



Permitting for Environmental Results (PER)

NPDES Profile: South Dakota and Indian Country

PROGRAM RESPONSIBILITY

State of South Dakota: NPDES authority for individual permits, general permitting, federal facilities, pretreatment, and biosolids.

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, please contact Kelli Buscher, South Dakota Department of Environmental and Natural Resources, 605-773-3351, or Debra Thomas, EPA Region 8, 303-312-6373.

Section I. Program Administration

1. Resources and Overall Program Management

The State of South Dakota:

South Dakota was authorized to implement and enforce the National Pollutant Discharge Elimination System (NPDES) program on December 30, 1993. In December 2001, South Dakota was authorized to implement and enforce the biosolids program. The South Dakota Department of Environment and Natural Resources' (SDDENR) Surface Water Quality Program is responsible for the implementation of the NPDES program in South Dakota. The total NPDES permit universe consists of 556 non-stormwater permits (based upon the Permit Issuance Forecasting Tool and updated concentrated animal feeding operation (CAFO) information provided by the State on 11/19/04). Of the total permits, 211 are general permit coverages (169 CAFOs and 42 temporary dewatering) and 359 are individual permits.¹ The 359 individual permits are comprised of 28 major facilities and 331 minor facilities.

South Dakota divided its NPDES staff into two teams: NPDES and Feedlot. The former team is responsible for writing "traditional" NPDES permits and the latter team is responsible for regulating CAFOs.

¹ The National Data Sources column of the Management Report, measure #3, shows 86 minor facilities covered by general permits, based on ePIFT data as of March 2004. These data did not include the CAFO coverages. In addition, the 42 temporary dewatering coverages is as of April 2005, an update from the March 2004 data used for the National Data Sources column.

The SDDENR has eight full-time engineers who are responsible for the implementation of the traditional NPDES permitting program. These engineers write NPDES permits for industries and municipalities, stormwater discharges, pretreatment industries, and biosolids disposal. These staff members also conduct point source total maximum daily loads (TMDLs), inspect regulated facilities, provide operator assistance, review plans and specifications for wastewater treatment systems, and enforce the State and federal laws governing wastewater discharges. The NPDES team is provided with inspection assistance from four other department staff members. These staff members spend only a portion of their time on NPDES inspections, which results in approximately 1.0 full-time equivalent (FTE). The Surface Water Quality Program's senior secretary is responsible for much of the data entry into the federal Permit Compliance System (PCS) database and the public noticing and issuance of NPDES permits. The feedlot team is responsible for regulating CAFOs in South Dakota. The team has seven full-time engineers who are responsible for implementation of the water pollution control permitting program for CAFOs. The teamleader works with staff engineers to review and approve permit applications, plans and specifications for manure management systems, and nutrient management plans (NMP). The team also conducts construction, compliance, and closure inspections at permitted CAFOs, as required by State rules, and prepares enforcement actions to address violations of State water quality law found at CAFOs. The feedlot team receives additional assistance from another program staff member who reviews ground water impacts due to CAFOs. This staff member spends about 1/4 of her time on feedlot ground water reviews.

In 1993 the State was authorized to administer the NPDES program. At that time, EPA had no current NPDES permits issued to South Dakota CAFOs, and the department only had one FTE working on CAFO issues. In 1997, the department issued a general water pollution control permit for concentrated swine feeding operations and, because of its success, issued a separate general permit for all other animal types in 1998. This increased the CAFO workload, required an increase in the CAFO staff, and resulted in the formation of a separate team within the program to work with CAFOs. In 2003, EPA revised the federal regulations for CAFOs. This required the team to revise State CAFO rules, reissue a general water pollution control permit that would combine two existing general permits and contained the new federal requirements, and to submit a CAFO revision to the original NPDES authorization document. This revision was approved by the region on January 14, 2004.

In Fiscal Year (FY) 2003, \$35,650 was collected in CAFO fees. The remainder of the funding for the CAFO team comes from grants disbursed under Clean Water Act (CWA) section 106 and State general funds.

South Dakota has a thorough training program for new employees. The department sends all new NPDES staff members to EPA's NPDES Permit Writers' Course within the first year of employment. The department also sends the staff responsible for pretreatment, stormwater, biosolids, whole effluent toxicity (WET), TMDLs, CAFOs, and inspections to EPA-sponsored training, workshops, and conferences whenever possible. Additionally, the department provides training to operators of small publicly owned treatment works (POTWs), municipal separate storm sewer systems (MS4s), CAFOs, and contractors, which has resulted in higher operator awareness and greater permit compliance.

South Dakota has experienced staff turnover in the past 10 years since authorization. However, the two natural resources engineering Directors responsible for the implementation of the program have been with the NPDES program since before authorization. In addition, South Dakota has a thorough training

program for new employees. This has allowed South Dakota to continue the implementation of the program with little decrease in activities due to turnover.

In FY2003 (July 1, 2002 – June 30, 2003), South Dakota collected \$584,175 in NPDES fees, which covers the majority of the expenses associated with the program. The remainder of the revenue comes from grants provided to the State by 104(g) and 106 grants.

South Dakota has not received any notices of intent (NOIs) to sue the State under Section 505 of the federal Clean Water Act in the last five years.

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 |
|-----------------------|--------------------|-----------------|--------------------|----------------------------|-----------|
| CO | | | X | X | X |
| MT | | | | X | X |
| ND | | | | (Authorization in Process) | X |
| SD | | | | | |
| UT | | | | | |
| WY | | | | X | X |
| 27 Tribal Governments | X | X | X | X | X |

EPA Region 8 is organized into 4 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).

There are 10 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 are 7 FTEs, 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 South Dakota, EPA Region 8 has currently issued 36 individual permits, 1 for a major facility and 35 for minor facilities, and granted 65 general permit coverages.^{2,3} There are no biosolids general permit coverages in Indian Country located in South Dakota.

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

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' Course offered in Region 8. Recent requests for 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 on an annual basis for pretreatment and biosolids. The specialized training is discussed in the pretreatment and biosolids sections of this profile. In addition, Region 8 conducted a stormwater inspector training in 2002, hosted the NPDES inspector training in 2001, and a "train the trainer" program for NPDES inspectors in 2004.

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

² The National Data Sources column of the Management Report, measure #2, shows 36 minor facilities with EPA-issued individual permits. One of these facilities no longer has an individual permit, but had not been inactivated in PCS as of the time of the national data pull on June 30, 2004.

³ The National Data Sources column of the Management Report, measure #3, shows 0 facilities covered by EPA-issued general permits in South 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.

2. State Program Assistance

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

3. EPA Activities in Indian Country

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

4. Legal Authorities

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

5. Public Participation

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

The State of South Dakota:

South Dakota's requirements for involving the public are defined in the Administrative Rules of South Dakota (ARSD). Chapter 74:52:05 provides specific details on the process the department must follow to solicit public comment on NPDES permits.

The term "public" is not defined in any South Dakota rules or statutes specific to NPDES. However, the term "person" is defined in statute at South Dakota Codified Laws 34A-2-2(3) as: "the State or any agency or institution thereof, any municipality, political subdivision, public or private corporation, individual partnership, limited liability company, association, federal agency, or other entity, and includes any officer or governing or managing body of any municipality, political subdivision, or public or private corporation, or limited liability company."

The public may obtain surface water discharge permit applications online from the SDDENR at <http://www.state.sd.us/denr/DES/Surfacewater/surface.htm>. Since November 2001, major permits and fact sheets issued by the State may be accessed via EPA's Web site. South Dakota has 3 permits available on the EPA's Web site as of September 2004. Instructions for accessing these documents are available at <http://www.epa.gov/npdes/permitdocuments>.

The department provides public notice of all new permits or permit renewals for 30 days by publishing the notice in the nearest community newspaper and occasionally, multiple newspapers where appropriate. General permits are public noticed in every daily newspaper in the State and notices are mailed to all municipalities, counties, and Tribal governments. The department maintains a list of interested parties who receive a copy of every permit public notice. The department does not issue a permit until the newspaper provides proof the notice was published. Permit applications for new and expanding operations under the general water pollution control permit for CAFOs are public noticed in a

local paper and are not approved until the 30 day public notice period is complete. During the public notice period before a permit application is approved, the department considers comments regarding how the permit application does or does not meet the requirements of the general permit.

The department provides the public notice of its plans to issue coverage to new and expanding operations under the State's CAFO general permit. This allows the public to provide input to the department if they have concerns. During the public comment period for all other permits, any interested person may submit written comments on the proposed permit and may request a contested case hearing. All comments must be considered in making the final decision and must be answered as provided in ARSD 74:52:05:20. The department directly responds to everyone who comments on a permit. All responses to comments are filed with the permit, and the permit files are open to the public. The State also has a complaint form on the Internet that anyone who witnesses a violation of the State Water Pollution Control Act can complete and submit electronically or print and submit by mail.

In cases where the department is aware of or anticipates public interest, additional measures are used. In certain cases, the department has provided the interested parties with draft permits before public notice. This allows the opportunity for interested parties to review and provide input prior to the formal public comment period. The department has also scheduled meetings with interested persons to allow the opportunity for input and to allow the department to identify and respond to any concerns.

The department's offices are open and available to the public Monday - Friday from 8:00 a.m. to 5:00 p.m. (Central Time). All statements of basis, permits, final enforcement actions, and correspondence are available to the public. The only records pertaining to the NPDES program that are not open to the public are confidential complaint files, confidential business information submitted in accordance with State law, and enforcement work files.

EPA Region 8:

For permit issuance EPA Region 8 follows the federal public participation requirements in 40 Code of Federal Regulations (CFR) part 124. Region 8 provides for public notice of its proposed permit actions by publishing the public notice in a local newspaper near 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. The notice period is typically 30 days. If there is significant interest, EPA may hold a public meeting or a hearing. For any hearing, EPA 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 certification under CWA section 401 from the appropriate Tribe or State. Otherwise, the Region will provide CWA section 401 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 and/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 CFR Part 22) outline how administrative actions and hearings are conducted, including how any person may comment on and participate in the action (40 CFR 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 (FEAs) 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 via the Freedom of Information Act (FOIA).

6. Permit Issuance Management Strategy

The State of South Dakota:

Currently, the State has three major permits (out of 28) that are backlogged. All three permits are waiting on the completion of stream use upgrades to allow the permit staff to proceed with the issuance of the permits. All three permits have been drafted, and the department will be able to proceed with public notice shortly after the completion of the rule changes for the stream use upgrades.

The State has significantly reduced its permit backlog over the last two years. In 1999, South Dakota’s backlog was almost 1/3 of its total universe of permit facilities. The primary cause for the backlog in South Dakota was the requirement for stream use reviews. Initially, this process was extremely time-consuming and most permits that required a review became backlogged. The State has taken steps to streamline the stream use reviews, such as standardized checklists and use criteria. As a result, the backlog has decreased significantly and will continue to decrease.

The number of major and minor facilities covered by current permits has increased over the past four years (see table below). The percent of current major and minor permit coverages are above the national averages, at 89.3% and 93.5%, respectively.⁴

⁴ The National Data Sources column of the Management Report, measure #20, shows 75.1% of minor facilities covered by State-issued permits as covered by current permits. This value does not account for CAFOs covered by general permits because they were not entered into ePIFT at the time of the national data pull in March 2004. (See also section I.1 and measure #3.)

Table 2: Permit Issuance Rates in South Dakota

| | 2000 | Nat'l Avg. | 2001 | Nat'l Avg. | 2002 | Nat'l Avg. | 2003 | Nat'l Avg. |
|--|------|------------|------|------------|------|------------|------|------------|
| Major Facilities | 76% | 74% | 83% | 76% | 83% | 83% | 90% | 84% |
| Minor Facilities Covered by Individual Permits | 76% | 69% | 66% | 73% | 76% | 79% | 83% | 81% |
| Minor Facilities Covered by Individual or Non-Stormwater General Permits | N/A | N/A | N/A | N/A | 66% | 85% | 61% | 86% |

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

For major facilities, there is one permit that is expired more than 2 years and none that are expired more than 10 years. The major permit that has been expired for more than 2 years is scheduled to be reissued by early summer 2005. For minor facilities covered by individual permits, as of December 31, 2004, there are 20 permits that are expired more than 2 years and none that are expired more than 10 years.

The State has prioritized its permit backlog and intends to issue all permits expired more than 2 years within the next two years.

In some cases, South Dakota issues permits on a watershed basis. For example, all South Dakota's gold mines are located in the Black Hills. Therefore, all permits have been issued at the same time and thus have the same expiration date. This enables the department to handle and address all concerns and issues from the public when the permits are public noticed.

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 South Dakota, 15 of 35 individual permits issued by EPA Region 8 are current. The 20 expired permits have been administratively extended. Ten of the 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 on the transition of 10 of the expired individual permits to the general permit. The one major permit is expired. Currently, EPA Region 8 has granted 65 general permit coverages in Indian Country located in South Dakota. As of

June 2004, the general permit was expired. Taking into account general permit coverages, EPA Region 8 has 15% current permits for minor facilities.⁵

As of April 2005, there were 6 facilities in Indian Country in South Dakota awaiting initial permit issuance by EPA.⁶

EPA Region 8 has no general permit coverages for biosolids in Indian Country located in South Dakota.

7. Data Management

The State of South Dakota:

South Dakota uses the PCS as the primary mechanism for managing its NPDES program and enters data directly into PCS. In 2002, the State developed its own database to handle the inadequacies of PCS. The department's new database is based in Microsoft Access and is populated with information downloaded from PCS on a weekly basis. The database is used to supplement PCS and to provide a more readily available and useable data management system for the staff. Microsoft Access databases are also used for tracking stormwater and CAFO permits. To track the status of facilities regulated under the sewage sludge rules, the State uses an EPA database called Biosolids Data Management System (BDMS), as required by the State's sewage sludge program authorization.

The SDDENR primarily uses on-site inspections to determine if the State's inventory is accurate and complete. SDDENR also follows EPA's data entry/data quality protocols to ensure PCS data accuracy and timeliness of data entry. South Dakota has been reviewing its PCS information for accuracy since authorization and will continue to work to ensure a high level of accuracy once the data are migrated to the Integrated Compliance Information System (ICIS)-NPDES.

Some Water Enforcement National Database (WENDB) data elements are not currently in PCS for the older permits. This information is updated when the permits are reissued and coded into PCS.

According to the April 2004 PCS data clean-up report, South Dakota's PCS data entry percentage rate is nearly 99% for basic facility and permitting data (addresses, facility latitude and longitude and metadata, permit dates, and facility characteristics) for major facilities. The report also indicates a 93% data entry rate for basic facility and permitting data for minor facilities. Latitude and longitude data at the facility level is 100% complete for major facilities. Several years ago, the department's NPDES and State Revolving Fund (SRF) staff underwent a massive effort to obtain latitude and longitude for NPDES permittees in South Dakota using global positioning system (GPS) units. This information has been entered into PCS. The State reviews the latitude and longitude data for each permit that is reissued to ensure the information is accurate, and the State includes latitude and longitude data for all new

⁵ The National Data Sources column of the Management Report, measure #20, shows 36.1% of minor facilities with EPA-issued permits covered by current permits. This does not take into account facilities covered by general permits. (See section I.1 and measure #3.)

⁶ The National Data Sources column of the Management Report, measure #18, shows 4 pending applications total. This is based on data as of 6/30/04, and was not broken down into EPA and State activity due to the difficulty of doing so on a national basis.

permits. PCS data as of December 1, 2004 show 551 distinct outfall records at facilities with State-issued individual permits, of which 79.7% have latitude and longitude data.⁷

EPA Region 8:

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

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

The PCS responsibilities for enforcement, inspections and discharge monitoring report (DMR) data entry are in the Planning and Targeting Program located in the Office of Enforcement, Compliance and Environmental Justice (ECEJ). The PCS responsibilities for permit actions are in the Water Permits Unit located in the Office of Partnerships and Regulatory Assistance (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 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/States and/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.

⁷ The National Data Sources column of the Management Report, measures #5 and #14, show 725 pipes at facilities covered by individual permits, with 67.6% having latitude and longitude data in PCS. These values include pipes at facilities with EPA-issued permits and count limit sets (of which a single physical pipe may have more than one) rather than physical pipes.

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 permit compliance inspection (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, latitude and longitude are not always entered because the information is not always available. Regardless of whether latitude and longitude are provided with the permit application, inspectors routinely collect facility latitude and longitude data using GPS when conducting inspections. For facilities in Indian Country located in South Dakota covered by individual permits, there are 48 outfalls, for which 14.6% have latitude and longitude data in PCS.⁸

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

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

EPA Region 8 maintains its inventory of regulated sources in PCS. For the facilities directly regulated by Region 8, the Region relies heavily on the receipt of permit applications for development of an inventory. The Region is also inventorying CAFOs in Indian Country (refer to 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.

⁸ The National Data Sources column of the Management Report, measures #5 and #14, show no data for EPA activity due to the difficulty of breaking this data out along State/EPA lines on a national basis.

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

Section II. Program Implementation

1. Permit Quality

The State of South Dakota:

The department conducts permit review meetings at least once per month, or more often if needed. Permit templates developed by the department are used to ensure permit quality. The permitting team, along with a member of the water quality standards team, review all permits prior to public notice. The team members reach a consensus on permit changes to ensure consistent, quality permits.

Over calendar year 2003, the department received comments on a few of the permits issued. Several groups, including EPA, commented on the proposed general water pollution control permit for CAFOs. The department responded to all comments and held a contested case hearing on the permit. After the hearing, the permit was modified based on the comments received and re-issued. No other permits have been contested, and the State has received no permit appeals.

When the department determines there is a need for water quality-based effluent limits (WQBELs) to meet or maintain water quality standards, a point source TMDL is conducted before the permit is issued. To conduct a point source TMDL, the department determines the upstream, or background, water quality and flow of the receiving stream. The department then models the effect of the discharge using various modeling techniques, as appropriate. The following models have been used by South Dakota to determine the TMDL and develop WQBELs in permits: dFlow, STREAMDO, AMMTOX, and a mass-balance approach. The results of the modeling are then compared to any appropriate technology-based effluent limit (TBELs) and the more stringent limit is used.

If there is a potential for toxic pollutants to be present in a discharge, the permit contains a WQBEL for that toxic pollutant and/or a limit for WET. 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. South Dakota has one staff person responsible for coordinating all WET activities for South Dakota.

EPA Region 8:

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

None of the discharges permitted by EPA Region 8 are to waters listed as impaired under CWA section 303(d) 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 Tracking System to track permits that are implementing TMDLs.

Under 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 and 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 timely and appropriate permits. The Water Permits Unit is evaluating: 1) management tools to ensure timely issuance of permits; and 2) national permit quality tools ("National Permit Quality Review Checklist" and the "Central Tenets") to verify 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, the TSD procedure is not used usually due to the lack of sufficient data points (small facilities with infrequent discharges). Reasonable potential 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.

TBELs 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 South Dakota:

South Dakota received authorization to administer the pretreatment program on December 30, 1993. South Dakota has seven cities with approved pretreatment programs.⁹ The department conducts annual pretreatment compliance inspections for four of the programs. For the remaining three programs, pretreatment compliance inspections are conducted at least once every two years. The decision to conduct less frequent inspections of these three programs is based on the high quality program operated by each of the POTWs. The State maintains frequent contact with all seven approved programs and reviews its inspection strategy for each of these programs annually.

⁹ The National Data Sources column of the Management Report, measure #8, shows 6 pretreatment programs. At the time of the national data pull on June 14, 2004, the Watertown pretreatment program was not coded in PCS as approved. PCS has since been corrected.

Each approved program is required to submit an annual report on its local pretreatment program and the department reviews these reports closely. Audits are conducted once every five years; 100% of South Dakota's pretreatment programs have been audited in the last five years. This is above the national average. In the past five years, there have been no significant deficiencies found during an audit.

In South Dakota, the department issues pretreatment industrial user permits to SIUs in non-approved programs. These permits implement the applicable pretreatment standards and requirements. All of South Dakota's cities that have approved pretreatment programs use permits to regulate the discharge of SIUs into the POTWs. To ensure that SIUs are identified and permitted, routine inspections of POTWs are done. POTWs are inspected at least once every two years while categorical industrial users are inspected at least once every three years and non-categorical SIUs are inspected at least every other year.

The State uses a number of procedures to ensure that SIUs are identified and permitted. The primary mechanisms for identifying existing SIUs are the routine inspections of the POTW. The department inspects all POTWs at least once every two years. During these inspections, the inspector obtains information about any non-domestic users of the POTW. The department's pretreatment coordinator reviews each inspection report to ensure the department maintains an updated list of SIUs within the State.

The NPDES staff also works with other State agencies (such as the Governor's Office of Economic Development) and other department programs (such as Air Quality) to identify new industrial users. The department has sent out numerous multi-media letters to prospective industries providing information on environmental requirements and department contacts for more information.

The State issues permits to SIUs discharging to POTWs that do not have approved pretreatment programs. There are five SIUs, out of the 35 identified by the department, that do not currently have a State-issued pretreatment industrial user permit. Three of these facilities are new industries, and the department is working to issue permits to these facilities. The remaining two facilities were under EPA's jurisdiction until very recently due to old enforcement actions. The State has sent permit applications to both facilities and is awaiting the return of the completed applications.

EPA Region 8:

There are no approved pretreatment programs under the permitting authority of EPA in South Dakota.¹⁰

3. Concentrated Animal Feeding Operations

The State of South Dakota:

The CAFO quarterly report (by Region 8) stated that revisions to South Dakota's regulations reflected the new CAFO rule as of 7/03. The quarterly report also noted that the State revised its general permit on 9/03 to reflect the new rule. EPA approved South Dakota's CAFO program revision on January 14, 2004.

¹⁰ The National Data Sources column of the Management Report, measures #8, #9, #23, and #24, show no data for EPA activity due to the difficulty of breaking this data out along State/EPA lines on a national basis.

In South Dakota there are 331 CAFOs and 169 of these facilities are currently covered under the State's general water pollution control permit for CAFOs.¹¹ The State issues high quality CAFO permits that are based on ELGs. The permit addresses nutrient management requirements and includes the nine minimum standards in EPA's final CAFO rule. CAFOs are inspected within 18 months of obtaining permit coverage and then at least every year (over 2,000 animal units) or three years (under 2,000 animal units) depending on the size of the operation. Permitted animal feeding operations (AFOs) are also required to be inspected upon closure.

In order to identify unpermitted CAFOs and ensure CAFOs move forward to obtain permit coverage SDDENR negotiated a process with EPA Region 8 which required all CAFOs with more than 1,000 animal units to submit a "Notice of Intent to Obtain Permit Coverage Under the General Water Pollution Control Permit for Concentrated Animal Feeding Operations." By signing and submitting the form by no later than September 30, 2002, the CAFO operator/owner ("producer") indicated that it was making progress towards environmental compliance. Producers that submitted the form by September 30, 2002 were given until September 30, 2005 to submit a complete permit application, construct a manure management system, and become permitted. Through this process SDDENR was able to get 169 producers to work on obtaining permit coverage. The success of this effort was due to extensive outreach efforts by SDDENR, allowing a reasonable amount of time for producers to comply, and emphasizing that noncompliance would ultimately be dealt with through enforcement. Producers that did not submit the NOI form by the September 30, 2002 deadline were expected to immediately proceed with obtaining general permit coverage. All operations that had SDDENR approved NMPs prior to February 12, 2003, have been notified to submit a revised initial NMP that meets the NMP requirements in the revised general permit for SDDENR approval by July 1, 2006.

All but one permitted facility have a NMP. The operation that does not have a NMP manipulates and transfers the manure in the form of commercial fertilizer and is regulated by the South Dakota Department of Agriculture. NMPs are required by all CAFOs obtaining permit coverage and contain site-specific criteria. An initial/annual plan is required with the general permit application. The plan must demonstrate there is enough land available to the producer to properly land apply the manure and process wastewater generated at the operation. An annual plan is also required to demonstrate that the producer land applies manure at a proper rate based on soil tests, manure tests, type of crop, expected yield, legume credits, sample date and residual nutrients.

All permit applications, plans for modifications of manure management systems, initial NMPs, and NMP modifications (including field additions), are reviewed and approved by SDDENR. Each Monday a management report is prepared for all CAFO applications indicating whether the department is meeting its application approval time goal of 30 days for existing operations and 60 days for new and expanding operations. Before any CAFO general permit application is approved, the CAFO team engineer that reviewed the application schedules a meeting to review the draft approval letter, the application, and the team review check sheets.

NMPs are evaluated during inspections and their effectiveness is measured in crop performance and residual nutrients found in the soil when tested. AFOs are not required to obtain permit coverage, but

¹¹ The National Data Sources column of the Management Report, measures #11 and #26, show 320 CAFOs, with 50% covered by NPDES permits. These values are based on information as of March 2004. The values of 331 CAFOs with 169, or 51% covered by NPDES permits, reflect information as of December 2004.

they are encouraged to develop NMPs through voluntary programs and by the Natural Resource Conservation Service (NRCS). NMPs are not required to be developed by certified planners since each plan is reviewed and approved by the department.

The department requires each producer to attend a training course on proper nutrient management planning prior to getting permitted. 792 people have attended the training since it began in 1998. Department staff has attended annual trade shows sponsored by the South Dakota Cattlemen's Association and the South Dakota Pork Producer's Council to provide compliance assistance to those who attend. In the past few years, the department has sponsored training for engineers designing animal waste management systems and invited nutrient management planners to attend recent NRCS training necessary to meet NMP requirements in the reissued general permit. Compliance assistance is also provided to producers during inspections. South Dakota has a voluntary program that assists AFOs in preventing water quality problems in areas on the list of impaired water bodies prepared under CWA section 303(d).

The State issues their CAFO permits on time and the data are electronically submitted to EPA every quarter. Plus, the State is ahead of other Region 8 States in implementing new regulation targets.

EPA Region 8:

Permitted CAFOs are inspected, at a minimum, once during the life of the permit or once every five years. Region 8 has used ground surveys, aerial flyovers and surveys of U.S. Geological Survey (USGS) aerial photographs to inventory AFOs and CAFOs in Indian Country. Region 8 has surveyed and/or inspected 13 of the 26 reservations in the Region for high priority CAFOs and 12 CAFOs have been identified, one of which is on a reservation in South Dakota. FY2005 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.¹² Two application were submitted after February 12, 2003 and EPA Region 8 is currently drafting those permits. The permits will include all requirements of the February 12, 2003 CAFO rules. The quality and effectiveness of NMPs 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 South Dakota:

South Dakota has issued current general permits for stormwater discharges associated with industrial activities, large and small construction activities, and Phase I and II MS4s. The large and small construction sites have been covered under one general permit. In addition to the general permits mentioned above, the State has developed multimedia general permits, combining air quality and

¹² The National Data Sources column of the Management Report, measures #11 and #26, show no data for EPA activity because data on CAFOs under EPA jurisdiction in States authorized for the CAFO program are not available on a national basis.

stormwater. Specifically, stormwater requirements are addressed in general permits for air for asphalt plants, rock crushers and concrete plants. This combined, multimedia permit adds the stormwater permit requirements to the air quality permit to minimize duplication and streamline the State's permitting efforts. The State has one Phase I medium MS4 covered under an existing individual permit. Multiple NOI data are tracked electronically using an Access database.

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 Indian Country in Montana, 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 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 South Dakota:

The city of Lead has a combined sewer system and a combined sewer overflow (CSO) structure. The cities of Lead and Deadwood have formed a sanitary district and have a central treatment system located within the city of Deadwood. The sanitary district only owns the wastewater treatment plant; each city has responsibility for its own wastewater collection lines. The original sewer systems in each city were over 100 years old and had combined storm and sanitary sewers. Each city installed a structure that would allow the overflow of the combined sewers during storm events. Both cities have programs to separate the sewers.

The department has issued a permit to Lead for its combined sewer system. The Lead CSO permit requires the city to have a long-term control plan. The city's ultimate plan is to separate the combined sewers and, as stated above, the city continues to work toward this goal. The city of Deadwood has completed the separation of its sanitary and storm sewer systems.

There is still an overflow structure located at the sanitary district's treatment plant. The treatment plant receives sanitary sewer flows from the city of Deadwood, and combined sanitary and storm sewer flows from the city of Lead. The Lead CSO allows excessive flows to overflow, which usually prevents hydraulic overloading at the sanitary district's treatment plant. However, there is still the potential for the treatment plant to receive flows in excess of design flow. Therefore, the sanitary district is not planning to eliminate its overflow structure until the city of Lead completes its separation project. The sanitary district is required by its NPDES permit to sample and report any discharges from the overflow structure located at the treatment plant. The sanitary district's permit does not include the nine minimum controls for this overflow for a number of reasons. First, all of the combined flows are the responsibility of the city of Lead, not the sanitary district. The sanitary district does not own the collection lines in either community. Second, the city of Lead has a CSO permit that does contain the nine minimum controls and the city is working to separate its collection lines. Finally, this is not a "combined sewer overflow," simply an overflow structure. The sanitary district's permit appropriately addresses this overflow structure.

The sanitary district experienced overflows from this structure in July and August of 2004 due to extreme rainfall events and high flows from the city of Lead. These were the first overflows from this structure in more than four years and overflows are not expected to routinely occur. The separation project already underway in the city of Lead has significantly reduced the frequency of overflow events from both the city of Lead's CSO and the sanitary district's overflow.

During Calendar Year (CY) 2003, 27 sanitary sewer overflows (SSOs) occurred at 20 municipalities. South Dakota's sanitary sewer overflow plan consists of the permit conditions (SSOs are addressed in all the permits issued to POTWs), a short overview of the inspection plan, and how the State will track and address SSOs. If an SSO occurs, the permittee is responsible for notifying the public.

EPA Region 8:

There are no combined sewer systems in Indian Country in Region 8.¹³

SSOs 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 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 South Dakota:

EPA published its approval of the State's sewage sludge program in the Federal Register on December 17, 2001. Currently, about 60% of biosolids are being land applied or distributed for re-use.

Before State authorization of the program, EPA had administratively extended 27 expired individual permits. After the State gained authorization, those same permits continued to be administratively extended along with the adoption of regulations in 40 CFR part 503. Since then, South Dakota has begun the process of reissuing these permits.

The State receives and reviews the annual reports and enters data into the BDMS. The data are transferred electronically to EPA. BDMS data include detailed information on general facility information, contract applicators/haulers, biosolids treatment provided, final use/disposal practices, land application site information, monitoring data summary, individual pollutant results, and pathogen reduction and vector attraction reduction.

A sampling of facilities in Region 8, which includes South Dakota, from BDMS shows an average total compliance rate of 80% with the monitoring and reporting requirements of the biosolids regulations.

¹³ The National Data Sources column of the Management Report, measures #10 and #25, show no data for EPA activity due to the difficulty of breaking this data out along State/EPA lines on a national basis.

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 South Dakota:

Each of SDDENR's FEAs, referred to by the State as notices of violation (NOVs), includes an order for compliance, which outlines the steps the facility must achieve to correct violations and maintain compliance. Each step of the compliance order has a deadline which is tracked through PCS. In addition to tracking facilities' return to compliance through PCS, SDDENR conducts file reviews and inspections of the facilities to ensure continued compliance.

SDDENR uses its Enforcement Response Plan that was developed in 1993 to ensure enforcement actions are timely and are appropriately escalated. The Enforcement Response Plan outlines possible violations, violation circumstances, appropriate enforcement responses, and a time line for completion.

Formal enforcement actions are typically only taken after a facility is in significant noncompliance (SNC) on the QNCR for two or more consecutive quarters. To ensure the timeliness of State enforcement actions, the enforcement agreement between SDDENR and EPA States that, "Prior to a permittee appearing on the subsequent QNCR for the same violation, the permittee should either be in compliance or the State should have taken formal enforcement action to achieve final compliance."

The South Dakota Penalty Policy is used to ensure enforcement actions are appropriate to the violation, and assess adequate penalties. The penalty policy's methodology baseline penalty takes into account the nature of the violation, the damage (impacts to the environment), degree of willfulness, and violation history. SDDENR collects the full economic benefit possible which a facility may have incurred from non compliance. SDDENR calculates penalties based on its penalty policy, and generally calculates economic benefit using the EPA's Economic Benefit (BEN) computer model. A slight increase in the amount of NPDES penalties collected occurred from \$105,418 in 2000 (including 2 criminal cases) to \$118,701 in 2003.

In FY2003, 16% of SDDENR's major facilities were in SNC, which is slightly less than the national average of 21%.¹⁴ Previously, there had been an overall increasing trend of the number of facilities in SNC, with 2002 being slightly higher at 21%, 2001 at 14%, and 2000 at 7%.

¹⁴ The National Data Sources column of the Management Report, measure #34, shows 17% of major facilities in SNC during FY2003. This includes the major facility that is under the jurisdiction of Region 8. The national data for this measure were not broken out along State/EPA lines due to the difficulty of doing so on a national basis.

13% of SDDENR's facilities in SNC were addressed by FEAs. The 13% of South Dakota facilities in SNC addressed by a formal enforcement action is lower than the national average of 14%, and is an increase from the 0% SDDENR issued from 2000-2002. SDDENR formerly relied heavily on compliance assistance for a facility to return to compliance on its own, and has now increased the number of orders issued. In the last year, 88% of SDDENR's facilities in SNC returned to compliance without formal enforcement action. This percentage is above the national average of 71%.¹⁵

SDDENR does not develop supplemental environmental projects (SEPs) for its administrative penalty orders, and is not planning on developing a SEP policy at this time.

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 facilities in Indian Country. EPA Region 8 has created a case development guide that gives further guidance on penalty calculations, and case development.

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

EPA Region 8 uses PCS to track the non-compliance of the regulated community. The Regional ERG and Regional Tribal Policy provide guidance for the proper enforcement response and the timeline for issuing the enforcement. Formal enforcement is taken for SNC 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 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 DMR 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.

¹⁵ The National Data Sources column of the Management Report, measures #35 and #36, show 11% of facilities in SNC addressed by FEAs and 88% returned to compliance without FEAs, respectively. These values include the major facility that is under the jurisdiction of Region 8. The national data for this measure were not broken out along State/EPA lines due to the difficulty of doing so on a national basis.

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.

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

Table 3: Enforcement Actions Taken by EPA Region 8

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

All of the penalties recovered economic benefit at a minimum.

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

Injunctive relief for civil enforcement actions taken by Region 8 in all Region 8 States and Indian Country for each of the last three years are: FY2001 \$372,968; FY2002 \$323,335; FY2003 \$154,200. In FY2001 there were 2 referrals to the Department of Justice. There were also two referrals in FY2002 and six in FY2003.

2. Record Keeping and Reporting

The State of South Dakota:

SDDENR uses the PCS system to manage its NPDES data, including the tracking of its enforcement actions and compliance schedules, as well as its inspection data. DMR data from facilities are also entered into PCS within thirty days of report submission.

Currently, CAFO and stormwater inspections are not entered into the PCS system. Stormwater inspections and permitting information is kept in a separate database inventory, which is submitted to EPA quarterly. SDDENR also prepares an annual inventory of SSOs, in which it reports the updated SSO inventory and the number and location of inspections targeted to identify SSOs.

In addition, the CAFO program has developed an inventory database for its permitted CAFOs. SDDENR manually and electronically reports to EPA quarterly a list of all permitted CAFOs.

South Dakota uses a number of methods to validate the data reported on DMRs. When DMRs are received, the NPDES staff reviews the reports to ensure they are filled out correctly. If anomalies are found in the results, the facility is called and a letter is sent requesting corrections, and/or an actual lab

result review. The SDDENR staff has electronic access to the State's health lab database, where many of South Dakota's permittees have data. Much of the DMR reporting information can be confirmed by reviewing the database. Also during compliance inspections, the inspector reviews a recent DMR and performs independent calculations to confirm the results reported using actual lab sheets. If discrepancies are found, the inspector provides training on the proper completion of DMRs and the facility is asked to resubmit the corrected DMR.

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 South Dakota:

SDDENR conducts two primary types of inspections at municipal facilities: "Operation and Maintenance (O&M) Inspections" and "Compliance Evaluation Inspections (CEI)". The operation and maintenance inspections help target noncompliance by first focusing on any O&M issues and correcting them. The compliance inspections target compliance issues through auditing proper sampling and monitoring, reporting, effluent quality, and record-keeping at the municipality. SDDENR has indicated that compliance with these parameters has increased due to its on-site presence.

File reviews are conducted during both O&M inspections and CEI inspections, in addition to field inspections performed at the site. Prior to SDDENR drafting a new permit, the State reviews the file and conducts a field inspection if needed.

The performance partnership agreement (PPA) between EPA and SDDENR requires SDDENR to develop an inspection plan, which outlines the type and number of inspections to be performed during each inspection year. Each year, the State determines which inspections will be conducted for the coming year. Facilities with a high potential for environmental impact are given additional consideration when developing the plan. The State conducts more frequent and/or more in-depth inspections of facilities such as large industries and POTWs, and facilities that have had compliance difficulties.

SDDENR's goal is to inspect all major facilities annually, and at least 50% of its minor facilities annually, which equates to inspecting most minor permittees every other year. At a minimum all permittees are inspected at least once during the permit term of five years. Minor permittees with a history of operational or compliance difficulties are targeted for annual inspections. In addition, facilities that receive complaints are targeted for inspections as well.

SDDENR exceeded the national average the past three years in its inspection of major facilities, and in 2003 SDDENR inspected 100% of its major facilities.

SDDENR also performs stormwater, CAFO, and SSO inspections on a regular basis.

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 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 PCIs or audits and all SIUs in non-approved programs with significant violations.

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

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 Indian Country 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.

Region 8 has 4 major federal facilities under its authority in Colorado. The Region inspects these facilities every other year and monitors compliance using PCS. This year Region 8 will inspect all of the federal facilities in Colorado. The Region is also conducting stormwater inspections at the federal facilities in Colorado and in Indian Country.

Along with its direct implementation areas, the Region conducts two oversight inspections 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 South Dakota:

SDDENR's Surface Water Quality Program group has employees that provide compliance assistance and operation and maintenance reviews to ensure continued compliance.

SDDENR has provided training classes for both the operators of small POTWs, as well as for stakeholders affected by the CAFO rule. Each of these training sessions, which were held statewide,

detailed the requirements of NPDES permits. For the POTW sessions, the State reviewed specific monitoring, record-keeping, and reporting requirements for the small municipal systems. Compliance assistance material was handed out during these classes to help streamline the regulations.

In addition, a NOI process was negotiated with EPA to increase the permitting of un-permitted CAFOs. SDDENR was also very proactive in publicizing the new CAFO rule, by publishing announcements in producers' magazines and writing press releases. Through this process SDDENR was able to get 169 producers permitted under the general permit and another 162 producers to work on obtaining permit coverage. 792 people have attended SDDENR's training required by the department's general CAFO permit.

SDDENR's CAFO program has also developed a guidance handbook that permitted CAFOs receive either during their construction inspection prior to getting permitted or when they get permitted.

While SDDENR has no formal method for measuring the outcomes of compliance assistance activities, they believe that the results of compliance assistance efforts are reflected in the number of non-permitted facilities either applying for permits or becoming permitted, and also in an overall increase in compliance due to increased awareness.

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 South Dakota:

The department has submitted a draft of the South Dakota monitoring strategy to EPA Region 8. EPA Region 8 is reviewing this strategy using the “Ten Elements of a State Monitoring System” guidance and national evaluation criteria. Plans are to work with South Dakota in FY2005 to ensure the strategy satisfies all 10 elements and begin implementation.

South Dakota has a total of 10,298 miles of rivers and major streams (based on the 2004 South Dakota Integrated Report For Surface Water Quality Assessment). About 7,360 miles (71.5%) have been assessed in the past five years (October 1998 to September 2003). South Dakota is above the national average percentage of stream/river miles assessed for both recreation and aquatic life (see Management Report measures #47 and #48).

In recent years, the department’s Water Quality Monitoring network has been expanded from 94 stations to a total of 137 stations. The sampling stations are located within high quality beneficial use classifications, above and below municipal/industrial discharges, or within problem watersheds. Currently, the department collects samples on a monthly, quarterly, seasonal, or bi-annual basis. This type of water sampling is invaluable for monitoring historical information, natural background conditions, possible runoff events, acute or chronic water quality problems and calibration of waste load allocations (WLAs). The data obtained from this monitoring are used for multiple decision needs such as NPDES permit development, TMDLs, trends, antidegradation, and in the development of the Integrated Report. Any trends the department has observed were evaluated and reported in the 2004 South Dakota Integrated Report For Surface Water Quality Assessment (combined Water quality inventory prepared under CWA section 305(b) and List of impaired water bodies prepared under CWA section 303(d)). All sample test results are also entered into STORET. The State has information about its fixed station network available on its Web site at the following address:
<http://www.state.sd.us/denr/DES/Surfacewater/watermonitoring.htm>.

SDDENR has a list of 132 lakes, of which 1/4 are monitored annually so that each lake is monitored once every four years. The percentage of lakes assessed for aquatic life are also above the national average but the percentage of lakes assessed for recreation are below the national average (as reported in the Management Report dated 7/9/04). Samples are taken during early and late summer and are used to track changes in lakes over time and in most cases satisfies the post-implementation monitoring of a TMDL. Ambient station locations, descriptions, and schedules can be found at the SDDENR Web site:
<http://www.state.sd.us/denr/DES/Surfacewater/WQMList.htm>.

2. Environmental Outcomes

The State of South Dakota

Of the stream miles assessed, 56% support all designated beneficial uses, and 34% of assessed lake acreage supports all designated uses. There are no estuaries in South Dakota to assess (2004 South

Dakota Integrated Report). The Integrated Report discusses trends, monitoring, plans or strategies to improve State waters, and environmental priorities being targeted in the assessment or TMDL programs. South Dakota's Integrated Report is available on the internet at the following Web site: <http://www.state.sd.us/denr/Documents/04IRFinal.pdf>.

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 South Dakota:

The State completes a thorough review of its surface water quality standards every three years, as required by the federal CWA.¹⁶ During this triennial review, the department evaluates any new recommendations from EPA pertaining to water quality standards. The new recommendations are incorporated as appropriate. The State also reviews each of its standards and the uses assigned to its water bodies to ensure the surface water quality standards are protective of the waters of the State.

Once South Dakota's review of the surface water quality standards is complete, the standards are submitted to EPA for review and approval. EPA then completes its own thorough review of the State's surface water quality standards to ensure the standards meet the federal requirements, protect the State's designated uses, and are consistent with other States' standards.

The State completed its most recent triennial review on July 7, 2004. A key revision was adoption of EPA's revised criteria for priority pollutants and key non-priority pollutants (e.g., EPA's 1999 ammonia criteria). In preparing its proposed rule changes, the SDDENR water quality standards staff closely coordinated with the NPDES staff (in fact, the NPDES staff helped resolve an issue related to a water quality standards provision dealing with critical flow assumptions). Similarly, the Regional water quality standards and NPDES staff coordinated in preparing the comments on the proposed revisions.

In addition to the triennial review, the State is required to review any water bodies that do not have a "higher" fishery or recreation classification. This review must be completed before an NPDES discharge permit can be issued. The review determines if the stream can support a higher fish life or recreation use. If the department determines a higher use is occurring, a point source TMDL is conducted to determine the WQBELs needed to protect the new use.

The principal water quality standards element with application to NPDES writing is the numeric criteria element assigned to protect the designated uses. The State has adopted the full slate of EPA criteria for priority pollutants and key non-priority pollutants. The numeric criteria include averaging periods and return frequencies. Further, the water quality standards set out the critical flow conditions applicable to the various use classifications. Implementation of the numeric criteria in permits is, therefore, fairly straightforward. For policy provisions such as antidegradation and mixing zones that may be more

¹⁶ The National Data Sources column of the Management Report, measure #44, indicates that South Dakota had not completed a triennial review on time (i.e., within the last three years), based on the status as of January 1, 2004. As noted below, South Dakota completed a triennial review on July 7, 2004.

difficult to implement, the State has adopted specific implementation procedures. To implement the anti-degradation policy, the State conducts a review, in the form of a checklist, during the permit issuance process. This review is attached to the statement of basis and becomes part of the permit record. There are cases where it is difficult to implement standards. Therefore, the water quality standards specify that compliance schedules may be granted for existing discharges where warranted. There is no compliance schedule allowed for new discharges.

The State has begun work on developing a plan for deriving and adopting nutrient criteria on a case-by-case basis. In the 2005 PPA, the State will commit to evaluating water quality standards for both nutrients and E. coli. E. coli criteria will be evaluated pending EPA national guidance and approval of methods in 40 CFR part 136 for analyzing effluent for E. coli. Nutrient criteria may be adopted on a site-specific basis once the State has a procedure in place. Currently, water samples are often tested for fecal coliform, conductivity, hardness, 5-day biochemical oxygen demand (BOD5), alkalinity, pH, ammonia, nitrates, and phosphorous.

4. Total Maximum Daily Loads

The State of South Dakota:

South Dakota's 2002 303(d) list contained 226 unique waterbody/impairment combinations, on 167 waterbodies or waterbody segments, for TMDL development. South Dakota's pace of TMDL development following the 2002 listing cycle met or exceeded that necessary to meet the 13 year completion date for waterbodies once they are listed. In order to remain on schedule the State needs to complete TMDLs for a minimum of 20 waterbodies each year. During the period from October 2002 to April 2004 (i.e., 1.5 years) TMDLs were completed for over 40 waterbodies. Effective TMDL development requires good coordination within all SDDENR water programs as well as the support, input and coordination of affected government agencies, local groups and citizens. The future pace of TMDL development in South Dakota will likely meet or exceed their schedule. However, the actual pace of development will depend on maintaining funding for existing programs, resources and activities. Nearly all of the State's CWA section 319 funding is targeted towards either assessment or implementation projects for waters that are impaired by nonpoint sources.

The NPDES permit writer is the same person that conducts the TMDL process and then determines the appropriate WLA to include in the permit. This ensures there is no disconnect between the TMDL and the NPDES permit. South Dakota usually translates the WLA into a concentration-based permit limit. However, where appropriate, the department uses mass-based limits.

On January 30, 2004, the department published its 2004 Integrated Report prepared under CWA sections 303(d) and 305(b). This report identified one water body that is impaired for dissolved oxygen as a result of an NPDES discharge. This water body receives the discharge from an existing permittee that has WQBELs for ammonia and dissolved oxygen. The renewal TMDL for this stream was submitted to EPA for approval on December 17, 2003. The impairment is the result of effluent violations by this permittee. The department has taken an enforcement action and the permittee is upgrading its treatment system to correct the violations causing the impairment.

The Integrated 303(d) and 305(b) Report also identified one impaired stream where point source dischargers were identified as potential sources of impairment. The State is still in the process of determining the actual source(s) of the impairment. If the point sources are in fact the source of the

impairment, a TMDL will be developed and the WLA will be implemented in the NPDES permit to minimize the number of water bodies impaired due to point sources.

South Dakota will continue to conduct TMDLs for most WQBELs. If a TMDL is not developed for a WQBEL, the surface water quality standard is applied as a limit at the end of the pipe.

To determine if WQBELs are necessary, reasonable potential determinations are based on existing effluent data (from DMRs), and data from the 137 ambient monitoring stations. Background levels are also determined from the ambient monitoring stations. The 2004 integrated report also says that the State conducts intensive water quality monitoring associated with point sources above and below the discharge. The goal of this monitoring is to provide data to: 1) develop point source TMDLs; 2) develop or verify permit limits; or 3) document stream improvement/degradation areas.

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 wasteload allocation is appropriately reflected in the permit.

As of the end of FY2003, EPA Region 8 had neither committed to nor completed any TMDLs within South Dakota.¹⁷

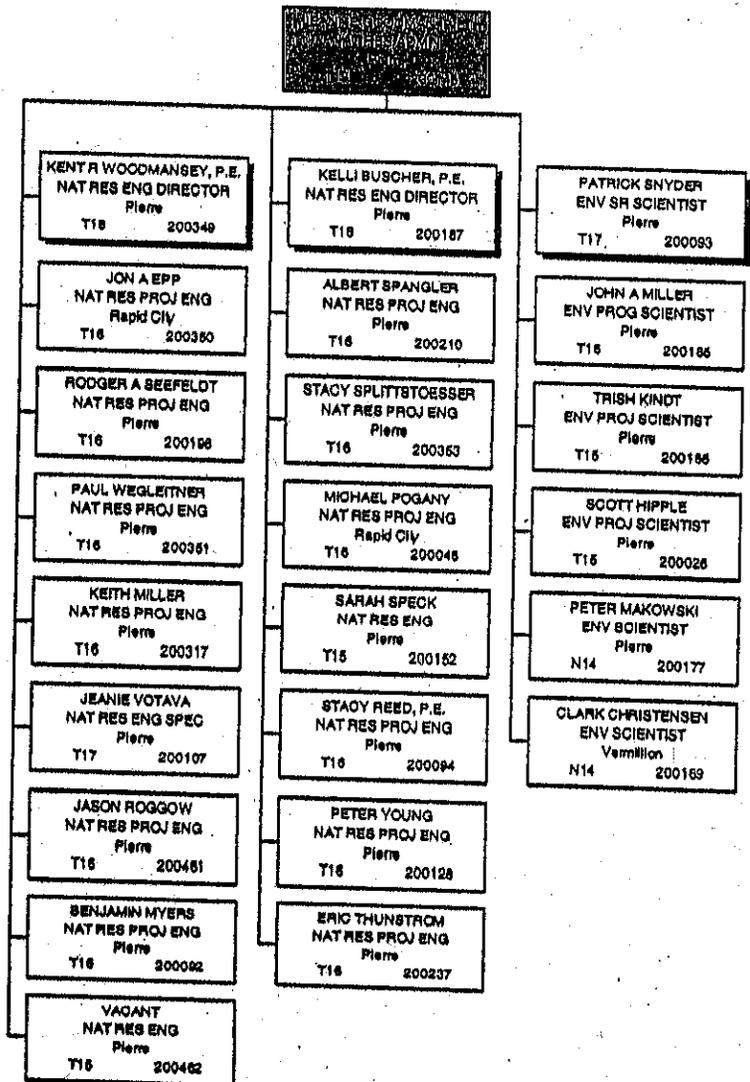
5. Safe Drinking Water Act

The State of South Dakota:

The State has designated certain water bodies that are or potentially could be used as drinking water supplies. The State has adopted water quality standards that protect drinking water uses and the permits are written to implement those standards. In addition, the program responsible for implementing the Safe Drinking Water Act (SDWA) is located in the same division as the NPDES program (the Division of Environmental Services).

¹⁷ The National Data Sources column of the Management Report, measures #41, #54, and #56, show no data for EPA activity due to the difficulty of breaking this data out along State/EPA lines on a national basis.

**DEPARTMENT OF ENVIRONMENT & NATURAL RESOURCES
DIVISION OF ENVIRONMENTAL SERVICES
SURFACE WATER PROGRAM
ATTACHMENT B**



NPDES Management Report, Spring 2005

South 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 | 28 | 1 | | |
| | 2 | # minor facilities covered by individual permits (42,057 total) | I.1 | | n/a | 331 | 36 | | 35 |
| | 3 | # minor facilities covered by non-storm water general permits (39,183 total) | I.1 | | n/a | 86 | 0 | 211 | 65 |
| | 4 | # priority permits (TBD) | I.6 | | | -- | -- | | |
| | 5 | # pipes at facilities covered by individual permits (142,761 total) | I.7 | | n/a | 725 | -- | 551 | 48 |
| | 6 | # industrial facilities covered by individual permits (32,505 total) | I.1 | | n/a | 107 | 9 | | |
| | 7 | # POTWs covered by individual permits (15,197 total) | I.1 | | n/a | 252 | 28 | | |
| | 8 | # pretreatment programs (1,482 total) | II.2 | | n/a | 6 | -- | 7 | 0 |
| | 9 | # Significant Industrial Users (SIUs) discharging to pretreatment programs (22,158 total) | II.2 | | n/a | 55 | -- | | 0 |
| | 10 | # Combined Sewer Overflow (CSO) permittees (831 total) | II.5 | | n/a | 1 | -- | | 0 |
| | 11 | # CAFOs (current and est. future) (17,672 total) | II.3 | | n/a | 320 | -- | 331 | 1 |
| | 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% | 67.6% | -- | 79.7% | 14.6% |
| | 15 | State CAFO legal authority expected (mo/yr) | II.3 | 2005 | n/a | 7/03 | n/a | | |
| | 16 | # Withdrawal petitions/legal challenges (22 total) | I.4 | | n/a | 0 | n/a | | |
| | 17 | DMR data entry rate | I.7 | | 95% | 100% | -- | | |
| | 18 | # permit applications pending (1,011 total) | I.6 | | n/a | 4 | -- | | 6 |
| NPDES Program Implementation | 19 | % major facilities covered by current permits | I.6 | 90% | 83.7% | 89.3% | 0.0% | | |
| | 20 | % minor facilities covered by current individual or non-storm water general permits | I.6 | 90% 12/04 | 87.0% | 75.1% | 36.1% | 93.5% | 15.0% |
| | 21 | # major facilities w/permits expired >10 yrs. (56 total) | I.6 | | n/a | 0 | 0 | | |
| | 22 | % priority permits issued as scheduled (TBD '05) | I.6 | 95% 2005 | | -- | -- | | |
| | 23 | % pretreatment programs inspected/audited during 5 yr. inspection period | II.2 | | 85.3% | 100.0% | -- | | n/a |
| | 24 | % SIUs w/control mechanisms | II.2 | | 99.2% | 100.0% | -- | | n/a |
| | 25 | % of CSO permittees with long-term control plans developed or required | II.5 | 75% 2008 | 82.2% | 100.0% | -- | | n/a |
| | 26 | % CAFOs covered by NPDES permits | II.3 | | 35% | 50% | -- | 51% | 100% |
| | 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% | 80% | 100% | | |
| | 34 | % major facilities in significant non-compliance (SNC) | III.1 | | 20% | 17% | -- | 16% | |
| | 35 | % SNCs addressed by formal enforcement action (FEA) | III.1 | | 14% | 11% | -- | 13% | |
| | 36 | % SNCs returned to compliance w/o FEA | III.1 | | 70% | 89% | -- | 88% | |
| | 37 | # FEAs at major facilities (666 total) | III.1 | | n/a | 2 | 0 | | |
| | 38 | # FEAs at minor facilities (1,660 total) | III.1 | | n/a | 1 | 0 | | |

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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.

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

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NPDES Management Report, Spring 2005

South 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 | 10,298 | n/a | | |
| | 40 | Lake acres (27,775,301 total) | IV.2 | | n/a | 204,897 | n/a | | |
| | 41 | Total # TMDLs in docket at end of FY 2003 (52,795 total) | IV.4 | | n/a | 226 | -- | | 0 |
| | 42 | # TMDLs committed to in FY 2003 management agreement (2,435 total) | IV.4 | | n/a | 18 | 0 | | |
| | 43 | # Watersheds (2,341 total) | IV.2 | | n/a | -- | -- | | |
| Water Quality Administration | 44 | On-time Water Quality Standards (WQS) triennial review completed (42 States) | IV.3 | | n/a | N | n/a | Y | |
| | 45 | # WQS submissions that have not been fully acted on after 90 days (32 total) | IV.3 | <25% submissions | n/a | n/a | 0 | | |
| Water Quality Implementation | 46 | State is implementing a comprehensive monitoring strategy (Y/N) (TBD) | IV.1 | all states 2005 | -- | -- | -- | | |
| | 47 | % river/stream miles assessed for recreation | IV.2 | | 13.8% | 63.0% | n/a | | |
| | 48 | % river/stream miles assessed for aquatic life | IV.2 | | 22.0% | 76.0% | n/a | | |
| | 49 | % lake acres assessed for recreation | IV.2 | | 49.4% | 35.0% | n/a | | |
| | 50 | % lake acres assessed for aquatic life | IV.2 | | 48.5% | 94.0% | 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 | 192 | -- | | 0 |
| | 55 | # TMDLs completed in FY 2003 (2,929 total) | IV.4 | | n/a | 26 | 0 | | |
| Environmental Outcomes | 56 | # TMDLs completed through FY 2003 that include at least one point source WLA (5,036 total) | IV.4 | | n/a | 108 | -- | | 0 |
| | 57 | % Assessed river/stream miles impaired for swimming in 2000 | IV.2 | | -- | 29.6% | n/a | | |
| | 58 | % Assessed lake acres impaired for swimming in 2000 | IV.2 | | -- | 0.0% | n/a | | |
| | 59 | # Watersheds in which at least 20% of the water segments have been assessed and, of those assessed, 80% or more are meeting WQS (440 total) | IV.2 | 600 2008 | n/a | -- | -- | | |

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