



Permitting for Environmental Results (PER)

NPDES Profile: North Dakota and Indian Country

PROGRAM RESPONSIBILITY

State of North Dakota: NPDES authority for base program, general permitting, federal facilities
EPA Region 8: NPDES authority for biosolids and pretreatment.
EPA Region 8: NPDES authority for all facilities in Indian country.

Program Integrity Profile

This profile characterizes key components of the National Pollutant Discharge Elimination System (NPDES) program, including program administration and implementation, environmental outcomes, enforcement, and compliance. EPA considers profiles to be an initial screen of NPDES permitting, water quality, enforcement, and compliance programs based on self-evaluations by the States and a review of national data. EPA will use the profiles to identify program strengths and opportunities for enhancements. For more information, contact Gary Bracht, North Dakota Wastewater Facilities/Permits Division, (701) 328-5227, or Debrah Thomas, EPA Region 8, (303) 312-6373.

Section I. Program Administration

1. Resources and Overall Program Management

The State of North Dakota:

The Water Quality Division (WQD) is located in the Environmental Health Section of the North Dakota Department of Health (NDDH). The WQD is divided into four program areas: Surface Water Quality/Management, Water Quality Special Projects, Groundwater Protection, and Wastewater Facility/Permits. The North Dakota NPDES (NDPDES) program was authorized on June 13, 1975. Approval to regulate federal facilities occurred on January 22, 1990 and the general permits program was approved on January 22, 1990. The State is not authorized for biosolids and is in the process of gaining authorization for the pretreatment program.

The Wastewater Facility/Permits program is responsible for NDPDES permit writing and issuance for Publicly Owned Treatment Works (POTWs), industries, federal facilities, and stormwater. Sub-programs include pretreatment, stormwater, septic tank pumper licensing, feedlots, coal mines, and discharge monitoring reports/quality assurance (DMR QA) study coordination. The Permits staff conducts informal enforcement actions and initiates formal enforcement actions that are undertaken in conjunction with the Office of Attorney General.

Funding for the NDPDES Program is derived from the Performance Partnership Grant (PPG). The funding is a mix of federal dollars (approximately \$750,000) that are matched with State general fund dollars (approximately \$13,000). There are no user fees or permit fees supporting the program.

The Wastewater Facility/Permits program staff consists of eight environmental scientists and engineers, one full-time equivalent (FTE) from secretarial and 2.0 FTE from laboratory support.

During the past several years staff turnovers have remained fairly constant in the WQD. It has been difficult to keep State staffing levels in pace with the expanding scope of the National Pollutant Discharge Elimination System Program. EPA consistently requires more of State programs without sufficient increases in federal funding. WQD has managed to increase staffing levels in select areas or programs by reassigning positions.

According to the NPDES Management Report (7/9/04) there were a total of 399 non-stormwater facilities covered by NDPDES permits. Of those 399 facilities, 271 have general permits and 128 have individual permits (26 majors, 102 minors). According to the State’s self assessment, the NDPDES Program had 403 facilities permitted for stormwater sources associated with industrial activities in FY 2003. In addition, 345 construction sites greater than one acre in size were covered under the stormwater general permit.

Training is achieved through in-house group sessions, field visits, EPA seminars, conferences, and training workshops. On-the-job training is provided for staff working in the Wastewater Facility/Permits program by experienced staff and supervisors. Since permit writers also perform compliance assurance duties, they attend the EPA NPDES Compliance Monitoring Inspector’s Course in addition to the NPDES Permit Writers’ Course. When available, all appropriate personnel attend specialized training and conferences on the Permits Compliance System (PCS) database, Concentrated Animal Feeding Operations/Animal Feeding Operations (CAFO/AFO), pretreatment, etc.

EPA Region 8:

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

Table 1. EPA Region 8 Direct Implementation Responsibilities

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

EPA Region 8 is organized into five primary offices: Office of Partnerships and Regulatory Assistance (OPRA); Office of Enforcement, Compliance and Environmental Justice (ECEJ); Office of Ecosystems Protection and Remediation (EPR); Office of Technical and Management Services; and the Office of Regional Counsel (RC). Refer to the organizational chart at the end of this profile.

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

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

There are seven FTE, including a supervisor, in the NPDES Enforcement Unit (located in ECEJ) that are responsible for enforcement and compliance of the overall NPDES program in Indian country, enforcement and compliance for programs for which States have not been authorized (see Table 1), and State oversight.

There is also 1 FTE in the EPA Montana Operations Office that is responsible for all NPDES program activities (permitting and enforcement) associated with 7 Tribal governments, programs for which the State of Montana is not authorized, and State oversight.

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

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

For Indian country located in North Dakota, EPA Region 8 has currently issued 11 individual permits and granted 19 general permit coverages. EPA Region 8 has 7 current general permit coverages for biosolids outside of Indian country in North Dakota. There are no biosolids general permit coverages in Indian country located in North Dakota.¹

EPA Region 8 permit writers attend the week-long National NPDES Permit Writers' Training Course usually within their first year in the NPDES permits program. One of the course instructors in the works in the EPA Region 8 Permits Unit. This is a valuable resource for guidance and instruction on an individual basis. This is done as part of on-the-job training for new permit writers. All permit writers are

¹ The National Data Sources column of the Management Report, measure # 3, shows 0 facilities covered by EPA-issued general permits in North Dakota. The ePIFT data that served as the source for the National Data Sources column for this measure included only aggregated data for Region 8, rather than data broken down by State.

also encouraged to attend the National Water Quality Standards Academy to receive training on the implementation of water quality standards.

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

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

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

2. State Program Assistance

EPA Region 8:

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

3. EPA Activities in Indian Country

EPA Region 8:

Region 8 permitting and coordination activities with Tribes are discussed throughout this profile within the discussion of various program areas.

4. Legal Authorities

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

5. Public Participation

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

The State of North Dakota:

NDDH encourages public participation in rule making and permitting processes by ensuring opportunities for public comment, holding public hearings when requested and by creating ad hoc task forces and advisory groups. The WQD frequently holds informal public meetings to discuss potentially controversial draft permits and has formal and informal policies to maximize public participation.

North Dakota Century Code (NDCC) chapters 28-32 (Administrative Agencies Practice Act) provides for broad public participation for rule making procedures. The term public is not specifically defined in North Dakota law. However, “persons” is defined in NDCC chapters 32-40 and 61-28. “Person” is defined as “the State or any agency or institution thereof, any municipality, political subdivision, public or private corporation, individual partnership, association, any agency or instrumentality of the United States government, or other entity, and includes any officer or governing or managing body of any municipality, political subdivision, or public or private corporation.”

NDCC chapter 32-40 provides broad authorization for persons aggrieved by environmental rules, statutes and regulations. Any person claiming to be aggrieved or adversely affected by actions taken, or by any rule or order issued under this chapter may request a hearing by the WQD. There is a right of appeal to the district court from any adverse ruling by the WQD.

North Dakota Administrative Code section 33-16-01 (NDPDES rules) provides detailed guidance for notice and public participation. The code states that, at a minimum, the notice of a major facility permit or general permit will be published in a daily or weekly newspaper within the area affected by the facility. The notice of all other permits will be circulated within the geographical areas of the proposed discharge. The geographical area posting locations may include local post offices, public places near the applicant, the applicant’s entrance, and in local newspapers and periodicals. The notices will also be mailed to any person or interested parties on the public notice mailing list, local governments, and all entities identified in the permit application.

The public typically has a 30 day comment period for a draft permit. The period may be extended at the discretion of the WQD. Subsection 33-16-01-07.1 requires the WQD to respond to all public comments received during specified comment periods, during or following public hearings, or public meetings. Additionally, regulatory provisions address requirements for proper notice to government agencies and the conduct of public hearings.

All public comments and responses to rules and permitting issues are summarized and mailed to everyone on the public notice mailing list, individuals that submitted comments and anyone who requests the information. The WQD also posts information on rule revisions and select permits on the WQD Web site, <http://www.health.state.nd.us>.

Public access to information is guaranteed in subsection 33-16-01-10, which requires the WQD to provide facilities for the public inspection of all information relating to the NDPDES program, including monitoring data. A device for copying of those papers and documents must also be provided by the WQD.

The WQD continues to encourage public participation in the permitting program. Because of the open records law (NDCC Chapter 44-04) WQD does not anticipate any legal or procedural barrier to the public obtaining information.

The NDDH continues to expand environmental program information available to the public on its Web site <http://www.health.state.nd.us/wq>. This Web site provides an effective point of entry into the programs within WQD that deal with various aspects of protecting the quality of North Dakota's water resources. The user-friendly interface makes it easy to explore the conditions and permitting requirements of the various State environmental programs. The WQD's goal is to include all draft and final permits and information on compliance and enforcement actions on the Web site. At this time, all general permits, select major draft and final permits, and other permits where there has been a significant public interest, are on the WQD Web site. In addition, select information regarding permit compliance and enforcement is on the Web site.

Individual NPDES permits and fact sheets issued by the State may be accessed via EPA's Web site. Instructions for accessing these documents are available at <http://www.epa.gov/npdes/permitdocuments>. As of September 2004, there are 4 permits on the national Web site.

EPA Region 8:

For permit issuance, EPA Region 8 follows the federal public participation requirements in title 40 of the Code of Federal Regulations (CFR) part 124. Region 8 provides for public notice of proposed permit actions by publishing the notice in a local newspaper the permit action. Also, the public notice is sent to all persons who have identified themselves as "interested person" and to the agencies identified in 40 CFR 124.10. The Region maintains an NPDES permit Web site where the draft permit and statement of basis are available for downloading.

Typically, the notice period is 30 days. If there is significant interest, EPA may hold a public meeting or a hearing. For any hearing, EPA will provide at least 30 days notice and will leave the comment period open for at least 15 days after the close of the hearing or meeting to receive all comments.

Where there are Federally-approved water quality standards affecting the permitting action, EPA will solicit water quality certification under Clean Water Act (CWA) section 401 for the appropriate Tribe or State. Otherwise, the Region will provide 401 water quality certification for the proposed permit.

All significant comments are addressed before issuing a final permit. Copies of the response to comments, statement of basis and final permit will be provided to all who commented on the permit and also made available on the NPDES permit Web site. If there have been comments or changes made to the permit during the comment period, the permit will not go into effect for at least 30 days after issuance. Parties that have commented on the draft permit may appeal the issuance of the permit to the Environmental Appeals Board within 30 days of issuance of the permit.

EPA Region 8 provides a notice of and opportunity to comment on proposed administrative penalty assessments for alleged NPDES violations. The "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits (40 C.F.R. part 22) outline how administrative actions and hearings are conducted, including how any person may comment on and participate in the

action (40 C.F.R. part 22.44). To comment on or participate in an administrative penalty assessment, the interested party must notify the Regional Hearing Clerk in writing within 30 days of the public notice. The interested party can then present written comments for the record while it is open, and will be notified at least 20 days prior to a hearing if one is scheduled, in order to present evidence.

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

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

6. Permit Issuance Management Strategy

The State of North Dakota:

The NDPDES program reissues permits based upon their expiration dates and has managed to maintain a zero or near zero permit backlog. Quarterly permit issuance schedules are generated from the Permitting Assistant for North Dakota in Access (PANDA) database. Completion dates for the various steps in the permit drafting process are identified. This schedule serves as a management tool to assure permits are issued in a timely manner.

A three-year trend data shows North Dakota's strong rate of permit issuance. For both individual and general permits, there are no permits expired more than 2 years. One major facility permit is expired and no minor facility permits are expired. The percentage of facilities covered by current permits is consistently above the National Average for all three years for each permit/facility type. This trend continued in 2004, with 96.2% of major facilities current, 100% of minor facilities covered by individual permits current, and 100% of minor facilities covered by individual or general permits current.

Table 2: Percentage of Facilities Covered by Current Permits in North Dakota
(State-issued permits)

	2000	Nat'l Avg.	2001	Nat'l Avg.	2002	Nat'l Avg.	2003	Nat'l Avg.
Major Facilities	100%	74%	100%	76%	96%	83%	96%	84%
Minor Facilities Covered by Individual Permits	92%	69%	99%	73%	99%	79%	97%	81%
Minor Facilities Covered by Individual or General Non-Stormwater Permits	N/A	N/A	N/A	N/A	96%	85%	95%	86%

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

The longstanding policy of the WQD has been to process permits and renewals in a timely manner. The division expects discharges to be operated according to the conditions and limitations expressed in permits. The timely issuance of permits is important in demonstrating the WQD's high regard for the NDPDES permit issuance process and ultimately the permit conditions. The "first-in, first-out" approach to permit re-issuance has worked well for the WQD. For this reason, the State has not diverted resources to develop an alternative process for prioritizing permit issuance.

North Dakota has made good use of general permits. The NDPDES program has developed 8 general permits that have increased permitting efficiency. Four permits are available for process wastewater discharges and four are available for stormwater. WQD is working toward developing a consolidated permitting program. To a limited degree, a consolidated permitting program has been used for select NDPDES permits relating to stormwater and industrial wastewater. This makes it possible for facilities that are required to obtain multiple permits to receive a single consolidated permit. The limited use of this one-stop permitting system has been well received by dischargers.

EPA Region 8:

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

For Indian country located in North Dakota, 27.3% (3 of 11) individual permits issued by EPA Region 8 are current.² Seven of the expired permits were administratively extended while EPA Region 8 finalized the reissuance of the lagoon general permits for Indian country. The general permit was recently finalized and EPA is working to transition the 7 expired individual permits to the general permit.

Currently, EPA Region 8 has granted 19 general permit coverages in Indian country located in North Dakota.

EPA Region 8 has 7 current general permit coverages for biosolids outside of Indian country in North Dakota. There are no biosolids general permit coverages in Indian country.

7. Data Management

The State of North Dakota:

Water Enforcement National Data Base (WENDB) elements are entered (i.e., uploaded) for major facilities in PCS and for major facilities and minor facilities in PANDA. PANDA is used primarily because it has a user-friendly interface and better data editing functions than PCS. PANDA also has more manageable reporting capabilities which are used to view data, and allows the addition of

² The National Data Sources column of the Management Report, measure # 20, shows 18.2% of minor facilities covered by EPA-issued permits current. This reflects two of eleven individual permits shown as current in PCS as of 6/30/04 and does not include facilities covered by general permits, of which 20 of the 26 are covered by current general permits. (see also section I.1 and measure # 3.)

automation tools to generate reports or letters that are used in the program. The State has most of the WENDB data elements in the State's system. It has taken longer than expected to verify this data before uploading to PCS. More emphasis will be applied to making sure the State has all required WENDB data elements accurately reflected in PANDA and PCS.

PANDA is used to store and manage all required data elements for majors and minors as well as permit process-tracking information. Separate databases are maintained for managing stormwater, septic pumper, and CAFO related data and permit process-tracking information. Additionally, the WQD has a link in the State's PANDA data base system that allows for tracking Sanitary Sewer Overflow (SSO) information. Information that is tracked consists of date reported, who reported the event, cause of the SSO, how it was fixed, volume discharged, notice requirements, receiving stream affected, comments, facility response, etc.

PANDA data (i.e., DMR, stormwater permits, facility data, and CAFO data) are usually entered within 30 days of receipt, with the exception of inspection data, which are entered within 60 days. Select data, including permit issuance information and inspection information, are uploaded into PCS each month using a batch file process. Other data such as facility information, outfall data and major DMR data are hand entered into PCS. The State follows detailed procedures for PCS entry and quality control, as contained in the State's Quality Assurance Manual for PCS. All uploaded data into PCS should have no discrepancies with PANDA because it is directly uploaded. However, if discrepancies are detected, the records are consulted to verify correct data, and the necessary updates are made.

The April 2004 PCS data clean-up report indicates that North Dakota's overall data entry percentage rate is 73% for basic facility and permitting data (addresses, facility latitudes and longitudes including metadata, permit dates, and facility characteristics) for major facilities. The report also indicates that basic facility and permitting data are 41% complete for minor facilities. Latitudes and longitudes data at the facility level are 95% complete for major facilities. PCS is missing nearly all facility location address data (street, city, state, zip code). 88% of this information is missing for majors and 84% is missing for minor facilities. The State recognizes that this information is not in PCS. The State will review the data in PANDA and once verified for accuracy it can be uploaded into PCS. The State has participated in the PCS data quality improvement efforts by conducting their own data clean-up. It has taken longer than expected to verify data for upload to PCS.

North Dakota collects latitude and longitude data at regulated facility locations throughout the State by using navigation quality global positioning systems (GPS) recorders. A little more than half of the coordinates for majors, minors, and CAFO facilities have been captured in the facility databases. This facility-locating work is being completed in conjunction with yearly inspections and with the assistance of summer interns trained specifically for this task. Most of the latitude and longitude data for facility and outfall locations are in PANDA. The data will be available for upload into PCS after data verification. WQD may be interested in contractor assistance from the headquarters PCS clean-up project to assist with the upload of data to PCS.

The State has a choice of being a direct user of the Integrated Compliance Information System (ICIS) for NPDES or being a State that will batch load their information in ICIS-NPDES via Central Data Exchange (CDX). ICIS-NPDES will replace PCS and the State will be required to enter, at a minimum, all WENDB data elements. However, the WQD anticipates that the State PANDA system will continue

to be used in the future because it effectively meets the needs of permitted entities. It also allows tracking of permit information to the level of detail needed and tracking of unique State specific information necessary for effective program management. When the new PCS-ICIS system is fully functional the State will evaluate the system to determine if it meets the needs of the WQD.

North Dakota has received an Environmental Information Exchange Network grant from EPA to help the State redesign its facility identification information to better manage multimedia information. Specifically, that the State is developing an environmental data navigation assistant (EDNA) to integrate regulatory databases from all NDDH environmental departments (air, water, waste, municipal facilities, chemistry). The new database will enable the State to gather information on facilities, generate geo-spatial references and maps with geographic information system (GIS) programs, become more Web-based, aid in planning and targeting, and help with electronic reporting in the future. EDNA will not replace PANDA, but will be an enhancement to PANDA.

A major goal for WQD is to improve Geographic Information System (GIS) capabilities to help ensure multi-agency and public access to water quality data and to improve communication and data sharing among local, States and federal agencies. Geo-referencing of all records was a priority for GIS technology development and enhancements in FY 2003. The WQD participates in the State GIS Technical Committee and was one of the pilot agencies that set up the new statewide GIS data-sharing hub. The State GIS data hub Web site, including interactive map viewers and downloadable data, can be found at <http://www.state.nd.us/gis/>.

EPA Region 8:

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

To manage data, the Region uses PCS as well as other databases for pretreatment, biosolids, and Indian country permitting.

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

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

EPA Region 8 relies on the Biosolids Data Management System (BDMS). BDMS was developed to improve biosolids compliance monitoring, improve the management of biosolids and to provide a standardized reporting format for biosolids. BDMS is a user-friendly program developed to aid utilities in the central storage and retrieval of biosolids data. The program is designed so that a utility can electronically transmit data to the EPA/State or prepare paper reports. The current version of BDMS is

BDMS version M or BDMS for Municipalities. Region 8 has used various versions of BDMS for the last 10 years. Limited capabilities have been developed to upload data from BDMS to PCS. The Region uses PCS for the biosolids general permit.

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

PCS Data Quality Targets: The following information is entered into PCS within 5 working days of receipt of report, application or action: (1) Permit Facility Data; (2) Compliance Schedule Data; (3) Enforcement Action Data; (4) Single Event Violation Data; (5) Permit Events Data; and (6) Evidentiary Hearing Data.

The following information is entered into PCS within 10 working days of receipt of report, application or action: (1) Pipe-Schedule Data; (2) Parameter-Limits Data; (3) Inspection Data; (4) Pretreatment PCI Audit Data; and (5) Measurement/Violation Data.

PCS Quality Assurance: PCS Data Quality Standards are evaluated based on an objective assessment of each of the following four measures:

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

All WENDB elements are entered, however, latitudes and longitudes are not always entered because the information is not always available. Regardless of whether latitudes and longitudes are provided with the permit application inspectors routinely collect facility latitudes and longitudes data using GPS when conducting inspections.

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

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

EPA Region 8 maintains its inventory of regulated facilities in PCS. For the facilities directly regulated by Region 8, the Region relies heavily on the receipt of permit applications for development of an

inventory. The Region is also inventorying CAFOs in Indian country (see the CAFO section of this profile). EPA has inventoried all Indian Country wastewater facilities through inspection efforts. The Region will soon begin updating its inventory of SIUs which are not in approved pretreatment programs.

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

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

Section II. Program Implementation

1. Permit Quality

The State of North Dakota:

Permit quality is assured mainly through in-house reviews of draft permits and supporting rationales. Particular attention is paid to effluent limit calculations and assessments of potential water quality impacts. Quality assurance is conducted for each and every permit. There are no individual or general permits under administrative or judicial appeal. During permit quality reviews, if updates or corrections are identified for standard language from EPA, they are made to boilerplate pages and retained in a central location. Permit writers are then instructed to use the new language in new permits. Standardized national permit quality review tools (i.e., permit review checklists and EPA's "Central Tenets of the NPDES Permitting Program") will be evaluated and incorporated into the State's NDPDES program if appropriate to enhance existing permit quality tools.

During permit renewals and drafting new permits, the justification for permit limits and monitoring requirements has not always been thoroughly documented in the fact sheet or statement of basis (SOB). WQD is working with EPA Region 8 on standardizing the SOB/fact sheet to verify that all requirements have been met in the development of NDPDES permit conditions.

Appropriate permit limits are consistently issued in permits, and in the case of intermittent discharges, are sometimes further specified at the time of the discharge. Total maximum daily loads (TMDLs) and wasteload allocations (WLAs) have not yet involved discharges to a significant degree.

The importance of using up-to-date data to develop permit limits is emphasized in training for new employees (i.e. the EPA Permit Writers' Course and guidance from senior permit writers). PANDA stores all discharge monitoring data which is easily accessible by permit writers. At a minimum, DWQ looks at the last 5-years of discharge data, the available stream water quality data (5 years minimum), and stream flow data from the United States Geological Survey (USGS) annual reports.

The need for water quality-based limits in permits is determined through review of effluent characteristics and the criteria and procedures contained in the State water quality standards. The need for technology based limitations is determined through review of effluent limitations guidelines or best professional judgement. The most stringent standards are included in the permit. The State's analysis of appropriate effluent limitations is included in the fact sheet or SOB.

Pertinent narrative standards are included as written conditions in NDPDES permit requirements. Narrative criteria in permits for toxics is based upon whole effluent toxicity (WET). The WQD also has detailed WET guidance and specific language from EPA Region 8 that is implemented in all major NDPDES permits. The WET requirements that are incorporated into permits are based upon federal WET regulations. Typically, the State conforms to the Region 8 guidance document related to WET testing to determine how to incorporate WET limits into permits.

Most of the permitted facilities that are required to have WET limits in their permit are lagoon systems that discharge intermittently (usually spring and fall). Based on this, there is no reasonable potential to exceed chronic WET limits.

To ensure the quality of permits, training for new permitting staff is provided by experienced staff and supervisors. Refer to the discussion on training under the Resources and Overall Program Management section of this profile for a discussion of training. WQD would appreciate training on WET when it becomes available in the Region. The Region is currently scheduling WET training for Region 8 States.

EPA Region 8:

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

None of the discharges permitted by EPA Region 8 are to waters with TMDLs in place. In the event this situation presents itself in the future the Water Permits Unit would work closely with the TMDL program to ensure the wasteload allocation is appropriately reflected in the permit.

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

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

EPA Region 8 does not have a formal process in place to ensure that permits are issued in a timely and appropriate manner. The Water Permits Unit is evaluating: (1) management tools to ensure timely issuance of permits; and (2) national permit quality tools (permit review checklists and the central tenets) to verify that appropriate conditions are included in all permits.

For narrative criteria "no toxics in toxic amounts" appropriate acute and chronic WET limits are applied. Other narrative criteria may be placed as a narrative limit in a permit, where appropriate. Reasonable potential for WET is determined using the Technical Support Document (TSD) procedure. With other toxics, this procedure is not used, usually because of the lack of sufficient data points (small facilities with infrequent discharges). The reasonable potential to cause or contribute to a violation of water

quality standards for these pollutants are determined on a case by case basis. EPA Region 8 developed a Region 8 WET guidance and boilerplate language to ensure the program complies with the federal WET regulations.

Technology limits are imposed for facilities which fall under Effluent Limitation Guidelines (ELGs), and secondary treatment technology requirements are imposed for municipal facilities as appropriate. When a permit application is received the permit writer evaluates whether any ELGs apply. If there is uncertainty other permit writers and the appropriate EPA headquarters ELG contact are consulted.

2. Pretreatment

The State of North Dakota:

North Dakota does not have authorization for the pretreatment program. The State has been working toward obtaining authorization. A complete pretreatment program authorization package was submitted to EPA for final approval on November 12, 2003.

EPA Region 8:

There are 5 EPA approved pretreatment programs in North Dakota.³

To help implement the pretreatment program, EPA Region 8 has developed and held a three-day annual pretreatment workshop for the past thirteen years. The pretreatment workshop also includes an in-depth 2 day training session on biosolids issues.

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

To identify potential SIUs, the Region follows up each audit by reviewing phone books, water and wastewater billing records and drives through likely industrial areas. In addition, electronic copies of newspapers are reviewed and have assisted in identifying new and expanding businesses. The on-site work is critical to ensuring POTWs are effectively identifying users.

Region 8 approves new pretreatment programs as needed. Pretreatment program audits are completed on approximately 20% of the POTWs in the Region per year (i.e., each program is audited once every 5 years). Program audits typically have a number of required actions which are tracked and verified by the program and during pretreatment compliance inspections (PCIs) by the enforcement staff. These audits are very effective at keeping programs updated and implementation consistent with federal requirements. An exit interview is held at the end of each audit to summarize the major findings.

After an audit is conducted, reports are mailed out within two weeks. A POTW must respond back to the EPA within 30 days of receipt of the report. In some cases, EPA specifies the time frame that the POTW

³ The National Data Sources column of the Management Report, measure # 8, shows 4 pretreatment programs. The fifth program, Mandan ND0022861, was approved May 6, 2004, and the pretreatment code had not been updated in PCS at the time of the national data pull on 6/12/04. It has since been updated.

must comply with to address the deficiencies. In other cases, EPA requests the POTW to provide the date of completion for the required action. All audit reports and significant non-compliance/reportable non-compliance (SNC/RNC) determinations are provided to EPA's enforcement program for formal follow up if the deficiencies are of a serious nature.

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

SIUs are located in both approved and non-approved programs. All of the identified SIUs in approved programs in North Dakota have control mechanisms in place. The EPA does not issue permits or control mechanisms in non-approved programs, since there is no federal authority to do so. Industrial users in non-approved programs, if violating, may be issued a formal enforcement action.

3. Concentrated Animal Feeding Operations

The State of North Dakota:

Historically, North Dakota has not issued NDPDES permits to CAFOs. The State has been operating a regulatory program for AFOs under its livestock rules. The livestock rules require all AFOs with greater than 200 animal units to obtain a permit to operate. EPA and the State agreed through the North Dakota performance partnership agreement (PPA) that the State would adopt CAFO requirements at least as stringent as the February 12, 2003 federal rules and issue NPDES permits to CAFOs by the deadlines established in those rules.

North Dakota adopted new CAFO rules on January 7, 2005.⁴ Since the State has been implementing its livestock rules for many years the State already has a solid inventory of CAFOs. Permits will include development of nutrient management plans by no later than December 2006.

Per the federal CAFO definition, there are an estimated 40 CAFOs in North Dakota. There are 459 AFOs in North Dakota that are permitted under the State's livestock rules. The Department requires that a nutrient management plan be developed and submitted for review before issuing a permit to an AFO. The Department's requirements for nutrient management plans are consistent with United States Department of Agriculture Natural Resources Conservation Service (USDA-NRC) nutrient management plan requirements.

Large CAFOs are inspected on an annual basis, and other facilities are inspected, as-needed, based on their location or compliance history. In 2003, 100% of permitted facilities were inspected. North Dakota also has watershed projects located in areas where there are waters impacted by nonpoint sources (primarily agriculture) as identified under CWA section 319. These voluntary programs assist in the prevention of water quality impacts associated with livestock producers by having watershed

⁴ The National Data Sources column of the Management Report, measure # 15, shows CAFO legal authority expected in July 2004. This information was based on an estimate made in March 2004, and the process took longer than was expected.

coordinators work cooperatively with livestock producers to achieve compliance with State requirements.

EPA Region 8:

Permitted CAFOs are inspected, at a minimum, once during the life of the permit or once every five (5) years. Region 8 has used ground surveys, aerial flyovers and surveys of USGS aerial photographs to inventory AFOs and CAFOs in Indian Country. Region 8 has surveyed or inspected 13 of the 26 Tribes for high priority CAFOs and 12 CAFOs have been identified. FY05 funding has been acquired to inventory/inspect 4 more reservations.

Four CAFOs in Region 8 have submitted applications for EPA-issued permits. The Region issued permits to two facilities in Region 8 (one in South Dakota and one in Wyoming) prior to the effective date of the February 12, 2003, revisions to the federal CAFO rules. Two applications were submitted after February 12, 2003 and EPA Region 8 is currently drafting permits. The permits will include all requirements of the February 12, 2003 CAFO rules. The quality and effectiveness of nutrient management plans will be evaluated during site inspections.

CAFOs that have not submitted permit applications will be addressed in a manner guided by the Region 8 Guidance for Compliance Monitoring, Compliance Assistance and Enforcement Procedures in Indian Country.

4. Stormwater

The State of North Dakota:

There are approximately 758 facilities covered under stormwater permits (NDPDES Self-assessment, 2/2/2004). For some time, the primary focus of stormwater management activities has been on meeting the obligations of Phase II of EPA's stormwater rule. WQD issued a permit for small Municipal Separate Storm Sewer Systems (MS4s) to cover cities with more than 10,000 people (effective January 1, 2003). North Dakota issued the general construction permit NDR10-0000 on October 11, 2004. All of the Phase I and Phase II permits have been issued to dischargers in the State. The State has the following current Stormwater general permits, which include both Phase I and Phase II regulations:

Mining and Oil & Gas sectors	NDR01-0000
Industrial	NDR02-0000
Construction (large & small)	NDR10-0000
Small MS4	NDR04-0000

The WQD plans to include stormwater conditions in a single permit for those facilities that still have both a process waste individual permit and a stormwater permit. All NOI data are entered and stored in an Access database (except the MS4s).

North Dakota has all pertinent stormwater forms and permits available for permittees to download from their WQD Web site. The permit can be found by clicking on the appropriate stormwater permit type from their Web site at <http://www.health.state.nd.us/wq/Storm/StormWaterHome.htm>.

EPA Region 8:

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

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

EPA headquarters maintains a database of all MS4 permits throughout the country (both EPA and State). For Region 8, a list of all applicants who have submitted a Notice of Intent (NOI) for MS4 permits (State and EPA) is maintained on the EPA Region 8 Web site. NOI data for construction and industrial permits for EPA permits are maintained electronically via the NOI Processing Center NOI database.

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

1. Cement manufacturing
2. Feedlots
3. Fertilizer manufacturing
4. Petroleum refining
5. Phosphate manufacturing
6. Steam electric
7. Coal mining
8. Mineral mining and processing
9. Ore mining and dressing
10. Asphalt emulsion

5. Combined Sewer Overflows/Sanitary Sewer Overflows

The State of North Dakota:

In the 1970s through the 1980s, an extensive effort was undertaken in North Dakota to separate storm and sanitary sewers as part of the construction grants program. No combined sewers have been identified through the State's inspection program in the past 10-15 years. If identified, WQD would work with the Clean Water Revolving Loan program and the city to eliminate and correct the problem area.

The State has submitted a Sanitary Sewer Overflow (SSO) strategy to EPA that identifies how the State responds to SSOs. Twenty percent of the systems in the inventory are to be addressed annually. All SSOs tracked by the State are the result of a pipe break, pump failure at a lift station, or leaky valve. These SSOs are easily repaired or fixed. If a POTW appears to have excessive problems with their collection system, WQD works with them to correct the long term problems and may include an enforceable compliance schedule in their NDPDES permit.

Identified SSOs in priority watersheds are targeted as part of the SSO strategy.

As part of the requirements of the PPA, an updated SSO inventory and a list of inspections completed in the priority watersheds is submitted annually to EPA. NDPDES inspections address sewer overflows and problem areas in communities, including possible SSOs. During the period of July 1, 2002 through June 30, 2003 there were 278 wastewater (NDPDES) inspections performed in North Dakota. Of these, 260 inspections (93%) were in priority watersheds. There were no formal enforcement actions; however, the State did issue warning letters.

North Dakota continually informs communities of the reporting requirements for SSOs through conferences, operator training, consulting engineers and inspections. The WQD believes that a major percentage of the SSOs are being reported; however, there is no accurate way of determining the total number of overflows that occur yearly versus the number of those that are reported. During the calendar years 1993-1998, the State experienced above normal precipitation which resulted in higher than average number of SSOs reported to the WQD.

If an overflow occurs, and sewage from a SSO reaches waters of the State, WQD notifies the responsible parties, downstream drinking water supplies, and local health units. If the SSO poses a risk to public health, the appropriate local health unit would notify the public. An annual report of SSOs is submitted to EPA and is available to the public upon request. The future goal of the WQD is to have this information available on WQD Web site.

EPA Region 8:

There are no combined sewer systems in Indian country in Region 8

Sanitary sewer overflows are reported under the bypass provisions included in EPA issued permits. For permits issued in Indian country the permittee must notify EPA's enforcement program and the respective Tribal government if so required by the terms of the permit. EPA relies on the Tribe to notify the public and public health authorities. For bypasses that may endanger public health or the environment the permittee must also notify the EPA Region 8, Preparedness, Assessment and Response Program.

6. Biosolids

The State of North Dakota:

The State is not authorized to administer the biosolids program.

EPA Region 8:

There are 7 facilities in North Dakota granted coverage under the Regional general permit for biosolids. This general permit became effective in August 2002 and does not cover facilities or operations that incinerate sewage sludge. The general permit covers details on the generation, treatment/monitoring, and/or the use/disposal, along with the amount and location of biosolids. Use/disposal of biosolids covers land application, landfill, and surface disposal.

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

In North Dakota, 67% of the facilities use land application, accounting for 15% of the biosolids.

The Region 8 biosolids coordinator is relied on extensively at the national level. Region 8 is involved, through membership, on the pathogen equivalency committee and is designated as a Biosolids Center for Excellence.

Section III. NPDES Compliance Monitoring and Enforcement Response

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

1. Enforcement Program

The State of North Dakota:

NDDH has not taken many enforcement actions against its major facilities because they do not often appear on the QNCR. North Dakota is unique in that most of its facilities have lagoon systems and are required to take a pre-discharge sample. The facilities normally do not discharge unless the pre-discharge sample is in compliance with permit limits. For 2003, NDDH did not have any facilities appear in significant noncompliance (SNC) on the QNCR. This is below the 21% national average for facilities in SNC. The SNC rate for NDDH decreased over time and most of the facilities returned to compliance on their own. An enforcement action was issued to one major facility in 2003 which had been in SNC for two quarters in 2002.⁵ The enforcement action was to ensure the facility was under a compliance schedule for the plant expansion and included stipulated penalties to discourage future violations.

The NDDH has adopted an approach to enforcement that is detailed in its Enforcement Management Plan. Technical assistance, inspections and formal enforcement action are the main areas of emphasis in the North Dakota Enforcement Management Plan. In addition to the enforcement approach discussed in the Enforcement Management Plan, the WQD has developed a set of specific enforcement guidelines. These guidelines are often derived from EPA Region 8 policies and address such matters as determining SNC, technical review criteria for effluent violations, and penalty amounts for different types of violations.

The WQD identifies noncompliance through inspections, review of DMRs, in-stream monitoring, and/or complaints from concerned citizens. The WQD prioritizes noncompliance by the size of the facility, the frequency of violation and the environmental significance of the non-compliance. The WQD is to evaluate each facility on a case-by-case basis to ensure appropriate corrective actions and enforcement actions are taken.

The North Dakota Enforcement Management Plan describes how administrative remedies and civil and criminal enforcement proceedings are used to bring facilities back into compliance with applicable rules and requirements. Administrative remedies are usually the first enforcement activity attempted, although civil and criminal enforcement proceedings may be initiated at any time. Supplemental environmental

⁵ The National Data Sources column of the Management Report, measure # 37, shows no enforcement actions taken at major facilities by North Dakota. The enforcement action described above has been entered into the State's PANDA database, but has not yet been entered into PCS.

projects (SEPs) or mitigation projects are encouraged as a partial offset to the civil penalty tied to an enforcement action. The State tracks provisions contained in enforcement actions, including injunctive relief and SEPs in a State database. There are also quarterly reports developed by State legal staff and the Attorney General Office.

The State has and will continue to initiate timely and appropriate enforcement actions for non-compliance. There are times that warrant escalating enforcement actions. An in-house Assistant Attorney General (AG) provides legal counsel to the NDDH, drafts legally enforceable administrative orders, and conducts inspection and enforcement training. Presently, WQD and the Assistant AG are developing a penalty strategy or matrix that will provide a new framework for calculating civil penalties specific to stormwater violations. This matrix approach may be expanded in the future, to update working-draft versions of penalty policies that have been used but never finalized by the NDDH. The PPA for FY05 will require the penalty policy to be finalized.

The DWQ compliance assistance program has resulted in the need for only one enforcement action of a major facility in the last 3 years. The penalty assessed for the action was \$67,000.00 (\$0.00 collected). This action also resulted in a compliance schedule and a major upgrade to the facility in excess of 9 million dollars to be completed in a phased approach over the next 4 years.

The level of enforcement in the stormwater program in the two previous years consisted of letters of apparent violation (warning letter, no penalties assessed). Recently, the Department issued eight formal warning letters citing apparent noncompliance with permit rules and water quality statutes. Six notices of violation (NOVs) were issued through the AG Office. The Department initiated four consent agreements with penalties assessed. Two agreements have been finalized with assessed penalties of \$16,000 (\$4,000 collected) and \$24,000 (\$6,000 collected). For each of these two cases, the penalty collected exceeded the economic benefit of noncompliance. The DWQ continues to work with EPA on addressing stormwater noncompliance in the construction and auto salvage sectors.

EPA Region 8:

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

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

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

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

The Region routinely conducts inspections at the over 180 wastewater treatment facilities in Indian Country, the vast majority of which are non-major facilities. The appropriate enforcement response is then guided by the Region 8 Guidance for Compliance Assistance and Enforcement Procedures in Indian Country.

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

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

**Table 3: Enforcement actions taken by EPA Region 8
in all Region 8 States and Indian country**

	Administrative Orders	Administrative Penalty Orders	Penalties Collected
FY 2001	18	7	\$ 40,000
FY 2002	8	6	\$ 295,952
FY 2002	34	9	\$ 163,776

All of the penalties recovered economic benefit at a minimum.

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

Injunctive relief for civil enforcement actions taken by Region 8 in all Region 8 States and Indian country for each of the last three years is: FY2001 \$372,968; FY2002 \$323,335; FY2003 \$154,200. In fiscal year 2001 there were 2 referrals to the Department of Justice. There were also 2 referrals in FY02 and 6 in FY03.

2. Record Keeping and Reporting

The State of North Dakota:

WQD maintains hardcopy files of permitting, compliance and enforcement actions concerning all point source dischargers in the State. These files are orderly, up to date and accessible by the public.

Permitting and compliance process tracking information is maintained in PANDA or one of the other State databases. All required compliance data is manually entered into PCS and the State databases within 60 days following the inspections. Permitting and compliance data pertaining to major facilities are reported to PCS within 30 days of receipt.

EPA Region 8:

Administrative orders generally require sources to submit to EPA periodic reports, monitoring results, or other data. These data are used by the enforcement unit to determine the source's compliance with the enforcement action and the CWA, and determine if escalation is necessary. Generally, the response to violations of Administrative orders is determined by the Region's enforcement response guide.

3. Inspections

The State of North Dakota:

WQD submits an annual inspection workplan to EPA Region 8 as a written condition of the Performance Partnership Agreement (PPA). The inspection plan identifies how many inspections of different types will be done during the year. The WQD and the Municipal Facilities Division (MFD) perform inspections for the NDDH. The WQD does record reviews, DMR audits, lab result checks, permit file reviews and some compliance evaluation inspections. The MFD does most of the water and wastewater inspections. It is a requirement of the PPA for the WQD to perform yearly inspections at all (100%) major facilities and 20% of the minor facilities. Major facilities are sometimes inspected more than once per year. In addition, CAFOs are often inspected more than once per year to check on construction activities, or to follow up on compliance issues. North Dakota inspects 100% of its major facilities and a high percentage of its minor facilities (80%) annually.

Sectors, facilities and geographic locations for inspections are negotiated with EPA on an annual basis in the PPA. Because of the high percentage of facilities inspected yearly in the State, North Dakota does not see the need to consider risk in the inspection/monitoring strategy.

EPA Region 8:

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

The Region has direct implementation authority over Indian Country in Region 8. EPA conducts inspections and provides compliance assistance in the field on a regularly scheduled basis. As with the

pretreatment program, Region 8 has developed a schedule to inspect the Indian Country facilities at least once during the life of the permit. There is only one major facility in Indian Country in Region 8.

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

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

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

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

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

4. Compliance Assistance

The State of North Dakota:

NDDH has a Small Business Assistant or Ombudsman to work with small businesses throughout the State that are contending with environmental regulatory issues. The NDDH Director serves on a business owner committee, which provides a forum for considering the impacts of regulatory requirements and an opportunity to maintain rapport between the NDDH and the business community.

The NDDH has a priority ranking system that is used in the Clean Water State Revolving Fund (CWSRF) Program. These priority lists are generated yearly and are used as a tool for providing assistance to communities in the State.

Since its inception, the stormwater program has been focused upon educating the regulated community on the applicability of permits and making compliance requirements clear and understandable. The WQD also provides technical and programmatic pretreatment training and assistance for POTWs and industrial users. Training opportunities abound at the annual wastewater operators' training sessions sponsored by the Division of Municipal Facilities, and at annual trade conferences.

Livestock Waste Regulatory and Nutrient Management Workshops were recently held at thirteen locations throughout North Dakota. The workshops addressed animal confinement regulations and manure management planning considerations. The workshops were a collaborative effort between the NDDH, North Dakota State University Extension Service, North Dakota Soil Conservation Districts, USDA-NRCS, North Dakota Department of Agriculture, and the North Dakota Stockmen Association.

A total of two hundred and seventeen livestock operators attended the workshops. The workshops were held during the winter to give livestock producers enough time to set up agricultural management plans and the opportunity to implement the plans. A limited survey of livestock owners attending the program revealed an improved working understanding of manure management.

The NDDH is also able to provide compliance assistance to lagoon facility operators through the discharge approval requirements. The facilities must collect predischARGE samples and contact the NDDH for approval before they are allowed to discharge. In addition to ensuring compliance with the permit requirements, the process provides an opportunity to discuss system operation and discharge requirements. The WQD considers the small number of enforcement actions in the State to be indicative that its compliance assistance approach is working.

EPA Region 8:

The Region relies mainly on compliance assistance in Indian country. In the event a long term compliance problem is identified, the Region develops a compliance assistance plan as outlined in the Region 8 Guidance for Compliance, Monitoring, Compliance Assistance and Enforcement Procedures in Indian Country.

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

Section IV. Related Water Programs and Environmental Outcomes

1. Monitoring

The State of North Dakota:

The WQD has 33 ambient chemical monitoring sites across the State. Most sites are co-located with USGS stream flow gauging sites. Water quality parameters for which monitoring is conducted include temperature, dissolved oxygen, pH, major ions, nutrients (i.e., phosphorus, ammonia and nitrate), E. coli, fecal coliform and Enterococcus sp. bacteria. These monitoring sites will be maintained on a long-term basis, to assess water quality trends, to estimate loadings, and to describe the general chemical character of the State's major river basins.

The WQD has developed a draft comprehensive monitoring strategy. This strategy incorporates the NDDHS existing rotating-basin approach to biological monitoring along with experience gained from the Department's participation in EPA's Environmental Monitoring and Assessment Program (EMAP) Western Pilot Program. Through a cooperative agreement with EPA Headquarters and working with the US Geological Survey (USGS), the NDDH completed its fourth year of EMAP fieldwork in 2003. Over the next two years the NDDH will be working with EPA and the USGS in the analysis of data, the development of ecological indicators, and the preparation of reports. Depending on available funding, the NDDH plans to integrate the probabilistic study design and the EMAP field protocols in its monitoring strategy.

The draft strategy was completed in September 2004 and will be reviewed by EPA Region 8 using the elements guidance and national evaluation criteria. Plans are to work with North Dakota in FY2005 to revise the strategy, if needed, to satisfy all 10 elements and begin implementation. In North Dakota's strategy, a new design needs to be developed for the rotating-basin approach for biological monitoring beginning in 2005. This design should include targeted sites to support a reference site network, refinement of biological indexes of biological integrity (IBIs) for macroinvertebrates and fish, as well as TMDL and NPDES program needs. EPA is not aware of funding to implement this monitoring at present.

Some of the program elements/areas that are highlighted in the strategy are: 1) plans (including resources available/needed) for systematically sampling lakes, reservoirs and streams; 2) clear plans related to the TMDL needs of North Dakota's program; 3) plans to address EPA's concerns, regarding assessment methodology and biological IBIs; 4) plans to use data collected under the wetlands program; and 5) processes for program evaluation in partnership with EPA.

Sometimes, compliance sampling inspections (CSIs) include ambient monitoring because the permitted facility has effluent limits that are tied to stream flow and ambient quality. Such permits may include effluent limits that must be calculated daily based upon receiving stream conditions. For example, there is a high fructose corn syrup plant located upstream of the water supply intake for the City of Fargo. The plant is required not to exceed certain in-stream concentrations of total dissolved solids (TDS), sulfate, and chloride.

A similar approach is used to control the impacts from a sugar beet factory. When ambient monitoring is performed in conjunction with a CSI it is possible to assess the effectiveness of the NDPDES permit in that location. The WQD assesses the impact of point sources on receiving streams as it performs river reach assessments in conjunction with its ambient monitoring program. Such monitoring supports the development of CWA 305b reports on water quality inventory preparedness, CWA 303d list of impaired water bodies and TMDLs.

Many inspections and samples are taken during the life of each major and minor permit, so that it is not necessary to perform a special compliance monitoring at the time of permit renewal.

2. Environmental Outcomes

The State of North Dakota:

According to the NPDES Management Report National Data Sources column measures # 47-50 (7/09/04), North Dakota has assessed 14.8% of its river/stream miles for recreation and for aquatic life. This is below the national averages of 13.8% and 22.0%, respectively. There are about 70.9% of lake acres assessed for recreation and for aquatic life in North Dakota. These are above the national averages of 49.4% and 48.5%, respectively.

Based on the July 9, 2004 NPDES Management Report, the percentage of lake acres assessed for both recreation and aquatic life are well above the national average. While the percentage of lake acres assessed is well above the national average, the majority of this data was collected between 1991 and 1996 and represents only half of North Dakota's lakes and reservoirs listed as public as required by CWA section 314. EPA monitoring program has concerns regarding the age of data and lack of systematic lake and reservoir monitoring as part of North Dakota's program. Also based on the Management Report, the percentage of river/stream miles assessed for aquatic life are below the national average. About 17 % of North Dakota's river and stream miles were assessed for at least one beneficial use. Based on State water quality standards and the assessment database, about 90 % of the State's river and stream miles are in Class III which are predominantly intermittent or ephemeral streams. Therefore, a high percentage of perennial stream miles has been assessed for at least one beneficial use. The State is working with RTI (the primary assessment database contractor) on teasing apart the perennial and non-perennial waters in the assessment database. The State and EPA would like the State to improve the number of waters assessed in order to enhance the understanding and characterization of surface water quality throughout the State.

North Dakota needs to secure resources to support an ongoing ambient monitoring and assessment program to support the water quality data and information needs of CWA programs such as Water Quality Standards, TMDL, NPDES, and the Nonpoint Source Program. Besides the fixed station network, the majority of current monitoring consists of one-time special projects funded by EPA which may or may not address North Dakota's near-term and long-term monitoring objectives and priorities.

EPA Region 8:

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

3. Water Quality Standards

The State of North Dakota:

North Dakota relies on EPA's national criteria developed under section 304(a) of the CWA for the protection of aquatic life and human health when adopting water quality standards. This will likely change as North Dakota moves toward adopting site-specific criteria for nutrients and sediment. All proposed water quality standards go through a rigorous public hearing process before adoption. After adoption, EPA reviews the water quality standards and approves or disapproves them based upon whether they adequately protect designated uses.

Although the State has not had difficulties implementing water quality standards, the State anticipates future challenges related to ephemeral streams. The State's current stream classification system recognizes recreation, fish and aquatic biota as uses for all streams. Many class III streams are ephemeral which limits their use for primary contact recreation.

State law does provide that in the administration of water quality standards, the WQD must allow a reasonable time for dischargers to comply with such standards. In keeping with that statute, the WQD can incorporate schedules into permits to implement a new or changed standard.

The State adopted a comprehensive set of water quality standards revisions in 2001. There is a federal requirement to from time to time, but at least once every three years, hold public hearings for the purpose of reviewing water quality standards and, as appropriate, modifying and adopting standards. The State recognizes that there is room for improvement regarding how the State has addressed the triennial review requirement and will work to make such improvements.

Water quality standards and NDPDES permits are within the WQD. This enables the WQD adequate communications to ensure permit conditions are in line with applicable water quality standards.

As part of the current triennial review, the State plans, at a minimum, to adopt standards for E. coli. The WQD received a grant in 2001 to conduct a pilot project to develop nutrient criteria for the Sheyenne River. This pilot project took a reference condition approach to nutrient criteria development. Lessons learned from this pilot project will guide future nutrient criteria development activities.

The State's antidegradation review procedures are embodied in the State's water quality standards, and serve as an initial review consideration for a proposed discharge. The review is to be summarized on a worksheet to document the considerations and determination. When a permit is written, the water quality based limitation analysis incorporates any conditions or allocations described in the antidegradation review. Although the antidegradation policy is adequately considered during development of permits, it has not always been documented in the in the permit rationale. WQD is working with EPA Region 8 on standardizing procedures and necessary language in the permit rationale to verify implementation of antidegradation policies in permits.

4. Total Maximum Daily Loads

The State of North Dakota:

More than 90% of the major and minor permits issued in North Dakota are for lagoon treatment facilities. Many of these facilities have intermittent discharges so specific Water Quality-Based Effluent Limitations (WQBELs) are determined at the time of discharge, depending upon the receiving stream flow and ambient quality conditions existing at the time of the discharge. Permittees may be required to monitor the receiving stream and report the results to the WQD so that specific (protective) effluent limitations can be imposed prior to discharge.

For the few facilities with continuous discharges, WQD develops WQBELs on a case-by-case basis. WQBELs are included in NPDES permits as enforceable permit conditions if there is reasonable potential for the pollutant to be present in the effluent and where Technology-Based Effluent Limits (TBELs) are not sufficient to assure attainment of water quality standards. The State accounts for background levels of pollutants by using ambient data.

For impaired waters without Total Maximum Daily Loads (TMDLs), limits are developed on a case-by-case basis from ambient water quality data, flow records, and potential pollutants expected in the discharge. The data are evaluated and, if deemed appropriate, limits are set to protect the standard. The State should develop a procedure to determine how limits are set in these situations.

There are presently no permits requiring modification/re-issuance to implement applicable waste load allocations (WLAs) in approved TMDLs, and no permits have been modified/reissued to implement WLAs in approved TMDLs.

Generally, TMDLs are not related to point source discharges in North Dakota. TMDL activity is mainly in rural watersheds predominantly dealing with non-point issues. Since there is effective internal coordination during the development of TMDL/WLA requirements, no formal tracking mechanism is needed.

Based on the State's 1998 CWA 303(d) list, 133 TMDLs were scheduled for completion by the year 2011.⁶ As of September 2004, EPA has approved 25 TMDLs in North Dakota (i.e., approximately 19% completed).⁷ Approximately 61 TMDLs should have been approved according to the State's 13 year schedule established in 1998. Therefore, approximately 36 are currently delayed, and the State is behind schedule for TMDL development.

⁶ The National Data Sources column of the Management Report, measure # 41, shows 292 TMDLs in the docket (i.e. required) at the end of FY 2003. This measure on the Management Report reflects unique water body-pollutant combinations, while the 133 mentioned above reflects a count of impaired water bodies. There may be multiple pollutants associated with each water body. Also, the Management Report measure reflects the 2002, not 1998, 303(d) list. The North Dakota 2002 303(d) list included 254 water body-pollutant combinations, as shown in the Additional Data column. The difference between the National Data Sources column and the Additional Data sources column is because of data errors in the National TMDL Tracking System.

⁷ The National Data Sources column of the Management Report, measure # 54, shows 13 TMDLs completed through FY 2003. An additional 12 TMDLs were completed during FY 2004 (Oct. 2003 - Sept. 2004)

The Region has provided limited technical and financial assistance to help the State get back on schedule. This assistance includes training in Better Assessment Science Integrating point and Non-point Sources (BASINS), load duration curves and general TMDL development, as well as grant assistance for ten waterbody specific assessment, data analysis and TMDL development projects. Also, TMDL development targets have been added to the State/EPA PPA. Point sources are not a major source of impairment related to the TMDLs that have been delayed.

North Dakota's TMDL development pace following the 1998 listing cycle was hampered by a lack of dedicated resources. To address this resource shortfall three FTEs were added to the Surface Water Quality Program. The State's pace of TMDL development has still lagged behind the level necessary to stay on schedule during the most recent listing cycle (2002-2004), which is related to a lack of financial resources for project development and to the technical learning curve for TMDL development. TMDL staff have simultaneously been acquiring and learning the tools used to complete TMDLs for waterbodies where information has already been collected, and working with landowners and conservation districts to begin assessment and coordination for waterbodies where data and information have not yet been collected. It is expected that the pace of TMDL development will pick up near the beginning of the next listing cycle (i.e., mid-2004). However, North Dakota will need to complete TMDLs for approximately 36 waterbodies per year to meet their schedule. There have been some improvements to the State's financial resources available for TMDL development projects; however the funding necessary to meet the State's TMDL development schedule is still significantly less than what is needed.

EPA Region 8:

None of the discharges permitted by EPA Region 8 are to listed waters with TMDLs in place. In the event this situation presents itself in the future the Water Permits Unit would work closely with the TMDL program to ensure the WLA is appropriately reflected in the permit.

5. Safe Drinking Water Act

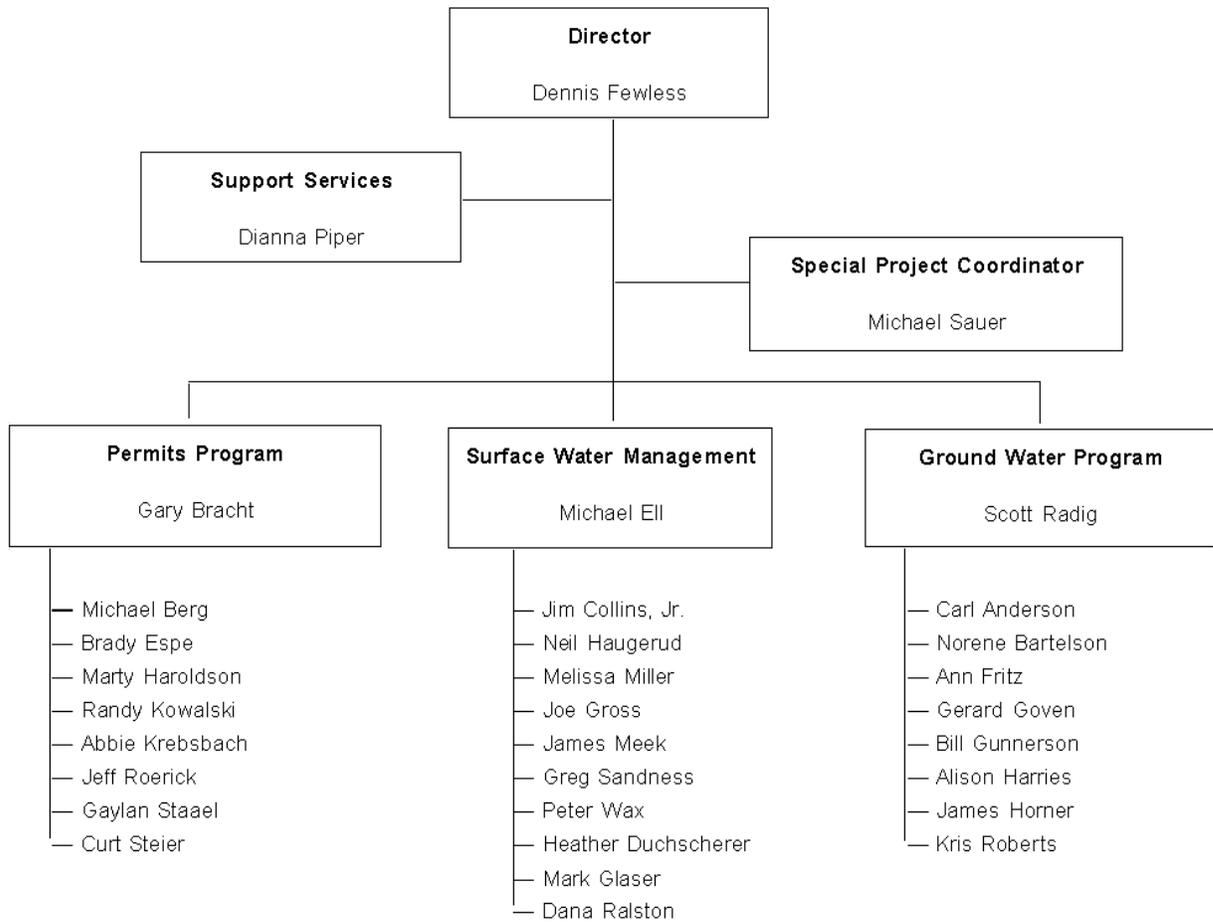
The State of North Dakota:

The Water Quality and Municipal Facilities Divisions of the Environmental Health Section of the NDDH administer both the Safe Drinking Water Act (SDWA), Water quality standards, and NDPDES permitting for North Dakota. Human health values are established in the State's water quality standards and implemented through NDPDES permits. In addition, the Source Water Protection inventory has been completed for North Dakota and is used for implementation of the SDWA program.

Drinking water intakes are taken into consideration in the development of standards, waste load allocations, and water quality based effluent limits. Additional conditions that have been put in permits consist of in-stream monitoring, notification of downstream water treatment plant operators, and only discharging during select river flows.

Following public hearings in 1999, the Department adopted a comprehensive set of the water quality standards revisions in 2001. There is a federal requirement to from time to time, but at least once every three years, hold public hearings for the purpose of reviewing water quality standards and, as appropriate, modifying and adopting standards. The next public hearings are scheduled for 2005. The Department has acknowledged this requirement and has committed in the PPA to water quality standards public hearings, review and appropriate modifications during 2005.

**North Dakota Department of Health
Division of Water Quality**



NPDES Management Report, Winter 2005

North Dakota

		Profile Section	GPRA Goal	Nat. Avg.	National Data Sources		Additional Data	
					State Activities	EPA Activities	State Activities	EPA Activities
NPDES Progress								
Universe	1	# major facilities (6,690 total)	I.1		n/a	26	0	
	2	# minor facilities covered by individual permits (42,057 total)	I.1		n/a	102	11	
	3	# minor facilities covered by non-storm water general permits (39,183 total)	I.1		n/a	271	0	26
	4	# priority permits (TBD)	I.6			--	--	
	5	# pipes at facilities covered by individual permits (142,761 total)	I.7		n/a	335	--	
	6	# industrial facilities covered by individual permits (32,505 total)	I.1		n/a	84	1	
	7	# POTWs covered by individual permits (15,197 total)	I.1		n/a	41	10	
	8	# pretreatment programs (1,482 total)	II.2		n/a	n/a	4	5
	9	# Significant Industrial Users (SIUs) discharging to pretreatment programs (22,158 total)	II.2		n/a	n/a	29	
	10	# Combined Sewer Overflow (CSO) permittees (831 total)	II.5		n/a	0	--	
	11	# CAFOs (current and est. future) (17,672 total)	II.3		n/a	49	--	
	12	# biosolids facilities (TBD '05)	II.6			--	--	
NPDES Program Administration	13	State or Region assessment of State NPDES program (none (N)/assessment (A)/profile (P))	I.1	50 states 2004	n/a	A, P	P	
	14	% pipes at facilities covered by individual permits w/ lat/long in PCS	I.7		46.3%	26.6%	--	
	15	State CAFO legal authority expected (mo/yr)	II.3	2005	n/a	7/04	n/a	1/05
	16	# Withdrawal petitions/legal challenges (22 total)	I.4		n/a	0	n/a	
	17	DMR data entry rate	I.7		95%	100%	--	
	18	# permit applications pending (1,011 total)	I.6		n/a	2	--	
NPDES Program Implementation	19	% major facilities covered by current permits	I.6	90%	83.7%	96.2%	n/a	
	20	% minor facilities covered by current individual or non-storm water general permits	I.6	90% 12/04	87.0%	100.0%	18.2%	62.2%
	21	# major facilities w/permits expired >10 yrs. (56 total)	I.6		n/a	0	0	
	22	% priority permits issued as scheduled (TBD '05)	I.6	95% 2005		--	--	
	23	% pretreatment programs inspected/audited during 5 yr. inspection period	II.2		85.3%	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	--	
	26	% CAFOs covered by NPDES permits	II.3		35%	0%	--	
	27	% biosolids facilities that have satisfied part 503 requirements (TBD '05)	II.6			--	--	
	28	# Phase I storm water permits issued but not current (76 total)	II.4		n/a	0	0	
	29	# Phase I storm water permits not yet issued (5 total)	II.4		n/a	0	0	
	30	Phase II storm water small MS4 permits current (Y/N/D (draft)) (35 States)	II.4	100% states 2008	n/a	Y	n/a	
	31	Phase II storm water construction permit current (Y/N/D (draft)) (49 States)	II.4	100% states 2008	n/a	Y	Y	
NPDES Compliance Monitoring and Enforcement Response	32	% major facilities inspected	III.3		71%	100%	0%	
	33	(inspections at minors) / (total inspections at majors and minors)	III.3		76%	81%	100%	
	34	% major facilities in significant non-compliance (SNC)	III.1		20%	0%	--	
	35	% SNCS addressed by formal enforcement action (FEA)	III.1		14%	n/a	--	
	36	% SNCS returned to compliance w/o FEA	III.1		70%	n/a	--	
	37	# FEAs at major facilities (666 total)	III.1		n/a	0	0	1
	38	# FEAs at minor facilities (1,660 total)	III.1		n/a	0	0	

Explanation of Column Headers:

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

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

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

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

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

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

North Dakota

		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	60,468	n/a	
	40	Lake acres (27,775,301 total)	IV.2		n/a	962,207	n/a	
	41	Total # TMDLs in docket at end of FY 2003 (52,795 total)	IV.4		n/a	292	--	254
	42	# TMDLs committed to in FY 2003 management agreement (2,435 total)	IV.4		n/a	33	0	
	43	# Watersheds (2,341 total)	IV.2		n/a	--	--	
Water Quality Administration	44	On-time Water Quality Standards (WQS) triennial review completed (42 States)	IV.3		n/a	Y	n/a	
	45	# WQS submissions that have not been fully acted on after 90 days (32 total)	IV.3	<25% submissions	n/a	n/a	0	
Water Quality Implementation	46	State is implementing a comprehensive monitoring strategy (Y/N) (TBD)	IV.1	all states 2005	--	--	--	
	47	% river/stream miles assessed for recreation	IV.2		13.8%	14.8%	n/a	
	48	% river/stream miles assessed for aquatic life	IV.2		22.0%	14.8%	n/a	
	49	% lake acres assessed for recreation	IV.2		49.4%	70.9%	n/a	
	50	% lake acres assessed for aquatic life	IV.2		48.5%	70.9%	n/a	
	51	# outstanding WQS disapprovals (23 total)	IV.3		n/a	0	n/a	
	52	WQS for E. coli or enterococci for coastal recreational waters (12 States)	IV.3	35 states 2008	n/a	n/a	n/a	
	53	WQS for nutrients or Nutrient Criteria Plan in place (13 States)	IV.3	25 states 2008	n/a	N	n/a	
	54	Cumulative # TMDLs completed through FY 2003 (10,807 total)	IV.4		n/a	13	--	
	55	# TMDLs completed in FY 2003 (2,929 total)	IV.4		n/a	0	0	
Environmental Outcomes	56	# TMDLs completed through FY 2003 that include at least one point source WLA (5,036 total)	IV.4		n/a	--	--	
	57	% Assessed river/stream miles impaired for swimming in 2000	IV.2		--	28.6%	n/a	
	58	% Assessed lake acres impaired for swimming in 2000	IV.2		--	20.9%	n/a	
	59	# Watersheds in which at least 20% of the water segments have been assessed and, of those assessed, 80% or more are meeting WQS (440 total)	IV.2	600 2008	n/a	--	--	

Explanation of Column Headers:

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

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

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

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

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

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

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

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