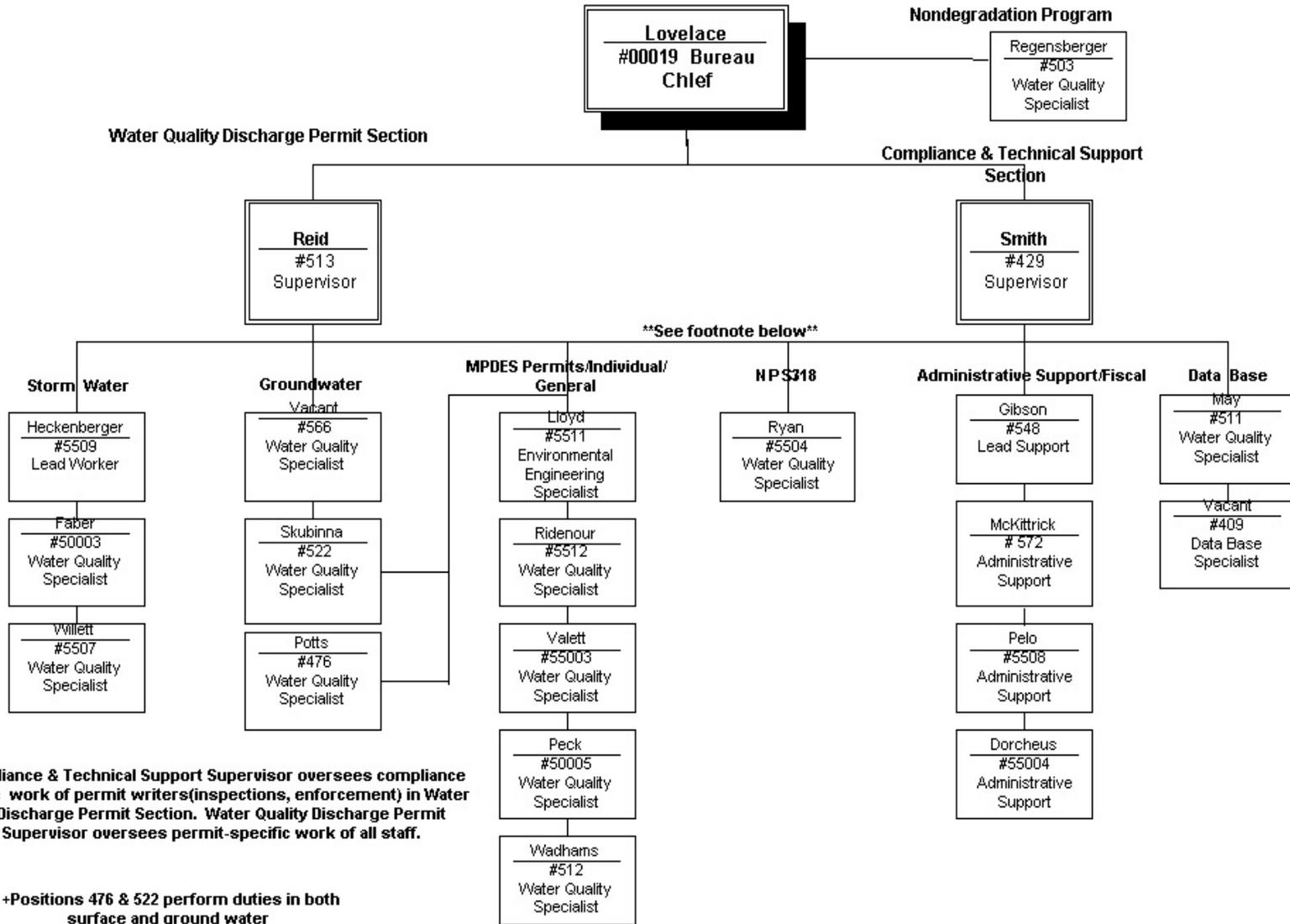
5. Safe Drinking Water Act

The State of Montana:

The drinking water section comments on MPDES permits that might affect intakes or otherwise impact drinking water. If a specific issue arises requiring coordination, it is addressed during the monthly meetings. If a more immediate circumstance arises, the managers and technical staff consult outside the regular meeting.

Montana has adopted human health standards for all water use classifications except class D, E, and F waters. The human health standards are based on the more stringent EPA priority pollutant criteria, maximum contaminant levels (primary and secondary), health advisory, or other sources. These standards apply at the point of discharge; therefore, additional analysis at the point of use is not necessary. There are no waters currently designated as Class D, E, or F. These are new classifications and are limited to ephemeral drainages and drain or irrigation ditches that typically would not support a drinking water intake. A use attainability analysis would be required to downgrade a water body into any of these categories. Should a permit be issued to a D, E, or F classed receiving water, the standards require that downstream uses, including drinking water, be fully protected.

WATER PROTECTION BUREAU



****Compliance & Technical Support Supervisor oversees compliance specific work of permit writers (inspections, enforcement) in Water Quality Discharge Permit Section. Water Quality Discharge Permit Section Supervisor oversees permit-specific work of all staff.**

+Positions 476 & 522 perform duties in both surface and ground water

Please note that the Water Protection Bureau internal structure may be modified after BPM exercise is complete

NPDES Management Report, Fall 2004

Montana

			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	43	0	41	
	2	# minor facilities covered by individual permits (42,057 total)	I.1		n/a	134	16		
	3	# minor facilities covered by non-storm water general permits (39,183 total)	I.1		n/a	150	0		6
	4	# priority permits (TBD)	I.6			--	--		
	5	# pipes at facilities covered by individual permits (142,761 total)	I.7		n/a	610	--		
	6	# industrial facilities covered by individual permits (32,505 total)	I.1		n/a	87	10		
	7	# POTWs covered by individual permits (15,197 total)	I.1		n/a	88	6		
	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	24		
	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	99	--	94	
	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%	15.1%	--		
	15	State CAFO legal authority expected (mo/yr)	II.3	2005	n/a	4/04	n/a	3/05	
	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%	53.5%	n/a	48.9%	
	20	% minor facilities covered by current individual or non-storm water general permits	I.6	90% 12/04	87.0%	42.3%	81.3%	50.0%	
	21	# major facilities w/permits expired >10 yrs. (56 total)	I.6		n/a	2	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%	n/a	83.3%		
	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%	n/a	--		
	26	% CAFOs covered by NPDES permits	II.3		35%	100%	--	85%	
	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	0	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	N	n/a	Y	
	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%	95%	2%		
	33	(inspections at minors) / (total inspections at majors and minors)	III.3		76%	71%	80%		
	34	% major facilities in significant non-compliance (SNC)	III.1		20%	12%	--		
	35	% SNCs addressed by formal enforcement action (FEA)	III.1		14%	0%	--		
	36	% SNCs returned to compliance w/o FEA	III.1		70%	83%	--		
	37	# FEAs at major facilities (666 total)	III.1		n/a	0	5		
	38	# FEAs at minor facilities (1,660 total)	III.1		n/a	0	3		

Explanation of Column Headers:

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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.

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NPDES Management Report, Fall 2004

Montana

		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	173,802	n/a		
	40	Lake acres (27,775,301 total)	IV.2		n/a	601,826	n/a		
	41	Total # TMDLs in docket at end of FY 2003 (52,795 total)	IV.4		n/a	1,783	--		
	42	# TMDLs committed to in FY 2003 management agreement (2,435 total)	IV.4		n/a	120	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	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%	4.4%	n/a		
	48	% river/stream miles assessed for aquatic life	IV.2		22.0%	6.0%	n/a		
	49	% lake acres assessed for recreation	IV.2		49.4%	74.4%	n/a		
	50	% lake acres assessed for aquatic life	IV.2		48.5%	40.9%	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	N	n/a		
	54	Cumulative # TMDLs completed through FY 2003 (10,807 total)	IV.4		n/a	235	--	273	
	55	# TMDLs completed in FY 2003 (2,929 total)	IV.4		n/a	48	0		
Environmental Outcomes	56	# TMDLs completed through FY 2003 that include at least one point source WLA (5,036 total)	IV.4		n/a	17	--	199	
	57	% Assessed river/stream miles impaired for swimming in 2000	IV.2		--	48.5%	n/a		
	58	% Assessed lake acres impaired for swimming in 2000	IV.2		--	59.7%	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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