



Permitting for Environmental Results (PER)

NPDES Profile: New Mexico and Indian Country

PROGRAM RESPONSIBILITY

EPA Region 6: NPDES authority for base program, general permitting, federal facilities, pretreatment, and biosolids

EPA Region 6: NPDES authority for all facilities in Indian Country

Program Integrity Profile

This profile characterizes key components of the National Pollutant Discharge Elimination System (NPDES) program, including program administration and implementation, environmental outcomes, enforcement, and compliance. EPA considers profiles to be an initial screen of NPDES permitting, water quality, enforcement, and compliance programs based on self-evaluations by the States and a review of national data. EPA will use the profiles to identify program strengths and opportunities for enhancements. For more information, please contact Larry Giglio, EPA Region 6, (214) 665-6639 or Glenn Saums, New Mexico Environment Department, (505) 287-2827.

Section I. Program Administration

1. Resources and Overall Program Management

The State of New Mexico:

The NPDES permitting and enforcement authority for the State of New Mexico is EPA Region 6 because the State of New Mexico has not yet assumed any part of the NPDES program. The State has formally notified Region 6 that it does want to obtain permitting and enforcement authority. The Region and State have developed a 2-year timeline to help them achieve this objective by December 31, 2006.

Resources: New Mexico Environment Department's (NMED's) administrative support to the Region 6 NPDES program includes (in cooperation with Region 6 counterparts):

- 10 full-time equivalents (FTEs) under 3 teams in the Point Source Regulation Section (Municipal, Industrial, and Facility Operations), of these ten:
 - 6 FTEs are for Clean Water Act (CWA) section 401 certification, compliance and inspection, and data management efforts
 - 4 FTEs are for ensuring proper operation and maintenance of public water supplies and wastewater treatment facilities, including utility operator training and certification

Budget: EPA provides CWA section 106 funds to NMED to support activities related to the NPDES program, such as compliance evaluation inspections, compliance sampling inspections, State certification, compliance assurance and enforcement of State statutes, and data management. The fiscal

year (FY) 2004 level of funding provided to NMED for point source regulation increased to \$436,395, with 15% State matching funds.

Training: NMED includes outreach/education as one of the “Activities and 106 Program Priorities” in its CWA section 106 grant program workplan for support of “Surface Water Quality Management.” The Facility Operations Team of the Point Source Regulation Section of the Surface Water Quality Bureau (SWQB) of NMED provides or supports this priority certification/training in the following areas:

- Utility operator certification
- Operations and management evaluations (OMEs)
- Technical assistance “short schools,” seminars, and workshops on utility operator certification regulations
- Outreach on NPDES requirements
- In-house training for all personnel

EPA Region 6:

NPDES permitting and enforcement actions are closely coordinated with NMED because the State provides Clean Water Act section 401 certifications and performs surveillance and inspections for EPA as funded by the CWA section 106 grant program. EPA Region 6 is the permitting authority for Indian Country in New Mexico. The only exception is that Navajo Nation Indian Country, some of which is in New Mexico, is administered by EPA Region 9. The two primary divisions within EPA Region 6 responsible for the NPDES program in New Mexico are the Water Quality Protection Division (WQPD) and the Compliance Assurance and Enforcement Division (CAED). Region 6 is responsible for all municipal, industrial, pretreatment, and sludge only individual permits, as well as general permits for stormwater and animal feeding operation (AFO)-related activities in the State.

Note: Region 6-generated guidances, strategies, processes, and technical papers currently used to develop permits, along with Regional water program organization charts, may be found at the following Web address: <http://www.epa.gov/region6>.

Resources: The FY2004 EPA Region 6 FTEs associated with administration of the NPDES program in New Mexico include the following:

- 6 FTEs from the NPDES Permits Branch
- 3.5 FTEs from the Customer Service Branch
- 2 FTEs from the Water Enforcement Branch.

Administration of the program includes permitting, compliance, enforcement, technical assistance, fish kill and compliance investigations, data entry, monitoring and legal costs. The Permits Section, which had nine permit writers in FY2004 to cover NPDES permitting issues, has experienced a loss of about 30% of its personnel resources in the past 4 years. In general, the loss in staff resources was due to a

shift of resources to other priority programs, which had no significant impact on Region 6's NPDES overall resources. This shift was due, in part, to authorization of the NPDES program to three of Region 6's States within the past 8 years and the oversight needs resulting from that authorization. Technical expertise development for support of State permitting efforts contributed some small shift. Staffing levels for permitting efforts in New Mexico have kept pace with full NPDES coverage and scope within the State. The following is a list of the levels of experience in writing permits for these writers:

- 45% of the FY2004 permit writers have more than 10 years of experience
- 33% have between 5 and 10 years of experience
- The remaining 22% have more than 2 years of experience

Within the cadre of permit writers are program specialists in stormwater, concentrated animal feeding operations (CAFOs), endangered species, environmental justice, oil and gas, mining, total maximum daily loads (TMDLs), and other related programs. In addition, the Region has a pretreatment program expert and a whole effluent toxicity (WET) expert.

Training: On a national level, Region 6 staff are closely involved in effluent guideline development, the EPA headquarters' NPDES Permit Writers' Training Course, the Water Quality Standards Academy, and numerous national workgroups and teams. The staff also makes extensive use of one-on-one and small group training conducted by senior permit writers. In addition, a peer review system for quality permitting work has been in place for several years. Permit writers are also offered many opportunities to take advantage of training courses offered in-house and by outside organizations to acquire the knowledge and skills needed to successfully execute the program.

The Region is also in the process of developing workshops to use in training State personnel in the various industrial categories. Staff continue to work with EPA headquarters and other regions to further develop and maintain their knowledge regarding technological advances and new issues. In addition, WET training is provided to all Region 6 States.

Enforcement-related training includes formal, structured training programs for inspectors available for EPA and NMED personnel. EPA Region 6 conducts annual inspector training and encourages continued professional development of personnel performing CAFO, pretreatment, industrial, and municipal compliance inspections. Region 6 provides WET training for compliance, as well as assistance with WET enforcement.

Table 1: NPDES Universe in New Mexico

(Note: This table describes facilities and permits for EPA-run program components only)

FY2002	Major Facilities	Minor Facilities with Individual Permits	Minor Facilities with General Permits	SIUs (including CIUs)	CAFOs
No. of Sources	34 ¹	93 ²	46	102 ³	151
% of National Universe	0.5% ⁴	0.2% ⁴	0.1% ⁴	0.6% ⁴	0.8% ⁴

¹ The National Data Sources column of the Management Report, measure #1, shows 36 major facilities. That value includes two facilities in New Mexico that are under the permitting authority of Region 9.

² The National Data Sources column of the Management Report, measure #2, shows 103 minor facilities covered by individual permits. That value includes 10 facilities in New Mexico that are under the permitting authority of Region 9.

³ The National Data Sources column of the Management Report, measure #9, shows 145 SIUs. At the time of the national data pull, data on SIUs had not been entered into PCS for recent audits of two pretreatment facilities, and outdated numbers of SIUs were counted for those facilities. The 102 value is current as of 1/27/05.

⁴ The calculated percentage of < 1% is statistically insignificant. Zero may be substituted for the values.

Of the 139 total individual permits in the State, 79 are industrial permits, 59 are publicly owned treatment works (POTWs; municipal facilities), and one is a municipal separate storm sewer system (MS4) permit (City of Albuquerque).

2. State Program Assistance

NMED is working toward NPDES program assumption. The State has recently applied for CWA section 104(b)(3) grant funds to assist in developing the program documentation and materials required for submission of its formal application to EPA.

Region 6 has researched areas of the country to provide NMED with information on program assumption. Information will be shared with NMED to provide the Department with contacts, examples, and the scope that is involved.

3. EPA Activities in Indian Country

CWA Section 401 Certification Authority: Several Tribes in New Mexico have developed water quality standards and have CWA section 401 certification authority. In particular, Region 6 has worked closely with the Pueblos of Sandia, Isleta, and Pojoaque in developing NPDES permits in the vicinity of Tribal lands. Coordination with the Tribes is through all mediums, including on-site visits, when requested or necessitated.

WQS: Nine Tribes have approved water quality standards and CWA section 401 certification authority. They are the Pueblos of Acoma, Isleta, Sandia, Nambe, Pojoaque, Picuris, Santa Clara, San Juan, and Tesuque. In addition, the Pueblo of Taos has applied for treatment as a State to administer the water quality standards program and CWA section 401 certifications, and it has adopted and submitted water quality standards. These submissions are now under review within EPA.

Three other Tribes have draft water quality standards prepared, and they are the San Ildefonso Pueblo and the Jicarilla and Mescalero Apache Tribes. Region 6 has not yet seen draft water quality standards from the eight remaining Tribes, which are the Pueblos of Zuni, Laguna, Zia, Santo Domingo, San Felipe, Cochiti, Jemez, and Santa Ana.

EPA ensures that any NPDES permits for discharges to or upstream from waters of Indian Country contain the requirements necessary to achieve EPA-approved Tribal standards for those waters.

Coordination: Region 6 has an assigned Tribal Coordinator in the NPDES Permits Branch, who works to coordinate cross media issues with other Water Division and Regional Tribal representatives on issues, meeting schedules and appointments, outreach, and other requested assistance from the Tribes. Tribal representatives are encouraged to contact the Region with any issues, concerns, or questions dealing with the NPDES program. Region 9 has CWA authority over the Navajo Nation in New Mexico.

4. Legal Authorities

EPA Region 6 implements the NPDES program in the State of New Mexico using its authorities under the CWA.

5. Public Participation

The State of New Mexico:

The State of New Mexico does not have a public participation law specifically addressing the NPDES permitting and enforcement programs. However, the New Mexico Inspection of Public Records Act (14-2-1 NMSA [New Mexico Statutes Annotated] 1978) and the Open Meetings Act (10-15-1 NMSA 1978) are the current State laws regarding public participation on State issues. In addition, the New Mexico Water Quality Control Commission amended the State's Water Quality Management Plan (WQMP) in May 2003 to incorporate an additional work element addressing and outlining public participation procedures to improve the public's ability to participate in State environmental decisions. Per the requirements of work element 11 of the WQMP, the State has adopted a tiered approach to involving the public in the process of environmental decisionmaking. This process, at a minimum,

- Provides the public with the information and assistance necessary for meaningful involvement
- Provides a central location for reports, studies, plans, and other documents
- Maintains a stakeholder list of affected/interested parties
- Notifies stakeholders in a timely fashion prior to consideration of major decisions (generally should be less than 30 days)

Specifics of the tiered approach, grouped according to the type of document/action being reviewed or acted upon, can be viewed at

http://www.nmenv.state.nm.us/swqb/Planning/Water_Quality_Management_Plan/index.html.

NMED currently posts final permits, along with State water quality documents (including draft and final TMDLs) on the State Web site at <http://www.nmenv.state.nm.us/>.

EPA Region 6:

For permit issuance in the State of New Mexico, EPA Region 6 follows the public participation procedures outlined in 40 CFR part 124, subpart A. The NPDES permit public notice procedures include the following:

- Public notice packages are mailed directly to permittees, interested stakeholders, and Tribes on a public notice mailing list maintained by WQPD. Any interested party may request addition of his or her name to the mailing list, and it will remain on that list until the party requests that the name be removed. In addition, WQPD adds attendees of EPA-sponsored meetings on permits in New Mexico to the mailing list.
- Public notices are published in a daily or weekly newspaper within the area affected by the major permit actions.
- Permits are proposed for a 30-day comment period with a fact sheet or statement of basis.
- Responses to comments are prepared as part of the final permit decision and mailed to the those who submitted comments.
- Public notice of the final permit decision may be provided if the final permit includes substantial changes from the originally proposed permit.

EPA Region 6 also fulfills requests to meet with the affected public and has often met with local, State, Tribal, and federal agencies to address issues associated with pending permit actions.

Public notices, fact sheets and draft permits are generally made available electronically through the EPA Region 6 WQPD Web site at <http://www.epa.gov/earth1r6/6wq/>. Because of increased demand, all currently produced draft permit packages are being placed on this Web site. Final permits are not yet available, but they might be posted on the Web site in the future, depending on public interest. Public access is available through the Internet using the Enforcement Compliance History Online (ECHO). The compliance history and enforcement information are extracted from the Permit Compliance System (PCS) for ECHO. There are online error correction features and procedures in place for the public to notify Region 6 of any concerns they might have with the data. Supplemental hard copies are also provided to interested parties as requested. Permit actions are coordinated with local, State, Tribal, and federal agencies such as facility operators; municipalities; Tribes; NMED; New Mexico Department of Cultural Affairs, Historic Preservation Division; U.S. Army Corps of Engineers; U.S. Geological Survey (USGS); U.S. Department of Agriculture (USDA); Natural Resource Conservation Service (NRCS); and U.S. Fish and Wildlife Service as appropriate for the permit action.

Outreach activities are conducted where appropriate to educate the public and/or affected regulated sector on permitting, compliance, and enforcement issues. EPA Region 6 holds educational workshops. Various guidance documents, compliance guides, and educational materials are provided to the public and regulated communities; such materials are often available through the regional Web page.

The Region coordinates, attends, and provides overall administrative assistance with public hearings and public meetings. Activities include the following:

- Reserve meeting rooms for appropriate date, time, and location near permitted facility.
- Comply with Agency policies and guidelines and ensure that procurement is cost-effective.
- Provide administrative assistance and information to EPA staff, elected officials, private citizens, and/or environmental interest groups with respect to the subject of the hearing or meeting.
- Send confirmation letters, procurement requests, and hearing officer requests within 72 hours after basic arrangements are made.
- Coordinate meeting dates with the availability of the Regional Hearing Officer, Permits Section Chief, and permit writer.

6. Permit Issuance Management Strategy

The State of New Mexico:

NMED continues to maintain an “Activities and 106 Program Priorities” function within its CWA section 106 grant program workplan for the support of “Surface Water Quality Management.” Permits are an integral portion of that priority list through the CWA section 401 certification program, and they are based on priorities similar to those which Region 6 uses. In addition, the “NPDES Permitting Process and Coordination with State” flowchart was developed and continues to be refined to help streamline the permitting/State CWA section 401 certification process. This process was designed not only to accelerate the permit development and certification process but also to achieve the production of quality permits that meet all State requirements and are relatively unchallenged by either the permitted entities or the public/interested stakeholders.

EPA Region 6:

To date, EPA Region 6’s practice has been to issue permits based on expiration dates. In addition, starting in calendar year (CY) 2000 and using the regulations contained in 40 CFR 122.46, EPA Region 6 has issued permits for less than the 5-year term as part of an effort to issue permits using a basin-wide permit strategy. The goal is that by CY2007, the existing permit universe will be in a 5-year rotating basin cycle. New permits will be issued as they are applied for, and use of 40 CFR 122.46 will allow those permits to be placed in the appropriate basin within two permit cycles. Additional items, such as potential environmental impacts and State/public/permittee interest, are considered when allocating resources toward permit issuance. In addition, EPA Region 6 will evaluate permit prioritization as related to recent EPA headquarters initiatives on priority permits. To track program progress and accomplishment and to address permit issuance, EPA Region 6 uses PCS and other data-tracking mechanisms such as the NPDES Information Tracking Application (NITA; see Data Management section for further information on this system).

In an effort to better serve the communities and industries of New Mexico with prompt NPDES permit issuance, and to streamline the NPDES permitting and NMED certification processes through better resource management, EPA Region 6 has developed and implemented the following strategies and approaches:

- “Post Third Round Permitting Policy”: Region 6’s “Post Third Round Permitting Strategy” and “Post Third Round Permitting Guidance” to address toxicity in permits
- Five-Year River Basin Statewide Management Approach, known as the “Statewide Basin Management Approach to Permitting,” which is a framework to better coordinate and integrate water resource management activities geographically by river basin
- Permit tools, such as standardized fact sheet and statement of basis rationale language for permitting to impaired waters and permitting post-TMDL
- The “NPDES Permitting Process and Coordination with State” agreement to streamline permitting and CWA section 401 certifications
- “Requirements to Reduce the Backlog of Permits Under Regional Authority to 50% by End of CY2000”

In addition to the development or implementation of the strategies and approaches, the Region 6 Permits Branch developed a simplified Regional Backlog Strategy as a road map to reduce the backlog of NPDES permits in New Mexico. The backlog strategy outlined a schedule for permit issuance and identified various barriers, factors, and resources that might affect permit issuance. Efforts to identify existing facilities and clean up the permit tracking databases at the National, Regional, and State levels to accurately reflect those facilities have also contributed to both permit backlog reductions and efficient permit issuance strategies.

Permit Backlog Reduction/Quality: Region 6 is responsible for issuing 127 individual permits in New Mexico. Currently, seven of these appear to be awaiting initial permit issuance, two have been expired for more than 5 years, and none have been expired for more than 10 years. In 2002 and 2003, Region 6 issued a total of 52 individual permits. A number of the expired or never-issued permits have been proposed but not finalized by Region 6 because they are either under State antidegradation review or subject to ongoing TMDL revisions. The permit backlog for major facilities has decreased from a high of 98% at the beginning of CY2000 to 6% in February 2005, and the backlog for minor facilities covered by individual permits has shrunk from a high of 99% to 10%. That leaves 94% of major and 90% of minor individual permits in New Mexico current. The reduction of the major permit backlog allowed the Region to meet EPA headquarters’ established goal of less than 10% of major permits expired by the end of CY2001, and to meet the CY2004 goal of less than 10% backlog of all permits 1 year ahead of schedule in CY2003.

To help maintain permit quality while reducing permit backlogs in New Mexico, EPA Region 6 has successfully implemented a peer review system within the NPDES Permits Section, along with NMED review as part of the “NPDES Permitting Process and Coordination Agreement with the New Mexico Environment Department.” The NMED review during permit development, combined with the formal State CWA section 401 certification, helps to ensure that permits comply with the New Mexico Water Quality Act, protect water quality standards, and implement the WQMP. NMED’s efforts to provide preliminary reviews of draft permits, along with the timely CWA section 401 certifications, have been integral to successes made in New Mexico permit backlog reduction and development of quality permits.

Table 2: Percentage of Permits Current in New Mexico
(State-issued permits)

	2000	Nat'l Avg.	2001	Nat'l Avg.	2002	Nat'l Avg.	2003	Nat'l Avg.
Major Facilities	56%	74%	91%	76%	91%	83%	94%	84%
Minor Facilities Covered by Individual Permits	11%	69%	52%	73%	71%	79%	91% ¹	81%
Minor Facilities Covered by Individual or General Permits	N/A	N/A	N/A	N/A	50%	85%	61%	86%

¹ This value is from an internal Region 6 report, which did not include 10 minor facilities in New Mexico, that are under the permitting authority of Region 9. PCS data, which includes these 10 facilities, showed that 89% of minor facilities covered by individual permits were covered by current permits as of 12/31/03.

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.)

7. Data Management

The State of New Mexico:

Because EPA Region 6 is the permitting authority for the NPDES program in New Mexico, PCS is directly used and there is no exchange of data between State systems and PCS. However, the NMED SWQB maintains its own database of NPDES permit information, including information on facility location and receiving stream, to keep track of NPDES permitted facilities in New Mexico. This database is integrated throughout the SWQB and is used to help with environmental decisions on priority segments related to the list of impaired waters prepared under CWA section 303(d), the water quality inventory prepared under CWA 305(b), and TMDLs.

To date, inventory information available in an automated data system to track priority segments has been limited. As discussion continues on the national level regarding the definition of a priority permit, it could be anticipated that further information might be available in the future through an automated data system. However, it continues to be EPA Region 6's intent to track all permits, not just priority segments, in an effort to eliminate the backlog of all permits.

EPA Region 6:

Primary Data System: EPA Region 6's WQPD and CAED enter and maintain all PCS information to manage the NPDES program. NMED also uses printouts of PCS source inventory, compliance, and enforcement data.

Data Elements: EPA Region 6 enters Water Enforcement National Database (WENDB) data elements in compliance with the PCS Policy Statement requirements for the permit and compliance and enforcement programs. EPA Region 6 enters the latitude and longitude data for outfalls into PCS from the pipe level latitude and longitude data provided on the permit applications. Because NPDES permit applications do not require latitude and longitude to be reported at the facility level, EPA Region 6 WQPD has always entered the pipe-level latitude and longitude data for the first outfall in lieu of facility-level latitude and longitude. The data are not currently verified by a global positioning system (GPS) but are cross

referenced against the hydrologic unit code to verify proximity. As resources allow, latitude and longitude may be verified by GPS in the future.

PCS WENDB facility-level data elements for minor facilities have always been entered into PCS. PCS shows facility addresses, flow, latitude and longitude, public notice dates, issuance dates, and expiration dates. Minor facilities have not always been tracked in PCS because their tracking was not required by EPA headquarters. For over a year, enforcement data on minors facilities have been entered, so there is now a high level of entry data input into PCS for New Mexico.

EPA Region 6 WQPD relies primarily on PCS and the NITA, an in-house permit-tracking database that interfaces with PCS data to maintain an inventory of regulated sources. (See further discussion on NITA under Ancillary and Support Data Systems below.) Priority permits and priority segments have historically been tracked and maintained using in-house spreadsheets. WQPD has initiated an effort to enter water body information, including listing as impaired under CWA section 303(d) and TMDL status, into NITA in an attempt to better track and evaluate priority segments. NMED strives to maintain an up-to-date Water Quality Management Plan that incorporates TMDLs. That plan is consulted as a part of the permit development process.

Stormwater permits are tracked on the national notice of intent (NOI) stormwater database. Biosolids are tracked in PCS for Class 1, municipal treatment works (major facilities). This includes the percentage of biosolids land-applied, reused, or both. The Region uses PCS to track CAFOs through the facilities' NOIs under the general permit. Pretreatment programs are also tracked in PCS. Sanitary sewer overflows (SSOs) are maintained in the Region on a Violation Summary Log (VSL). The VSL is a spreadsheet that is also used to maintain pretreatment and effluent violations. SSOs are also entered into a Compliance Review Action Sheet (CRAS) that is used by Regional enforcement engineers and scientists for enforcement reviews.

Ancillary or Support Data Systems: To track program progress and accomplishments and to address permit issuance, EPA Region 6 uses PCS and other data-tracking mechanisms such as NITA, which interfaces with PCS data. NITA uses PCS data along with additional program data entered at the local level not recorded in PCS. This tool allows Region 6 NPDES permit writers and management to readily and easily generate standard and custom reports related to program measures such as permit backlog, issuance rates, and general permit authorizations.

Quality Assurance/Quality Control: New Mexico facilities participate in the discharge monitoring report quality assurance (DMR QA) program, and the results are reported back to EPA Region 6. EPA then follows up as appropriate through compliance assistance and enforcement. As part of compliance evaluation inspections, NMED evaluates quality assurance and quality control (QA/QC) in labs along with mechanical units, equipment calibrations, and laboratory standard operating procedures using standard EPA inspector training protocol. Region 6 participates on the Data Migration Workgroup with EPA headquarter, regions, and States to ensure that data migrated from legacy PCS to the new ICIS-NPDES (modernized PCS) are complete and accurate. Furthermore, EPA Region 6 uses procedures and protocols developed and suggested by EPA headquarters to ensure that PCS data are reported in an accurate and timely manner. As people use the data maintained on regulated sources in NITA and inaccuracies are identified, corrective action is taken as appropriate to update the information in PCS. EPA and NMED closely coordinate and strive to maintain a complete and accurate list of permitted facilities, including information on priority areas identified within the State.

Section II. Program Implementation

1. Permit Quality

EPA Region 6

Permit Quality Innovations: EPA Region 6 has used a number of methods to improve permitting efficiency and quality. In addition to tools such as permit and fact sheet checklists and spreadsheets to calculate water quality-based limitations and ensure uniformity of permits and consistency with State water quality standards, several permit and fact sheet templates have been developed to provide standard language to address various permitting requirements related to areas such as toxicity testing, pretreatment, overflow reporting, pollution prevention, water quality screening, TMDL implementation, and CWA section 303(d) listed receiving streams. EPA Region 6 has also developed a flowchart for water quality-based permit limitations. The flowchart is a widely used decisionmaking tool that is helpful in developing a permitting strategy. The templates and associated standardized format also facilitate peer, management, and State review of permits.

To facilitate permit process streamlining, in conjunction with permit quality, EPA and the NMED have developed a permit quality management system/process, called the “NPDES Permitting Process and Coordination with State,” to help produce high-quality permits in a timely manner to coincide with current permit expiration dates.

The process incorporates a peer review process and State review, prior to public notice of the permit, to alleviate inconsistencies and/or omissions that are of vital interest to the permittee and the public. The process is tracked in the administrative record of the permit file. Region 6 also uses the following documents to ensure consistency in permit priorities and approaches that meet all national and State laws:

- “Water Quality Assessment NPDES Permit Issuance Actions” flowchart
- “Post Third Round Permitting Policy”: Region 6’s “Post Third Round Permitting Strategy” and “Post Third Round Permitting Guidance”
- “Permit Checklist,” including the “Biomonitoring History” checklist and the “Pretreatment Language Checklist, Municipal - NPDES Permits”
- “New Mexico Water Quality-Based Effluent Limitations” spreadsheet, which incorporates limitations development based on ambient data, when available
- “Basin Statewide Management Approach to Permitting in New Mexico,” which sets up issuance of all permits in a given watershed in the same year
- Permit tools, such as standardized fact sheet and statement of basis rationale language for permitting to impaired waters and permitting post-TMDL

- Standardized fact sheet and statement of basis formats to address all elements of State-required water quality issues, along with endangered species, historic preservation, and national programs such as pretreatment and sludge management, technology requirements, and monitoring frequency reduction considerations

The NPDES Permits Branch will explore the option of making its permitting tools more easily available to the public on the Region 6 Web site.

Permit quality reviews have produced few if any issues related to the quality of the permits, beyond typos and formatting changes. Consistency in the types of permits and the quality of permits has steadily improved in the Region since institution of these measures.

In developing the “Permit Quality” section of the program profile, permits were not independently evaluated or compared to a national standard. Rather, the discussion is based primarily on an assessment of the QA/QC procedures established and the routine permit quality reviews performed by EPA Region 6.

WET Program: Because NMED has not assumed the NPDES program, EPA Region 6 writes NPDES permits, which implement the State’s WET program to meet the requirements established by EPA Region 6 and the State of New Mexico. The State uses a numeric interpretation (i.e., the in-stream waste concentration) of its narrative criterion for the protection of aquatic life. NPDES permits issued for NMED require life-of-the-permit WET monitoring, with a potential reduction in testing frequency after the first four quarterly tests. (Two organisms are tested, an invertebrate and a vertebrate.) Permits require additional testing if significant lethal effects are demonstrated in a test. Permits also include requirements to perform a toxicity reduction evaluation (TRE) where significant lethal effects (as compared to a control group) are demonstrated in two out of three tests performed over a 90-day period. After the TRE study, a WET limit for lethal effects may be required. The basis for a WET limit is multiple exceedances, for lethality, of the State narrative criterion for the protection of aquatic life.

Where significant sublethal toxic effects (i.e., significantly impaired growth or reproduction) are demonstrated over a period of time, a TRE may be required, although this requirement has not yet been implemented.

To date, EPA Region 6 and its States have not required a predictive reasonable potential assessment for WET during permit development, nor have they required WET limits to protect against sublethal effects such as significant impairment to growth or reproductive ability. In 1990–1991, the Region was concerned that toxicant identification procedures were not adequately refined to result in successfully completing sublethal TREs on a consistent basis. Over time, significant advances in toxicant identification have improved success in this area. Region 6 has recently concurred on EPA draft national guidance documents that will establish a predictive Reasonable Potential (RP) approach and WET limits for sublethal effects. EPA Region 6 is currently developing a draft strategy to phase in implementation of these significant permitting changes. The final strategy will be developed in coordination between NMED and EPA Region 6.

To ensure that water quality standards for WET are met, WET testing and TRE data are submitted to PCS and the EPA WET staff for review and initiation of appropriate actions, including enforcement if necessary, for facilities that are required to perform biomonitoring. This review includes tracking test

results for facilities, TRE studies, notices of violations related to WET, and public education. EPA Region 6 provides toxicity testing data reviews and recommendations to ensure appropriate WET requirements in all new and renewed permits. Examples of these conditions include testing frequency, effluent dilutions, species tested, test duration, and other requirements that may apply.

Regional Policy: All permits for major dischargers contain life-of-the-permit monitoring requirements for WET, including lethal and sublethal effects for two species (a vertebrate and an invertebrate). If no lethal or sublethal effects are demonstrated at or below the critical low flow dilution in any of the first four quarterly tests, the permittee may apply for a reduction in frequency down to once per 6 months for the more sensitive species and once per year for the less sensitive species. This frequency applies until the permit expiration date or until a test fails for the lethality endpoint. If a facility fails a test, two retests are required during the next 2 months and the facility must return to quarterly testing for the life of the permit for the affected test species. If sublethal effects are demonstrated during the first four quarterly tests, the facility must continue testing until it passes both the survival and sublethal test endpoints for four consecutive quarters.

Although Region 6 and its States do not have a schedule to begin requiring TREs and WET limits for sublethal effects, all permits now include a notice that the permitting authority may require a sublethal TRE if sublethal effects are demonstrated at a magnitude and frequency that indicate that a successful TRE can be performed.

Permits for discharges to both pre- and post-TMDL impaired waters, and for discharges to waters covered under the State antidegradation standards, are prepared by the Region to protect designated uses through implementation of the State water quality standards. Limitations and monitoring requirements set forth in the proposed permit are developed from the State water quality standards and are protective of those designated uses. Furthermore, the State antidegradation policy sets forth the intent to protect the existing quality of those waters whose quality exceeds their designated use. Permit requirements are developed by the Region to be protective of the assimilative capacity of the receiving waters, which is protective of the designated uses of the waters, per New Mexico Administrative Code (NMAC) section 20.6.4.8.A.2.

2. Pretreatment

The State of New Mexico:

The State of New Mexico is not authorized to implement a State pretreatment program.

EPA Region 6:

EPA Region 6 implements the pretreatment program. The regional office has developed a pretreatment language checklist and standardized permit, fact sheet, and statement of basis formats to assist permit writers in addressing pretreatment requirements for POTW NPDES permits.

EPA has approved five pretreatment programs in New Mexico, in which 100% of the significant industrial users (SIUs) have control mechanisms.

Inspections/Audits: EPA works closely with the State on a voluntary basis to help develop a targeting list of inspections. EPA and NMED split up the major facilities to ensure that the major POTWs (design flow of 1 million gallons per day (MGD) and greater) are inspected annually and that the efforts are not

duplicated. During a 5-year period, 100% of pretreatment programs have been inspected. In addition, the State performs a number of minor POTW (design flow less than 1 MGD) inspections. EPA regional staff conduct audits of approved POTW pretreatment programs in New Mexico. Pretreatment programs are audited once every 5 years. During the audits, a standard checklist is used that covers basic questions about the program, which also has a industrial user (IU) file review checklist. On one of the 3 days in which the audit is conducted, IU site visits are conducted to determine whether the permits are written correctly and to see if the POTW has a correct understanding of what takes place at each IU. After the physical audit is conducted, an audit report is prepared within 60 days, and this report is sent to appropriate addressees, including the Water Enforcement Branch. The Region follows up with the POTW to resolve any deficiencies identified in the audit report. Typically, routing and review of the audit report occur and a decision regarding the appropriate level of compliance assistance or enforcement action is made within 60 days of receipt of the audit report. However, time frames can be affected by the nature of the identified deficiencies and may be established case by case. Violations of the pretreatment regulations or NPDES permit are addressed primarily through issuance of administrative orders for compliance as authorized under CWA section 309. These violations may also be addressed with a penalty action if a complaint is filed with the hearing clerk. Annual reports are generally reviewed within 60 days from receipt, and appropriate action is taken at that time.

SIUs: Locating of SIUs discharging process wastewater to New Mexico POTWs without approved pretreatment programs is performed as resources allow. Identification of SIUs and categorical industrial users (CIUs) is currently prioritized according to environmental and public concerns. When EPA Region 6 or NMED identifies CIUs discharging process wastewater to New Mexico POTWs without approved pretreatment programs, EPA Region 6 notifies the facility of its requirement to comply with the applicable categorical standards. EPA Region 6 also notifies the facility of its reporting requirements under 40 CFR 403.12, noting that those reports should be sent to EPA Region 6. The Region has issued no control mechanisms to SIUs discharging process wastewater to New Mexico POTWs without approved pretreatment programs because there is no legal authority to do so.

The Region currently has a count of 102 SIUs (categorical and other non-categorical SIUs) discharging to POTWs that have approved pretreatment programs in New Mexico and have current permits.¹ The numbers that appear in PCS are dynamic and not static. With each audit, permit compliance inspection, or annual report, these numbers tend to change due to new SIUs being added and others being deleted from the programs. Thus, neither a current published number nor the Management Report number of SIUs adequately reflects the actual number of users at any given time.

3. Concentrated Animal Feeding Operations

EPA Region 6:

Status: The CAFO program in New Mexico is administered by EPA. Forty-six, or approximately 30%, of the CAFOs are covered by the NPDES general permit issued by Region 6 in 1993, which expired in 1998. Currently, there are about 151 CAFOs in New Mexico that meet the definition of a CAFO under the new CAFO rules. Almost all of these facilities are dairies. The new CAFO regulations do not require nutrient management plans (NMPs) to be implemented until December 31, 2006; however, CAFOs

¹ The National Data Sources column of the Management Report, measure #9, shows 145 SIUs. At the time of the national data pull, data on SIUs had not been entered into PCS for recent audits of two pretreatment facilities, and outdated numbers of SIUs were counted for those facilities. The 102 value is current as of 1/27/05.

administratively covered by the expired 1993 general permit were required to meet many of the nine minimum control measures of the NMP as defined in the new CAFO regulations well before the current NMP concepts were developed. When Region 6's NPDES general permit for New Mexico is reissued, Region 6 will stipulate the development and implementation of NMPs, as required by the new CAFO regulations. Region 6 expects to issue the CAFO general permit for New Mexico by September 2005. The draft permit went out for a 60-day public comment period on December 7, 2004. The Region is finishing its Endangered Species Act section 7 and National Historical Preservation Act (NHPA) section 106 consultations. Currently, EPA Region 6 is working with the USDA-NRCS and NMED to assist CAFO operators in developing NMPs. The NRCS has developed an NMP training/workshop for New Mexico consultants and technical service providers who will be assisting CAFO operators in developing NMPs.

Measure of Quality and Effectiveness: EPA Region 6 intends to incorporate into the reissued CAFO general permit the requirement that NMPs must be developed by certified planners. Region 6 intends that these NMPs will be a key component of the EPA Region 6 CAFO general permit. The New Mexico NRCS has developed an NMP certification course. Graduates of this course will be qualified to develop NMPs as required by the reissued permit. Certified planners will assist CAFO operators in developing NMPs. EPA plans to measure and evaluate the quality and effectiveness of NMPs through inspections. Soil and wastewater monitoring data will be used to evaluate whether CAFO operators are properly and effectively implementing NMPs. Region 6 plans to include NRCS Practice Standards as technical standards in the general permit.

Inspections: Permitted CAFOs in New Mexico are inspected at least once every 2 years by either EPA Region 6 or the State. Currently, targeting of CAFO inspections is based primarily on facility population density, proximity to surface water or the potential to affect surface water, and citizen complaints. More inspections are conducted wherever there is a large population of CAFOs and where such a population of CAFOs is likely to affect surface water or groundwater. However, EPA Region 6 is developing a self-audit program for New Mexico CAFOs. As an incentive, facilities that elect to participate in the self-audit program may qualify for a reduction in inspection frequency. This self-audit program is designed to provide compliance assistance to CAFOs in New Mexico to help them comply with the new EPA Region 6 NPDES CAFO general permit to be issued in the near future.

4. Stormwater

EPA Region 6:

EPA Region 6 has issued NPDES permits for (1) industrial activities, (2) large construction, and (3) small construction in New Mexico. The Region has also issued its one Phase I MS4 permit (Albuquerque). EPA Region 6 has not issued the general permit for small MS4s. Finalization of the proposed small MS4 permit has been delayed primarily because of uncertainties regarding the impact of the 9th Circuit Court decision on Phase II small MS4 general permits. All NOI data are tracked through EPA's NOI Center. EPA publishes the information available in the NOI database regularly on the EPA Region 6 Enforcement Web page. On September 30, 2003, the application process for coverage under the construction general permit became available to applicants electronically through the electronic NOI (eNOI) system. NOIs for the construction general permit are searchable online through the eNOI system.

5. Combined Sewer Overflows/Sanitary Sewer Overflows

EPA Region 6:

CSOs: There are no combined sewers in New Mexico and therefore no combined sewer overflows (CSOs).

SSO Reporting: Provisions are included in all NPDES permits requiring permittees to report all SSOs with DMR submissions. The reports must include the following information for each event:

- Date
- Time
- Duration
- Location
- Estimated volume
- Cause of the overflow
- Observed environmental impacts from the overflow
- Actions taken to address the overflow
- Ultimate discharge location if not contained (e.g., storm sewer system, ditch, tributary)

Overflows that endanger health or the environment must be orally reported to EPA and NMED within 24 hours from the time the permittee becomes aware of the circumstance. A written report of overflows that endanger health or the environment must be provided within 5 days of the time the permittee becomes aware of the circumstance. Additional notification requirements are included in New Mexico NPDES permits when appropriate, such as notices to Tribal agencies for NPDES permits affecting Indian Country waters and notices to the U.S. Fish and Wildlife Service for NPDES permits with Endangered Species Act issues.

Part 3 of Region 6 permits for dischargers requires that permittees operate their facilities properly; that they do not bypass treatment, except for scheduled maintenance or other listed exemptions; and that they report all overflows to the Region within 24 hours. The State also requires notification, per State regulations under NMAC 20.6.4.1203. There is general narrative language in the State regulation on criteria for a spill that would warrant notification of overflows. This language does not include volumetric requirements, and therefore the State requests that all overflows be reported for evaluation by its staff for impacts on public health and the environment. NMED maintains a spill database for emergency spills/overflows only. There are no formal procedures for the State to notify the public of spills/overflows, unless the State determines there is a significant risk to public health or the environment. Most spills/overflows are already resolved by the time the reports are made because as operators are becoming more responsible for proper operation of facilities in the State.

VSLs are maintained for tracking all violations on each New Mexico facility. These logs are maintained on major permittees, discretionary minor facilities, and 92-500 minor facilities (minor facilities which received federal construction grants under the original CWA, Public Law 92-500). SSOs are logged into the VSLs and routed on a CRAS to the appropriate engineer or scientist for enforcement review. Inspection reports are another area where SSOs are detected. The inspection reports are logged into the VSLs and inspections showing violations (specifically SSO violations) are routed to an engineer or scientist for enforcement action.

Upon review of the SSO reports and inspection reports, the engineer may decide to issue a formal enforcement action (administrative order or consent decree). The formal action is coded into PCS with a single event violation referencing the SSO report or inspection that triggered the action. Also, a comment is entered in the enforcement action in PCS indicating that the order addressed SSOs or that the inspection cited SSOs.

6. Biosolids

EPA Region 6:

EPA Region 6 regulates discharges, including sludge disposal, of Class I facilities (facilities that produce sludge that may adversely impact the environment) by way of EPA-issued NPDES permits. Other facilities operate in accordance with the self-implementing regulations for biosolids use and disposal found under 40 CFR part 503. EPA Region 6 Permits Branch and Water Enforcement Branch provide assistance to and oversight of all sludge disposers.

The regulations promulgated in 40 CFR part 503 for the biosolids programs are self-implementing, and they have been included by the Region in permit conditions for facilities generating municipal or sanitary-oriented sludge. In New Mexico permits and those in Indian Country, where EPA writes all NPDES permits, sludge disposal requirements are included as Part 4 in each individual discharge permit. Region 6 does not issue general permits for sludge disposal. Requirements in Part 4 of the individual permits include conditions to maintain records on-site for all non-Class I facilities for a period of up to 5 years, as well as a condition to send in an annual report on sludge testing requirements for Class I facilities.

The Permits Branch provides assistance to States and individuals with questions regarding interpretation of 40 CFR part 503. The Water Enforcement Branch receives the annual reports required from Class I sludge facilities in February of each year, investigates compliance concerns, and performs inspections. Data are entered into PCS that report the amount of biosolids land-applied or reused. Most regulation interpretation and compliance concerns are discussed jointly between the Permits Branch and Water Enforcement Branch.

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 New Mexico:

The NPDES program is not authorized to the State of New Mexico. At this time, the State is developing statutes and regulation to assume the NPDES program by January 2007. EPA directly implements the NPDES program in New Mexico.

EPA Region 6:

The Water Enforcement Branch, within the Compliance Assurance and Enforcement Division, performs the administrative, technical, and scientific review and evaluation necessary to implement the enforcement provisions of NPDES permits, 40 CFR part 503, and direct enforcement of Section 301 of the CWA to address unauthorized discharges. Two NPDES sections within the Water Enforcement Branch are primarily dedicated to NPDES compliance monitoring and enforcement: the Municipal and Industrial Wastewater Section and the NPDES Compliance Monitoring Section.

The NPDES Compliance Monitoring Section is responsible for all compliance monitoring activities, which include review of all self-monitoring reports, noncompliance reports, inspections, and so forth. Formal and informal enforcement actions (including Expedited Settlement Agreements) are initiated for violations when appropriate. Preparation and submission of the Quarterly Noncompliance Report and the Watch List are also done by Section staff. In addition, the Section has primary responsibility for performing oversight functions with NPDES States, including training on the NPDES enforcement and compliance programs and PCS. Another function is to provide compliance assistance to the regulated community with respect to interpretation of permits, calculations for DMRs, and the like. The Data Management Team in this Section is responsible for database management of PCS and the Integrated Compliance Information System (ICIS).

The Municipal and Industrial Wastewater Section handles technical responsibility for higher-level enforcement matters related to the industrial/municipal NPDES permits, penalty policy, and Supplemental Environmental Projects (SEPs). This includes enforcement of the CWA industrial/municipal NPDES permits, pretreatment program facilities, and sludge management facilities and enforcement of stormwater requirements. The staff also provide NPDES coordination for regional multimedia enforcement activities. Department of Justice (DOJ) referrals and associated activities are handled in this Section. The Section is responsible for recommending and coordinating field investigations by inspectors or criminal investigators, and it participates in such activities as necessary. Compliance assistance and outreach to the public are also conducted through workshops and compliance meetings.

The Enforcement Process: The Water Enforcement Branch identifies and addresses all significant noncompliance (SNC) violations using federal criteria as outlined in the Region 6 Enforcement Management System (EMS) manual and the NPDES regulations. The Compliance Monitoring Section reviews all self-reported data and reports, including effluent data, construction schedules, inspection and pretreatment reports, biosolids reports, stormwater reports, and SSO violation reports. Technical review criteria, which are contained in the Branch's EMS manual, are used to determine the level of review a particular violation receives. Most violations are addressed by the Compliance Monitoring Section; more serious violations or violations requiring escalation of action are referred to the Municipal and Industrial Wastewater Section by means of a compliance review action sheet that details the violations, previous actions taken, and request for technical review. Documents necessary to evaluate compliance with the NPDES permit are attached to the action sheet. The Municipal and Industrial Wastewater Section uses the Enforcement Response Guide (ERG) in EPA's NPDES national EMS to determine the appropriate response to these violations. The ERG is a guide for use by NPDES staff who are responsible for determining the appropriate enforcement responses to specific types of violations of the NPDES program and related sections of the CWA. The possible enforcement responses are broken down into informal and formal responses. Informal responses are warning letters, notices of violation, and verbal warnings. Formal responses are authorized by section 309 of the CWA and include Administrative Orders (30-day orders, show cause orders, schedule orders); Expedited Settlement Offers (ESOs; small Class I penalties); Administrative Penalty Orders (Class I and Class II); and referrals to the DOJ for judicial action. Class I penalties are administrative penalties up to \$32,500 but not more than \$11,000 per violation per day. Class II penalties are administrative penalties up to \$157,500 but not more than \$11,000 per violation per day. Penalties that are above \$157,500 or that require injunctive relief are handled judicially with representation by the DOJ. Section 309 of the Clean Water Act limits penalties to \$32,500 per day per violation. (The CWA actually specifies \$25,000, but the Civil Monetary Penalty Inflation Adjustment Rule mandated by the Debt Collection Act of 1996 has increased the civil penalty amounts, but not the criminal penalty amounts.) The Water Enforcement Branch has developed numerous model enforcement action documents to assist in preparation of the appropriate enforcement actions as dictated by the ERG. These documents are maintained on a computer network server accessible to all the enforcement staff.

The typical enforcement process involves issuance of an administrative order, followed by a show cause or informal meeting with the violator. Using the ERG, the assigned staff evaluate the response of the violator to the order and, with legal review and assistance by Regional counsel, make a determination whether the violations are technically and legally sufficient to escalate enforcement to an administrative penalty or refer the case to DOJ. Management also reviews and has to concur on the appropriateness of enforcement escalation to an administrative penalty or a referral to DOJ. In addition to the civil enforcement process described here, if Regional counsel, technical personnel, and management have reason to believe the violations may be criminal in nature, the case may be reported to EPA's Criminal Investigation Division, the U.S. Attorney's Office, or both. A criminal referral does not change the civil procedures, which proceed in accordance with the process described. Section 309 of the CWA allows for parallel civil and criminal prosecution by the government. In addition, at the request of EPA's Criminal Investigation Division or the U.S. Attorney's office, the Municipal and Industrial Wastewater Section provides technical assistance for criminal investigations.

If the penalty action is a Class I or Class II Administrative Penalty, the assigned staff draft a complaint to be signed by the Division Director and filed with the Hearing Clerk in accordance with 40 CFR Part 22. Public notice is also made. Once a complaint is filed, the assigned staff and attorney initiate

settlement negotiations with the violator in accordance with the 1995 CWA Settlement Penalty Policy. If a settlement is reached, a Consent Agreement and Final Order is drafted, signed, and filed with the Hearing Clerk. Many settlements include SEPs, which are environmentally beneficial projects voluntarily performed by the violator. The SEPs are developed in accordance with the EPA SEP Policy. Some Class I penalties are categorized as Expedited Settlement Offers (ESOs). Some of these, like the stormwater construction ESOs, are authorized by special policies from EPA's Office of Enforcement and Compliance Assurance. An ESO is generally a single document combining the Complaint and Consent Agreement and Final Order for those parties wishing to settle quickly and certify compliance in exchange for a reduced penalty.

If the penalty action requires a higher penalty than that allowed administratively or judicial injunctive relief is appropriate, a referral package is prepared and routed from the Division Director to DOJ. Although DOJ officially takes control of the case at this point, the assigned enforcement and legal staff serve as the support staff for the case. For purposes of settlement negotiations, the Region uses EPA's 1995 CWA Settlement Penalty Policy, EPA's economic benefit model ("BEN"), EPA's municipal policy ("MUNIPAY"), EPA's inability-to-pay model ("ABLE"), and EPA's SEP policy to calculate and negotiate a penalty.

The Enforcement Branch routinely evaluates violations and environmental concerns and develops initiatives to target various areas of noncompliance. These initiatives are primarily based on watersheds, particularly impaired watersheds. Although many initiatives are region-wide, the initial actions are taken in areas within impaired watersheds first to yield the best environmental protection of water quality standards.

The ERG is part of the Region's EMS. The ERG recommends enforcement responses that are timely and appropriate in relation to the nature and severity of the violation and the overall degree of noncompliance. When making determinations on the level of enforcement response, the technical and legal staff consider the degree of variance from the permit conditions or legal requirement, the duration of the violation, previous enforcement actions taken, and the deterrent effect of the response on the similarly situated regulated community. Equally important in the ERG are considerations of fairness and equity, national consistency, and the integrity of the overall NPDES program.

In any particular case, all of these factors may lead to a response that varies from that contained in the ERG. Using EPA's technical and legal best professional judgement, and within the guidelines of the 1995 CWA Settlement Policy and the CWA statutes, EPA may choose to seek more or less aggressive enforcement settlement than the ERG. It should be emphasized that any violation of the NPDES program is a violation of the CWA. In its exercise of enforcement discretion, the Region may elect any of the enforcement responses available under and consistent with the CWA.

To evaluate major facilities that are in SNC, as defined by EPA in 40 CFR 123.45, the Region uses the Quarterly Non-Compliance Report, as well as the Watch List, to identify and prioritize noncompliance problems causing environmental/human health impacts and ensure that corrective measures are taken to address them. To ensure that corrective measures are taken to address noncompliance problems, compliance inspections are performed by the EPA Surveillance Section and NMED.

To ensure compliance with enforcement actions, EPA Region 6 reviews compliance reports, progress reports, and DMRs and performs NPDES compliance inspections to ensure that provisions contained in

enforcement actions are being performed as required. The Region does not close Orders or SEPs until confirmation is made and certified by the respondents on the completion of the injunctive relief or SEP. Orders and SEPs are actively tracked until they are closed. All enforcement actions are entered into PCS, including all schedules of compliance and all reports required by the permit or enforcement action; penalties are tracked in PCS as well to ensure that collection is achieved. Periodic reports are run to determine nonsubmission of required information or additional violations.

The universe of major facilities in New Mexico, under Region 6 purview, is 34 facilities. Although the SNC rate for these major facilities in New Mexico averaged 33% from FY2001 through FY2003, it is important to note that the bulk of the SNC violations were for reporting and paperwork violations. The average SNC rate for only effluent violations at major facilities for the same period was 10%. Many of the SNC facilities returned to compliance without a formal enforcement action; in FY2003 this was true for 77% of the SNC facilities.

During this same period, Region 6 began wet weather initiatives in New Mexico, which meant diverting resources from major facilities to minor facilities. The Region focused on CAFOs, stormwater dischargers, and increased enforcement addressing unpermitted dischargers. The number of formal enforcement actions issued by the Region increased from 24 in FY2001 to 53 in FY2003 as a result of these initiatives.

2. Record Keeping and Reporting

EPA Region 6:

The Region maintains a central records center where all files on individual facilities are maintained. The files contain all enforcement and compliance documents and are available for review by the public in the Freedom of Information Act (FOIA) Room. The public can copy individual documents in the files when they are in the FOIA Room, or they can mark the pages they would like to have copied and the Region processes the documents and mails them. The Region also provides information from PCS in response to FOIA requests and to respond to other requests from environmental groups. Records are maintained for 10 years on-site; older records have been microfilmed. Region 6 is initiating a process of doing electronic imaging of documents, which will make the information available on desktop systems.

3. Inspections

EPA Region 6:

Because the highest loadings come from major facilities, Region 6 ensures that all major facilities are inspected by EPA or NMED once every other year. Reported problems with compliance are investigated as information becomes available. During permit compliance inspections or compliance evaluation inspections, inspectors look for nearby stormwater problem sites and perform inspections on facilities that appear to have problems implementing best management practices. In addition, file reviews are continuously monitored by a specialist for all major facilities, as well as minor facilities for which there is an enforcement investigation.

Generally, the inspections are performed based on a neutrally administrative scheme to get a good random sampling of inspections. In addition to the randomly selected inspections, the Region targets facilities based on complaints, prior history, and input from NMED's Surface Water Bureau. Initiatives are generally selected based on environmental impact (e.g., researching industrial activities with the

highest loadings according to DMRs or other sources of information such as the 1995 Multi-Sector Storm Water General Permit application sampling data). Once selected, the Region usually targets the facilities in watersheds of CWA section 303(d) listed water bodies due to their known impairments. This is done to provide the most rapid compliance in areas where there are known water quality problems.

Most major facilities are inspected every year, but in no case less than once every other year. Region 6 coordinates the inspections with the NMED Surface Water Bureau to ensure that these inspections are performed. Minor facilities are inspected primarily based on complaints, information provided by NMED, or past DMR violation histories.

4. Compliance Assistance

EPA Region 6:

The Water Enforcement Branch maintains a Web page with numerous guidances, application forms, permit language, and presentations. The Web page is at <http://www.epa.gov/region6/6en/w/cwa.htm>. The Water Enforcement Branch meets with NMED quarterly regarding NPDES enforcement issues. Frequently, these meetings include the attendance of operators of NPDES facilities needing assistance or guidance on how to find resolution to enforcement actions. The Water Enforcement Branch usually performs joint NPDES training with NMED inspectors to better train them on the Region's inspection process and to assist the better conveyance of NPDES compliance issues. NMED takes this training and provides outreach assistance to facilities requesting assistance.

Starting in fiscal year 2004, the information related to compliance assistance has been put into the ICIS database. Previously, it was kept in a variety of places, such as manually on individuals' computers and on a regional database. It is anticipated that there will be more accurate information on outreach this year with the tracking in ICIS.

The Water Enforcement Branch performs outreach activities that guide regulated entities on compliance with the CWA's NPDES permitting program, specifically, compliance with requirements found at CWA Sections 301 and 402. This includes compliance with many NPDES programs, including traditional wastewater treatment plants, CAFOs, pretreatment, sludge, stormwater, SSOs, water quality standards, and oil and gas exploration and production.

Section IV. Related Water Programs and Environmental Outcomes

1. Monitoring

The State of New Mexico:

Strategy: The State of New Mexico submitted a draft comprehensive 10-year monitoring strategy to EPA on September 29, 2004. The State of New Mexico has had basic monitoring strategies in place for several years. The draft comprehensive 10-year monitoring strategy includes both current approaches and projected future additions and refinements given adequate resources. The State will receive comments from EPA by the end of June 2005. Following reworking by the State, the document will be resubmitted for issuance. The Region appreciates the suggested emphasis on the collection of in-stream data for permit background calculations and calibration of wasteload allocation models and will work with the State to include this monitoring goal in its final strategy document.

Statistical Approach: The State has implemented a statistical approach in its water quality assessments on a limited basis. The State used EPA Regional Environmental Mapping and Assessment Program (REMAP) funds to conduct a study using a probabilistic site selection approach for waters in the Lower Chama and Gila River watersheds. A final report on this study is pending. Elements of this approach have not yet been integrated into the State's statewide monitoring program. Historically, the State has cited difficulties with site access and the logistics of implementing a random site selection approach due to landowner denials of access and the distance of some sites from areas easily reachable by foot or automobile.

Rotating-Basin Schedule: According to the draft 10-year monitoring strategy, the State maintains an 8-year rotating river basin monitoring plan that provides for the evaluation of all watersheds in the State at least once every 8 years. This plan is based in part on a memorandum of understanding between EPA and NMED setting forth a 10-year schedule for developing TMDLs for waters listed on the State's 303(d) impaired waters list. The monitoring schedule is coordinated with the TMDL development schedule and various NPDES developing issues. This approach facilitates the integration of monitoring and assessment activities with the establishment of cleanup targets for those waters not attaining water quality standards. Category I watersheds, identified as priority watersheds for cleanup in the State's Unified Watershed Assessment process in the late 1990s, are integrated into this approach. This 8-year rotating schedule assumes a sampling season of March to October, depending on weather conditions, for each survey watershed.

It should be noted that many of the stream miles on the map in New Mexico are ephemeral or intermittent. Generally, the State focuses its efforts on the assessment of aquatic life uses, which (as interpreted by the State) apply to perennial waters in the State. Therefore, the State's monitoring efforts focus primarily on perennial waters, which constitute a lower percentage of the total miles of streams in the State. This may explain why the percentage of stream miles reported by the State as being assessed is potentially lower than what is reported in other, less arid, parts of the country.

The following are opportunities for continued improvement in the monitoring program:

- Expand use of biological (fish/macro-invertebrate/periphyton) monitoring (including fish tissue analyses) in water quality assessments.
- In addition to present emphasis on numeric criteria, expand use of alternative indicators to assess narrative criteria for all waters.
- Integrate a probabilistic (random site selection) monitoring design into the current approach to make valid estimates of water quality across the State, or broad regions of the State, with a given level of confidence.
- The State's comprehensive 10-year monitoring strategy will address the manner in which it will improve the number of State waters assessed in order to enhance the understanding and characterization of surface water quality throughout the State.

EPA Region 6:

Strategy: EPA Region 6 staff met with NMED staff in 2002 and 2003 to discuss EPA's guidance and answer questions by NMED regarding the completion of a strategy consistent with this guidance. EPA is developing an evaluation matrix to be used to evaluate monitoring strategies upon submission by the States.

Statistical Approach: EPA Region 6 and the Office of Research and Development provided support to the State in the development of the REMAP study design. EPA is likewise providing resources and technical support to USGS and Tetra Tech, Inc., a private consulting firm under contract to EPA, to help EPA conduct a national stream study using a probabilistic design. USGS and Tetra Tech are conducting field surveys in New Mexico for this study. EPA hopes to use the data from each State to make broad estimates of the water quality across the country. It is hoped that this study will lead to an expanded use of statistical designs in State monitoring programs.

Rotating-Basin Schedule: The Region generally defers to the State on the manner in which it monitors its waters but provides technical oversight and guidance as needed on the overall design of monitoring programs.

2. Environmental Outcomes

The State of New Mexico:

NMED monitors rivers, streams, and lakes for parameters pertinent to designated uses and human health criteria found in the State's water quality standards. Assessment data found in the water quality inventory prepared by the State under CWA section 305(b) (the section 305(b) report) indicate the percentage of waters supportive of aquatic life uses among those waters assessed. The data below reflect the change in this percentage between 1992 and 2002:

- Percentage of assessed river/stream miles fully supporting aquatic life uses: 10% ("Water Quality and Water Pollution Control in New Mexico 1992"—the State's CWA section 305(b) report); 56% ("Water Quality and Water Pollution Control in New Mexico 2002"—the State's CWA section 305(b) report)

- Percentage of assessed lake acres fully supporting aquatic life uses: 9% (“Water Quality and Water Pollution Control in New Mexico 1992”—the State’s CWA section 305(b) report); 6% (“Water Quality and Water Pollution Control in New Mexico 2002”—the State’s CWA section 305(b) report)

The New Mexico Department of Health, NMED, and the New Mexico Department of Game and Fish maintain fish consumption guidelines for waters of the State where mercury has been detected in fish tissue at levels that could lead to significant adverse human health effects. The number of advisories in which fish consumption guidelines have been posted is as follows:

- Number of Fish and Wildlife Consumption Advisories: 26, dating from 1991 to 1993 (from <http://www.nmenv.state.nm.us/swqb/Mercury.html>)

Overall, there has been a reduction in the number of water bodies listed on the CWA section 303(d) list of impaired waters in the past 8 years. However, some waters are listed for different types of impairments than they were before. For instance, the numeric criteria for phosphorus and total organic carbon, have been removed from the State’s standards, and these parameters are no longer assessed. The State will, however, make a recommendation to reintroduce phosphorus standards for coldwater fishery water bodies at the next triennial review. In addition, the State has developed protocols to assess narrative criteria for plant nutrients and stream bottom deposits (i.e., sedimentation/siltation), resulting in various listings and delistings for these potential impairments. Likewise, the continued use of alternative indicators (biological assemblages and toxicity data) to determine aquatic life use support has also affected the content of the State’s impaired waters list.

From a monitoring and assessment viewpoint, EPA’s priority is to get a comprehensive 10-year monitoring strategy from each State that addresses the State’s current monitoring program and outlines improvements or needs that it would like to achieve in the next 10 years. This strategy is intended to provide the framework for the States to clearly articulate their programmatic and resource needs and a reasonable timeline for meeting those needs.

Concerns: The current waters of the United States jurisdictional issue raised by the Solid Waste Authority of Northern Cook County v. U.S. Army Corps of Engineers (SWANCC) case in the Supreme Court has potential impacts on the NPDES program and CWA section 404 permitting in New Mexico. At issue are the numerous isolated waters in New Mexico that could potentially be eliminated from CWA section 402 regulation. Of particular concern within this group are waters within the closed basins of New Mexico. Over 20% of the State’s land area lies within these basins, which encompass parts of National Forests and Military Reservations. Elimination of such waters from CWA jurisdiction would place additional burdens on the State agencies to continue protecting surface water quality.

3. Water Quality Standards

The State of New Mexico:

New Mexico continues to develop and refine its water quality standards to ensure protection of the State’s waters. The State works closely with EPA to ensure that appropriate uses of the State’s waters are designated and protected through the application of narrative and numeric criteria, an antidegradation policy, and newly revised implementation procedures for that policy, to minimize impacts on aquatic and wildlife communities and on human health.

Escherichia coli: The New Mexico Water Quality Control Commission (WQCC) held a public hearing on February 24, 2004, to consider proposed amendments to 20.6.4 NMAC, Standards for Interstate and Intrastate Surface Waters. The Surface Water Quality Bureau of NMED proposed amendments as part of the triennial review of New Mexico's surface water quality standards. NMED proposed to add E. coli as an indicator of water quality for the assessment of the primary and secondary contact uses as a part of these proposed amendments. Final approval of these amendments by the WQCC is pending.

Nutrients: The State has submitted a draft nutrient criteria plan. NMED received an FY2004 grant from EPA to complete a comprehensive study that will form the basis for the establishment of numeric nutrient criteria for the State's waters. The State will continue to use its nutrient assessment protocol to evaluate waters for compliance with the State's existing narrative standard for plant nutrients. This protocol employs water quality data and field observations, as well as algal biomass and biological data, to confirm impairments due to nutrient enrichment. Region 6 staff will provide technical oversight and guidance as needed during the development and completion of the nutrient study, as well as the criteria development process.

Human Health Criteria: Human health criteria were approved by the WQCC in 2003 and are now located in Subsection M of the State's water quality standards. Region 6 approved these criteria in December 2003.

EPA Region 6:

E. coli: The Region has corresponded with the State in the past to encourage the adoption of EPA-recommended bacteria criteria into the State's standards. When and if the WQCC adopts the criteria as proposed, the Region will evaluate the proposed amendments against federal requirements and, if consistent with those requirements, take necessary approval action.

4. Total Maximum Daily Loads

The State of New Mexico:

The State develops TMDLs on a watershed and basin-wide basis, and it uses the Web hyperlink process to update its Water Quality Management Plans with approved TMDLs. The TMDL development schedule is based in part on settlement of the case *Forest Guardians and Southwest Environmental Center v. Carol Browner* [U.S. Environmental Protection Agency](CIV. NO. 96-0826 LH). NMED sets its priority schedule for TMDLs based on "The Process for Developing Total Maximum Daily Loads for Point Source Wasteload Allocations and Nonpoint Source Load Allocations with the Methodology for Stream Reach Ranking in the State of New Mexico," which lists a set of protocols to rank impaired waters and sets the priority for developing TMDLs. Starting with the 2004 list, TMDL development schedules are made available to EPA and its stakeholders through the "TMDL Schedule" date on the integrated 303(d)/305(b) list in accordance with the Integrated Listing Guidance. A list of TMDL development documents, along with the TMDL library, can be viewed at <http://www.nmenv.state.nm.us/swqb/Projects/TMDL/index.html>.

The State has continued to meet its commitment to schedule and develop TMDLs from both the June 1996 TMDL Consent Decree and the CWA section 303(e)(3)(C) regulatory requirements to resolve impaired waters. The Decree allowed the State to use delisting to count toward TMDL requirements, and the Region recognizes this method as resolution to impaired status for non-Consent Decree listed impaired waters. In 2003 the State committed to 82 TMDLs. The State completed 24 TMDLs during the

year and delisted waters accounting for another 58 required TMDLs. Exceedance of the average rate of impaired water resolutions for previous years and projections of resolutions through the recently approved 2004–2006 Integrated List of Assessed Waters indicate the State is on track to resolve all impaired waters within a 13-year time frame from listing. Inconsistencies with the Management Report do not recognize either the Consent Decree stipulations for resolution or the regional support of that method. The average rate of TMDL development to go along with the average rate of delistings in the State is approximately 21 TMDLs per year to meet the National Guidance for timely resolution of impaired waters (within 13 years of the listing of an impaired water).

New Mexico is one of the most aggressive States in the nation in development and implementation of TMDLs. Its TMDL documents include implementation strategies that target not only the point sources but also the nonpoint sources of impairments. The State allocates a portion of its annual CWA section 319 monies related to nonpoint source pollution toward watershed group formation to take TMDLs to the next step of developing Watershed Restoration Action Strategies that will implement TMDLs. The State has developed the State of New Mexico Non-Point Source Management Program (December 1999) to describe dynamic programs and aggressive actions necessary to reduce pollutants from nonpoint sources entering surface waters and groundwaters of the State. This document can be viewed at <http://www.nmenv.state.nm.us/swqb/links.html>.

EPA Region 6:

Region 6 has developed an internal TMDL review process, prior to the public comment period on the State-developed TMDLs, for NPDES implementation of TMDL conditions. To date, seven discharge permits have implemented approved TMDL conditions in New Mexico, and two more are awaiting final TMDL modifications to include the dischargers. The TMDL implementation strategy for discharge permits is built into the “Water Quality Assessment NPDES Permit Issuance Actions” flowchart used during discharge permit development.

Region 6 incorporates conditions from New Mexico TMDLs into its permits, per requirements of the State and the strategy outlined in the “Water Quality Assessment NPDES Permit Issuance Actions” decisionmaking flowchart, which can be viewed at <http://www.epa.gov/region6>.

5. Safe Drinking Water Act

EPA Region 6:

Source Water Protection: The Safe Drinking Water Act requires that States submit the location (latitude and longitude) of all surface water intakes and wells used by public water supply systems to the Safe Drinking Water Information System. EPA’s Office of Ground Water and Drinking Water has formed a national Baseline Water Quality Standards Workgroup to work toward providing locational data for the public water supply surface water intakes and wells that are determined to be under the direct influence of surface water to the Water Quality Standards staff for use in establishing water quality standards, determining appropriate designated uses, and designating stream segments. The EPA Region 6 Source Water Protection Branch has been asked to work closely with the appropriate State agencies during the validation process for the latitude and longitude of the surface water intakes and wells.

The Region 6 Source Water Protection Branch is also reviewing State water quality standards setting procedures to ensure that designated uses include appropriate language for drinking water supply and to

encourage States to consider public water supplies that use groundwater wells that are under the direct influence of surface water during the water quality standards setting process.

Section V. Other Program Highlights

Agency Goals: Region 6 is committed to the development and issuance of high-quality permits to all active dischargers in New Mexico. Most of the supporting tools developed and used are Regional innovative approaches to help improve the efficiency and quality of New Mexico discharge permits. These innovations have been instrumental not only in achieving the goals of the Agency and Region but also in developing a very successful permitting partnership with the State.

State Partnership: Faced with a substantial backlog of expired permits, the SWQB and the Region 6 Permits Branch agreed to a team-building meeting in October 2000 to design a process to rapidly develop, certify, and issue these expired permits. The process incorporated pre-public notice reviews of the draft permit packages by both Region 6 and NMED staff, as well as extensive communication on limitations development, and it produced quality permits that minimized CWA section 401 permit certification review times and subsequent issues. Additional permit streamlining tools, such as the permit decisionmaking flowchart, the permit checklist, standardized water quality screening processes, standardized fact sheet/statement of basis rationale, and permit language and formats were used to further the backlog reduction efforts. Adoption and incorporation of a basin approach to permitting in the State allowed the Region and State to partition out the permitting process to a relatively uniform 5-year cycle, which continues to further the maintenance of the reduced backlog of permits. Using these processes and tools, the Region was able to reduce the permit backlog from close to 99% in CY2000 to less than 10% today, which meets all EPA headquarters backlog reduction goals 1 year ahead of schedule.

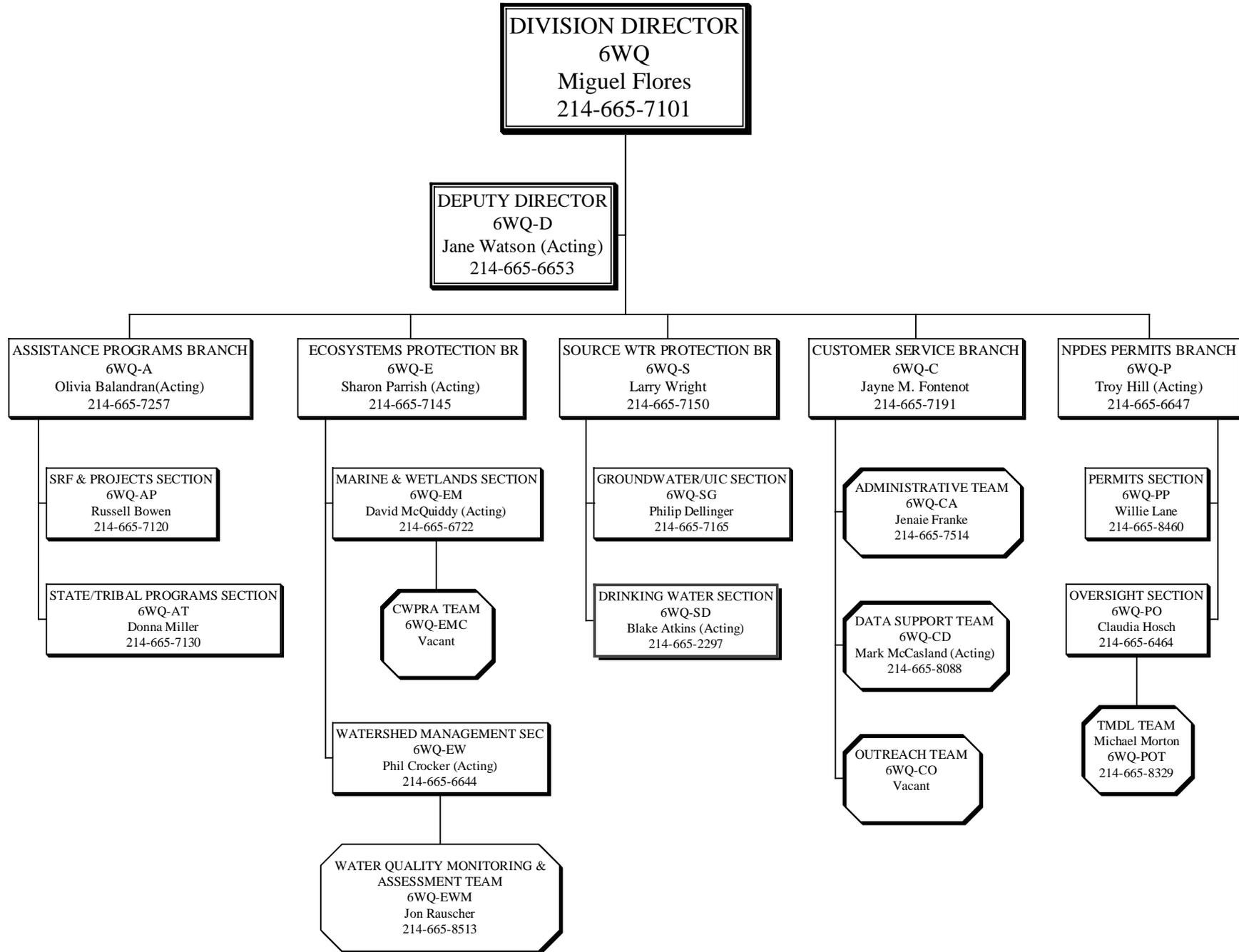
Watershed Permitting: The Permits Branch is moving forward to implement the watershed-based NPDES permitting guidance finalized by the Office of Wastewater Management in December 2003. The Region will introduce watershed-based permitting concepts to Region 6 States, with a goal to initiate at least one watershed-based permit within the next year. The development of unique and innovative tools to support watershed-based permitting is one of Region 6's eight highest priorities for CWA section 104(b)(3) funding.

Effluent Trading: Region 6 is in the process of developing a draft water quality trading guidance for all the States in the Region to supplement the National Trading Policy. A current CWA section 104(b)(3) grant recipient is halfway through a 5-year plan to develop a trading program for a small watershed in the State of Texas. The grantee expects that the outcome of the study will result in a General Texas Pollution Discharge Elimination System (TPDES) Permit to control nutrients and sedimentation for both point and nonpoint sources in the watershed. The deliverables from this grant will be shared with NMED and other Region 6 States to promote this program.

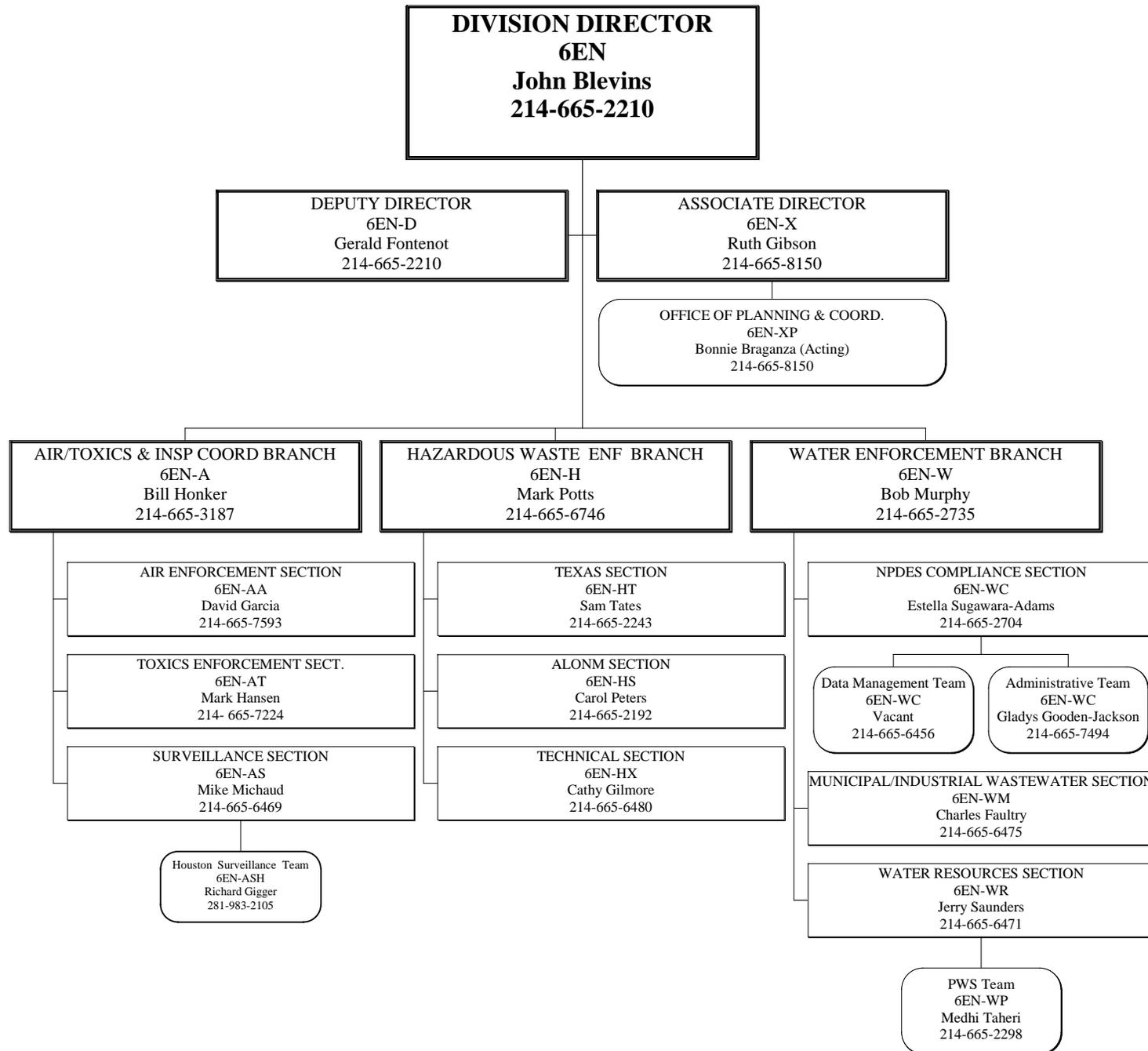
Permit Application Software System (PASS): PASS is available at the Region. A limited number of permittees have used it for the generation of permit applications. To date, a total of two applications have been received for facilities in New Mexico that were generated from PASS. Efforts are being made to better promote the use of PASS by the regulated community. In addition to tools such as PASS, the EPA Region 6 Permits Branch believes the Agency should move toward accepting permit applications electronically because doing so would be more efficient and such capability is becoming more viable with current technology.

Middle Rio Grande Stormwater Permit Integrating a TMDL: NMED issued a TMDL for the Middle Rio Grande that affected and included conditions on a stormwater permit on the Middle Rio Grande. Region 6 became one of the first Regions in the nation to issue a stormwater general permit that integrated the conditions of a TMDL.

WATER QUALITY PROTECTION DIVISION



COMPLIANCE ASSURANCE AND ENFORCEMENT DIVISION



NPDES Management Report, Winter 2005

New Mexico

			National Data Sources			Additional Data			
			Profile Section	GPRA Goal	Nat. Avg.	State Activities	EPA Activities	State Activities	EPA Activities
NPDES Progress									
Universe	1	# major facilities (6,690 total)	I.1		n/a	n/a	36		34
	2	# minor facilities covered by individual permits (42,057 total)	I.1		n/a	n/a	103		93
	3	# minor facilities covered by non-storm water general permits (39,183 total)	I.1		n/a	n/a	46		
	4	# priority permits (TBD)	I.6			n/a	--		
	5	# pipes at facilities covered by individual permits (142,761 total)	I.7		n/a	n/a	541		
	6	# industrial facilities covered by individual permits (32,505 total)	I.1		n/a	n/a	79		
	7	# POTWs covered by individual permits (15,197 total)	I.1		n/a	n/a	59		
	8	# pretreatment programs (1,482 total)	II.2		n/a	n/a	5		
	9	# Significant Industrial Users (SIUs) discharging to pretreatment programs (22,158 total)	II.2		n/a	n/a	145		102
	10	# Combined Sewer Overflow (CSO) permittees (831 total)	II.5		n/a	n/a	0		
	11	# CAFOs (current and est. future) (17,672 total)	II.3		n/a	n/a	151		
	12	# biosolids facilities (TBD '05)	II.6			n/a	--		
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	n/a	P		
	14	% pipes at facilities covered by individual permits w/ lat/long in PCS	I.7		46.3%	n/a	25.5%		
	15	State CAFO legal authority expected (mo/yr)	II.3	2005	n/a	n/a	n/a		
	16	# Withdrawal petitions/legal challenges (22 total)	I.4		n/a	n/a	n/a		
	17	DMR data entry rate	I.7		95%	n/a	100%		
	18	# permit applications pending (1,011 total)	I.6		n/a	n/a	7		
NPDES Program Implementation	19	% major facilities covered by current permits	I.6	90%	83.7%	n/a	94.4%		
	20	% minor facilities covered by current individual or non-storm water general permits	I.6	90% 12/04	87.0%	n/a	55.7%		
	21	# major facilities w/permits expired >10 yrs. (56 total)	I.6		n/a	n/a	0		
	22	% priority permits issued as scheduled (TBD '05)	I.6	95% 2005		n/a	--		
	23	% pretreatment programs inspected/audited during 5 yr. inspection period	II.2		85.3%	n/a	100.0%		
	24	% SIUs w/control mechanisms	II.2		99.2%	n/a	100.0%		
	25	% of CSO permittees with long-term control plans developed or required	II.5	75% 2008	82.2%	n/a	n/a		
	26	% CAFOs covered by NPDES permits	II.3		35%	n/a	30%		
	27	% biosolids facilities that have satisfied part 503 requirements (TBD '05)	II.6			n/a	--		
	28	# Phase I storm water permits issued but not current (76 total)	II.4		n/a	n/a	0		
	29	# Phase I storm water permits not yet issued (5 total)	II.4		n/a	n/a	0		
	30	Phase II storm water small MS4 permits current (Y/N/D (draft)) (35 States)	II.4	100% states 2008	n/a	n/a	D		
	31	Phase II storm water construction permit current (Y/N/D (draft)) (49 States)	II.4	100% states 2008	n/a	n/a	Y		
NPDES Compliance Monitoring and Enforcement Response	32	% major facilities inspected	III.3		71%	20%	26%		
	33	(inspections at minors) / (total inspections at majors and minors)	III.3		76%	95%	0%		
	34	% major facilities in significant non-compliance (SNC)	III.1		20%	n/a	40%		
	35	% SNCs addressed by formal enforcement action (FEA)	III.1		14%	n/a	23%		
	36	% SNCs returned to compliance w/o FEA	III.1		70%	n/a	77%		
	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	48		

Explanation of Column Headers:

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

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

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

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

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

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

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

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

NPDES Management Report, Winter 2005
New Mexico

		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	108,014	n/a		
	40	Lake acres (27,775,301 total)	IV.2		n/a	148,883	n/a		
	41	Total # TMDLs in docket at end of FY 2003 (52,795 total)	IV.4		n/a	347	--		
	42	# TMDLs committed to in FY 2003 management agreement (2,435 total)	IV.4		n/a	82	--		
	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%	5.5%	n/a		
	48	% river/stream miles assessed for aquatic life	IV.2		22.0%	6.3%	n/a		
	49	% lake acres assessed for recreation	IV.2		49.4%	36.3%	n/a		
	50	% lake acres assessed for aquatic life	IV.2		48.5%	49.7%	n/a		
	51	# outstanding WQS disapprovals (23 total)	IV.3		n/a	1	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	100	--		
	55	# TMDLs completed in FY 2003 (2,929 total)	IV.4		n/a	23	0		24
Environmental Outcomes	56	# TMDLs completed through FY 2003 that include at least one point source WLA (5,036 total)	IV.4		n/a	14	--		
	57	% Assessed river/stream miles impaired for swimming in 2000	IV.2		--	1.0%	n/a		
	58	% Assessed lake acres impaired for swimming in 2000	IV.2		--	--	n/a		
	59	# Watersheds in which at least 20% of the water segments have been assessed and, of those assessed, 80% or more are meeting WQS (440 total)	IV.2	600 2008	n/a	--	--		

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