



Permitting for Environmental Results (PER) NPDES Profile: West Virginia

PROGRAM RESPONSIBILITY

State of West Virginia: NPDES authority for base program, general permitting, federal facilities, pretreatment

EPA Region 3: NPDES authority for biosolids

Program Integrity Profile

This profile characterizes key components of the National Pollutant Discharge Elimination System (NPDES) program, including program administration and implementation, environmental outcomes, enforcement, and compliance. EPA considers profiles to be an initial screen of NPDES permitting, water quality, enforcement, and compliance programs based on self-evaluations by the States and a review of national data. EPA will use the profiles to identify program strengths and opportunities for enhancements. For more information, please contact Bill Brannon, West Virginia Department of Environmental Protection, (304) 558-5905 or Francisco Cruz, EPA Region 3, (215) 814-5734.

Section I. Program Administration

1. Resources and Overall Program Management

The State of West Virginia:

In 1982 EPA Region 3 authorized West Virginia's NPDES program through a Memorandum of Agreement (MOA) signed by the State and Region 3. This agreement authorized the State to issue NPDES permits to industrial, municipal, and federal facilities discharging to the State's waters. The pretreatment program and the general permit programs were also authorized in 1982. The biosolids program has not been authorized in West Virginia. The Permitting Section of the Division of Water and Waste Management (DWWM) manages the NPDES permitting program for all facilities except coal mining. The Permitting Section of the Division of Mining and Reclamation manages the NPDES Program for coal mining and quarry activities for the DWWM. The Division of Mining and Reclamation is divided into four permitting regions with two permit review teams. The NPDES permit writers fall under the Hydrologic Protection Unit (HPU) in the Permitting Section of the Division of Mining and Reclamation.

In the March 2002 reorganization of the DWWM, all permitting and engineering functions were combined under the Permitting and Engineering Branch. In January 2003 the Permitting Section itself was restructured slightly to better utilize existing personnel and to improve the overall management of the section. Organization charts are provided at the end of this profile.

Funds for the implementation of the NPDES Program are obtained through State appropriations, permit application fees, and grants from Region 3 under Clean Water Act (CWA) sections 106 and 104(b)(3). As of February 2, 2004, the Permitting Section consisted of 40 full-time equivalents (FTEs), including

five vacancies. The fiscal year (FY) 2004 budget for the permitting program in DWWM was \$3,267,776. In addition, the Environmental Enforcement Office provides compliance and enforcement support to the NPDES program. This office has an additional 30 FTEs with an annual budget of \$2,518,205. The combined FY2004 budget for both offices was \$5,785,981, of which \$1,484,961 was from the CWA section 106 grant.

The State has another 25 FTEs to support the mining program. The permitting budget of the Division of Mining and Reclamation for FY2004 was \$9,250,410. NPDES compliance and enforcement are administered by the Division's Inspection and Enforcement Section. The Division has 94 inspectors, who are required to inspect mining sites monthly.

The State also manages the following water programs:

The Watershed Branch within the DWWM is responsible for the water quality monitoring program and implementation of the total maximum daily load (TMDL) program. This branch provides technical assistance to the State's permit writers on the interpretation of biological assessments and evaluation of thermal variances under CWA section 316(a). It also provides the instream background data for the calculation of water quality-based effluent limits (WQBELs).

The West Virginia Environmental Quality Board (WV EQB) is responsible for issuing rules setting water quality standards for West Virginia's surface waters and groundwaters. The ultimate approval authority for water quality standard regulations in West Virginia rests with the legislature. In addition, WV EQB hears appeals from permitting and enforcement decisions made by DWWM. Citizens and the regulated community may file appeals with WV EQB.

The Nonpoint Sources and Watershed Framework Branch within DWWM administers the State's nonpoint source (NPS) program. The NPS program coordinates a multi-agency effort to address NPS pollution through program initiatives based on education, technical assistance, financial incentives, demonstration projects, and regulation. The NPS program sponsors multi-agency nonpoint source projects to restore high-priority impaired watersheds through the coordination of the West Virginia Watershed Management Framework.

According to the July 9, 2004, Management Report, the total universe of individual NPDES permits in West Virginia is 1,011 permits, including 98 major permits and 913 minor permits. In addition, West Virginia has indicated that it has approximately 3,914 non-stormwater minor facilities covered by general permits.¹ West Virginia also has 742 industrial facilities and 270 municipal facilities covered by individual NPDES permits. The State does not have any large municipal separate storm sewer systems (MS4s) under Phase I of EPA's stormwater program. The West Virginia Department of Environmental Protection (WVDEP) has 39 small MS4 facilities covered by the State's small MS4 general permit.

¹ The National Data Sources column of the Management Report, measure #3, indicates that West Virginia has 3,387 minor facilities covered by non-stormwater general permits, whereas the above text indicates 3,914 facilities. The number in the text is based on information provided by the State in July 2004, while the National Data Sources data for this measure are as of the March 2004 ePIFT report.

Training programs are in place for all permitting staff. New permit writers usually attend the next available EPA-sponsored NPDES Permit Writers' Training Course. In-house training is also provided for new permit writers through the implementation procedures available through the WVDEP's Web site. Existing personnel are encouraged to attend seminars and courses to keep up-to-date with new and emerging wastewater technologies and regulatory procedure revisions. The State uses EPA Region 3's permit checklist to assist new permit writers with the implementation of the core elements of the NPDES program. West Virginia NPDES program managers attend the Region 3 Annual NPDES States Meeting, where current NPDES permit program issues from the national, Regional, and State perspectives are discussed.

EPA Region 3:

Biosolids: For the biosolids program, EPA Region 3 has one staff person, the biosolids coordinator, devoted to all Region 3 States. No Region 3 State has authorization for the biosolids program. EPA is considering funding opportunities to provide incentives to States to pursue program delegation and increase the resources assigned to the program. This could increase efficiency in the implementation of the program and eliminate the duality of State and federal implementation of biosolids requirements.

2. State Program Assistance

EPA Region 3:

Biosolids: To date, none of EPA Region 3's States have sought program authorization of the biosolids requirements at Title 40 of the Code of Federal Regulations (CFR) part 503. Therefore, EPA Region 3 is responsible for administering the part 503 requirements in West Virginia. West Virginia, however, does have its own State program for the use or disposal of sewage sludge. The State has shown some interest in seeking program authorization.

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 West Virginia:

West Virginia encourages public participation in its NPDES decision process. This process is acknowledged in Chapter 22, Article 11, of the West Virginia Code and Title 47, Series 10, Section 12, of the Legislative Rules and for mining permits in Title 47, Series 30, Section 10, of the Legislative Rules. Neither State code nor legislative rule defines the term "public." However, Chapter 22, Article 11, Section 3, Part 15, of the West Virginia Code defines "person" as an individual, partnership, association, corporation, industry, governmental agency, or public body.

All proposed permit actions are submitted for a 30-day public notice by publication in newspapers circulated in the geographic area of the proposed discharge. A WVDEP Public Information Office contact is included in the public notice and fact sheet so the public can obtain further information or provide written comments about the proposed permit action. Any person may provide comments to WVDEP in response to the proposed permit actions. The State addresses the comments received during the public comment period through a written response.

Any interested person or agency may request a public hearing on a draft permit. WVDEP reviews the request, and if sufficient concerns about the draft permit and water quality issues are expressed, a public hearing may be held. WVDEP also evaluates an application for a draft permit to determine whether there is a significant degree of public interest on issues concerning the draft permit. If so, a public hearing may be held during the draft permit proceedings. WVDEP holds public hearings for all general permit issuance and reissuance proceedings. Public notice of a public hearing is given at least 30 days before the hearing. The public hearing is usually held near the discharge site. The hearing is recorded, and a copy of the recording or a written transcript is made available to the public.

Another tool that the public can use to obtain information about the State's NPDES program is the WVDEP Web site, <http://www.wvdep.org/item.cfm?ssid=11>, which contains information on organizational contacts, news, laws and regulations, online services, a newsletter, the WVDEP Annual Report, environmental permit information, and copies of final general permits. Draft permits are not available on the Internet. Information on pending applications and final permit actions, including facilities covered by general permits, is available on WVDEP's Web site at: http://www.wvdep.org/WebApp/_dep/search/Permits/OWR/OWRPmtsearchpage.cfm?office=OWR.

For mining permits, the State requires that the applicant place a public notice in the newspaper, and proof of publication and a copy of the ad are required to be submitted by the applicant. The State has a new public notice online email system that allows interested citizens to receive daily emails on any public notices.

The public has access to all permit records, including fact sheets, permits, enforcement actions, and correspondence, during regular business hours. Enforcement documents are primarily stored in a central file. These documents are subject to full disclosure except for those determined to be confidential, entitled to protection as a trade secret, or otherwise exempt from disclosure pursuant to the West Virginia Freedom of Information Act. Procedures for the review and acquisition of copies of documents are established under the West Virginia Freedom of Information Act.

As part of the public notice process, WVDEP continues to maintain and use a mailing list of interested parties who have requested copies of the proposed WV/NPDES permits, fact sheets, or public notice documents. Those parties receiving direct mailings may include municipal, State and federal agencies; public interest groups; concerned citizens; and any other requestor. In fact, WVDEP is currently involved in a collaborative effort with concerned citizens to improve this overall process. Public notice is being improved with a new public notice online email system that will allow interested citizens to receive daily emails on any public notices of interest to them. This new email system will be more inclusive and timely than the monthly Public Notice Bulletin it is replacing and should be fully operational by April 1, 2004.

EPA Region 3:

As part of EPA's initiative to place NPDES permits on the Web through Envirofacts, major permits issued since November 1, 2002, including several permits and fact sheets issued by the State, are available through EPA's Web site. Instructions for accessing these documents are available at <http://www.epa.gov/npdes/permitdocuments>. As of May 17, 2004, 21 of 24 major permits issued by West Virginia since November 1, 2002, have been posted on the Web site. The remaining three are being added to the Web site.

6. Permit Issuance Management Strategy

The State of West Virginia:

On March 27, 2003, the State of West Virginia and several federal and State agencies signed the West Virginia Watershed Management Framework. The Framework identifies watershed issues around the State and works to coordinate efforts to more effectively implement water quality improvement projects on a 5-year cycle. This approach has allowed West Virginia to schedule permit issuance with the objective of establishing the most efficient plan for water quality monitoring, inspections, permit reissuance, and TMDL development. Under this approach, all the permits in each individual watershed expire and are reissued in the same year. Each of the thirty-two 8-digit hydrologic unit code (HUC) watersheds in the State is placed in one of five watershed groups, A through E. The entire schedule will be repeated every five years in the same order. A complete cycle of permit reissuance will occur every 5 years, with approximately 20 percent of the permits being reissued each year.

Thus, West Virginia uses a watershed permitting approach. Permits are issued for 5 years in a particular watershed during a particular State fiscal year, and all are set to expire and be reissued based on the 5-year cycle. For example, during State FY2004 Watershed D permits will be reissued and during State FY2005 Watershed E permits will be reissued. Permittees are sent reissuance applications approximately 1 year before their permits expire in an effort to have a completed application submitted to the agency at least 6 months before a permit's expiration date. Each year, permits are assigned to permit writers before the start of the fiscal year in an effort to manage the workload. Complexity in reissuing major permits is considered when workloads are assigned to ensure timely permit reissuance.

The use of general permits has helped the State to reduce the backlog for minor facilities. West Virginia has issued seven non-stormwater general permits, which cover 3,914 facilities. The current backlog for the minor facilities covered by these general permits is 1.7%. These general permits address the following categories: groundwater remediation, vehicle washing establishments, home aeration units, sewage facilities with less than 50,000 gallons per day, municipal potable water supply, hydrostatic pressure test water, and sewage sludge disposal. At present, approximately 75% of the non-stormwater minor facilities are covered by general permits. As a result, as of December 2003 the State had reduced its minor facilities backlog to 11.1%.

West Virginia has done an outstanding job in reducing the major permits backlog while implementing its watershed permitting approach. In 2000 only 45% of the State's major facilities were operating under current permits. As of December 2003 that figure had improved to 93.9%. West Virginia has three major permits expired for longer than 2 years and none expired for longer than 10 years. There are 220 minor individual permits expired for longer than 2 years and 17 for longer than 10 years.

Although West Virginia has a low backlog for major facilities, the present backlog for individual minor permits is 45.3%. The main reason for the high backlog level for minor facilities is that the watershed cycle has not been an effective tool for equally distributing workload for the coal NPDES permits. About 57% of the coal permits fall in two watersheds (State watersheds B and C). During 2002 and 2003, WVDEP regions operating in these watersheds experienced an overload in the number of reissuance applications submitted for processing. The State hired six new permit writers in 2002 and 2003 to help in permit review. The State anticipates that 107 coal permits will be reissued in calendar year 2004. With the additional staff and lighter loads expected this year, the backlog is expected to be under control by end of year 2004. Year 2005 offers a challenge because 351 reissuance applications are expected. With the current available staff and additional planning, however, the number of expected applications in 2005 will not have the negative impact experienced in 2002 and 2003. EPA Region 3 will continue to track the State's progress on the reduction of minor permit backlog.

Table: NPDES Universe in West Virginia

FY2003	Major Facilities	Minor Facilities with Individual Permits	Minor Facilities with General Permits	SIUs (including CIUs)	CAFOs
No. of Sources	98	913	3,914	90 (14 CIUs)	30
% of National Universe	1.5%	2.2%	10.0%	0.4%	0.2%

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

	2000	Nat'l Avg.	2001	Nat'l Avg.	2002	Nat'l Avg.	2003	Nat'l Avg.	2004
Major Facilities	54.8%	74%	59.1%	76%	81.6%	83%	93.9%	84%	98.0%
Minor Facilities Covered by Individual Permits	52.9%	69%	57.2%	73%	56%	79%	54.7%	81%	52.9%
Minor Facilities Covered by Individual or General Permits	N/A	N/A	N/A	N/A	80.0%	85%	88.9%	86%	88.7%

Source: Permit Compliance System (PCS): 12/31/00; 12/31/01; 12/31/02; 12/31/03; 7/14/04 ePIFT, 7/9/04 Management Report. (The 98.0% for major facilities in the 2004 column is based on ePIFT data as of 7/14/04 and therefore does not match the National Data Sources column on the Management Report, measure #19, which is based on PCS data as of 6/30/04.)

EPA Region 3:

In 2001 Region 3 and each of its States developed permit review plans to assist in tackling the backlog issue. These plans were developed to identify and prioritize permits for State development and helped to streamline EPA review and oversight. Each year West Virginia identifies in its section 106 grant workplan the list of permits that will be issued during the fiscal year. This list identifies the permits targeted for reissuance based on the State's watershed permitting approach. Region 3 intends to convert from its Permit Review Plan process to the Permitting Prioritization process under the Permitting for Environmental Results (PER) Strategy.

7. Data Management

The State of West Virginia:

Each State that administers the NPDES program must determine what information is critical to track on a routine basis, while preserving those documents for each facility. Included in the critical information tracked by the State are the data that help meet regulatory requirements and EPA's expectation for data exchange. Data exchange is a key component for the cooperative and coordinated partnership necessary to successfully and effectively administer the NPDES program. Ultimately, EPA's data exchange expectations are geared to meet the State's regulatory requirements to generate quarterly noncompliance reports (QNCRs) for major permittees and annual noncompliance reports (ANCRs) for minor permittees, meet EPA's oversight responsibilities established in the MOA, and address national priorities. EPA established the Permit Compliance System (PCS) to track data electronically. As discussed below, PCS is not always the sole source of data to meet these expectations.

Electronically managing data is the most effective means to monitor and track a facility's permit and compliance status, and it facilitates the data exchange between WVDEP and Region 3. Region 3 uses PCS to manage most data electronically, as well the Permit Tracking System (PTS), a Microsoft Access database. PTS is used to supplement PCS, and it provides a means to better track EPA's process for reviewing permits, as well as any permit that the Region may want to track for which information cannot be entered into PCS. Region 3 also incorporates manual reporting from the States in situations where PCS has limitations or where there are financial restrictions, requests copies of documents to be transmitted to EPA, or performs on-site reviews to obtain documents. Failure to use PCS to report data is not necessarily deemed by Region 3 as a program deficiency so long as the data are made available.

WVDEP uses a combination of its own electronic management systems, such as the Environmental Resources Information System (ERIS), PCS, and the Enforcement Tracking System (ETS), a Lotus Approach database. ERIS was designed to share information with PCS, but thus far ERIS can handle only permit and facility information. PCS is updated through monthly electronic uploads from ERIS, which must be manually initiated. PCS is still the primary tool for tracking compliance information, such as inspection data, and limited enforcement data. This information is directly keyed into PCS. The primary tool used for tracking a facility's compliance with an enforcement action is ETS, which includes additional information not contained in PCS to assist in developing financial reports.

Region 3 has provided relatively consistent guidance to WVDEP regarding its expectations for which types of data to input into PCS but recently has added additional fields to the list. In FY2004, for major and minor permittees, EPA Region 3 expected WVDEP to enter the following types of data:

- Facility name, NPDES number, facility address, city code, county code, cognizant official and telephone number, type of ownership, subregion
- River basin, receiving water, facility latitude/longitude code of accuracy, outfall level latitude/longitude
- Standard Industrial Classification (SIC) code, average design flow
- Issued by, type of application
- P1099-Application Received
- P3099-Draft Permit/Public Notice
- P4099-Permit Issuance
- P6099-Permit Effective
- P5099-Permit Expiration
- 30099-Permit Modified
- P6599-Reopener
- P7099-Stays
- P7199-301(c) Variance
- P7299-301(g) Variance
- P7399-301(I) Variance
- P7499-301(k) Variance
- P7599-316(a) Variance
- P7699-316(b) Variance
- P7799-Fundamentally Different Factor Variance
- Inspection date, inspection type, inspector (e.g., State), inspected facility type
- Enforcement action date, code, file number, status code, status date, type of order, compliance schedules
- CSO schedule events

- Pretreatment data

In addition, for major facilities, Region 3 requires effluent limits, discharge monitoring report (DMR) data, and single-event violations to be entered.

Region 3 pulls the QNCRs for West Virginia directly from PCS. In addition to electronic reporting through PCS, Region 3 receives DMRs and inspection reports for major facilities and some minor facilities, as well as copies of enforcement actions for major and minor facilities.

For the facilities tracked in PCS, Region 3's Office of Compliance and Enforcement performs routine quality assurance and quality control (QA/QC) checks for data completeness. In fact, some first-time QA/QC checks are currently being performed for the combined sewer overflow (CSO)-related schedules in preparation for negotiating commitments for FY2005. WVDEP's rate for entering DMRs into PCS is 98%, which is above the national average and above Region 3's 95% performance goal. Overall, West Virginia has a high level of data completeness in PCS and timely entry of data into PCS with a few exceptions.

Based on information provided by EPA Headquarters and Region 3's QA/QC checks for data completeness, there is one area for which enhancement is needed. WVDEP asserts that it maintains accurate and complete latitude/longitude data in ERIS, yet 61.3 % of those data are in PCS. Although there is no specific requirement for WVDEP to ensure completeness of latitude/longitude data for outfalls, Region 3 believes this information is key in using more effective means, such as a geographic information system (GIS), for targeting compliance inspections and facilitating watershed-based programs. GIS is a technological advance that became available after most minimum requirements had been established. Region 3 believes that since the location of outfalls is relatively constant, meeting the 100% national bar is reasonable. West Virginia has met the intent of this expectation through its own State database. It is believed that the latitude/longitude data has been transferred to PCS with other data from ERIS; however, PCS is not accepting the data. This is an area that needs further investigation to determine the cause of the data transfer impediment from ERIS to PCS and to identify the course of action to resolve the latitude/longitude discrepancy. If this goal is not achieved by the end of FY2004, Region 3 will request a strategy in West Virginia's FY2005 federal grant program established under CWA section 106.

On a related note, another potential opportunity for enhancement is in the area of metadata for latitude/longitude. The March 2004 PCS cleanup progress report indicates that metadata are significantly less complete than latitude/longitude data in all areas, facilities, and pipes for both major and minor facilities. For example, pipe latitude/longitude is 89% complete for major facilities, but metadata are only about 30% complete. Facility latitude/longitude is 66% complete for minor facilities, but metadata are only about 40% complete. If West Virginia can demonstrate that metadata are complete in ERIS, Region 3 would be satisfied with only the latitude/longitude coordinates in PCS.

It was brought to EPA Region 3's attention that locational data (the fields for street address, city, State, and ZIP Code) for minor NPDES facilities were significantly missing. PCS allows two addresses to be entered, a facility address and a locational address; this is analogous to the difference between billing and shipping addresses. In practice, EPA Region 3 States have not entered both address fields if the two addresses are the same. In those cases, data are entered into the facility address fields rather than the

locational address fields. This practice has been consistent with section 106 grant commitments. If reasonable changes to future grant workplans are necessary, EPA Region 3 will implement those changes by revising section 106 grant guidance. Changes could be implemented in FY2005/2006.

There are some notable limitations to the universe of facilities being tracked by PCS. The acceptability of those limitations is governed by the MOA, work plans for federal grants, and the State's ability to meet regulatory reporting requirements and is discussed with each category.

The general rule of thumb is that all individual permits are in PCS, including all major facilities and some minor facilities. Due to the increasing number of NPDES permitted facilities, West Virginia, like most other States, has moved toward general permits to effectively manage the regulation of point sources with similar processes. Although some minor facilities under general permits might be added into PCS for case-specific reasons, minor facilities (under general permits) are not typically tracked in PCS, but rather through ERIS and ETS. For purposes of entering data into ERIS and ETS, each facility is assigned a unique registration number that is entered into ERIS with the general permit number.

The MOA between EPA and WVDEP provides for the responsibilities of the State as the delegation authority and the oversight responsibilities of EPA. The MOA signed in 1982 does not specifically address PCS. West Virginia did not begin entering data into PCS until about 1987. However, it is clear from the underlying guiding principles of the MOA that oversight would focus on major facilities and those that affect interstate waters. Therefore, the limitation of minor facilities under general permits not being entered into PCS does not seem to conflict with EPA's traditional oversight responsibility.

With the emergence of wet-weather facilities as a priority area, oversight responsibilities have expanded to include many minor facilities whose universe far exceeds the universe of major NPDES facilities. The lack of information on minor facilities under general permits means Region 3 does not have readily available information. Under the MOA, the mechanism for addressing priority areas is the federal grant program established under CWA section 106. EPA and WVDEP work cooperatively to balance resources while maintaining adequate oversight. Because ERIS and ETS are available, WVDEP's ability to manage data for wet-weather facilities in PCS is less a priority than the increase in workload for issuance of permits, compliance inspections, and enforcement actions. Thus far, WVDEP has met EPA's need for data exchange without relying solely on PCS. Below is a discussion of the data management for wet-weather facilities.

Most of West Virginia's stormwater universe is under general permits, specifically industrial, construction, and small MS4 stormwater facilities. These general permits, as far as the facility and permit data elements, are tracked in ERIS but not in PCS. Again, as stated as a general rule earlier, compliance and enforcement data are not tracked in ERIS; consequently, compliance data are not being tracked in ERIS or PCS. Furthermore, WVDEP does not have an alternative electronic method for tracking compliance data. These types of stormwater facilities are considered minor facilities; therefore, Region 3 does not require permit limits and DMR data to be entered into PCS. This is an area where there is no requirement for information to be entered into PCS; the area is governed primarily by grant work plans. Although Region 3's general expectation is that the basic facility and permit information is entered into PCS as it is for other minor facilities, the grant funding is not sufficient to provide the resources needed to achieve this expectation. Region 3, at this time, is satisfied that basic information is being tracked electronically through ERIS, as long as manual reports can be generated to satisfy

regulatory or other priority reporting requirements. Thus far, WVDEP has complied with EPA's requests for manual reporting of stormwater activities. In addition, through monthly tabulations of enforcement actions, WVDEP reports monthly to EPA the number of stormwater inspections conducted. Also, EPA receives copies of enforcement actions related to stormwater facilities, although the copies are not in electronic format.

Another wet-weather category for which some States may track in PCS is concentrated animal feeding operations (CAFOs). West Virginia has identified only two facilities that meet the definition of a CAFO. These facilities are racetracks regulated under traditional NPDES permits for treated wastewater discharges and are tracked accordingly in PCS, ERIS, and ETS, as applicable. EPA receives copies of inspection reports and enforcement actions related to these facilities, as well as some inspection reports and enforcement actions for non-CAFO agricultural facilities or animal feeding operations (AFOs), although these materials are not in electronic format.

For combined sewer communities (CSCs) and separate sewer communities (SSCs) with wastewater treatment plants under an individual permit, overflows from the collection systems under the communities' control are regulated by the NPDES permit. Components of the facility, permit, and compliance enforcement data are tracked in PCS, ERIS, and ETS. CSCs and SSCs with wastewater treatment plants under general permits are not tracked in PCS, but some components are tracked in ERIS and ETS. Satellite CSCs and SSCs without wastewater treatment plants are assigned individual permits and are accordingly tracked in PCS, ERIS, and ETS. Region 3 uses PTS to identify municipalities as CSCs or SSCs, as applicable, and to store various information. Routinely or as permits are issued, EPA populates PTS with these data and compares notes with WVDEP. Unauthorized sewage discharges are tracked in ERIS as spills, so WVDEP has been able to provide spill information to EPA that can be used to populate PTS with facilities that would not otherwise be tracked in PCS.

There are three other categories of facilities that have limitations concerning how much information is in PCS: municipal facilities that generate biosolids, non-municipal facilities that utilize biosolids, and municipal facilities required to have pretreatment programs. West Virginia does not have authorization for the NPDES biosolids program but instead has a State permitting program. For municipal facilities, biosolids requirements are incorporated into the NPDES permits. Municipal facilities that generate biosolids and municipal facilities required to have pretreatment programs are tracked in ERIS, PCS, and ETS with the same guiding factors as individually permitted major and minor facilities and minor facilities covered under general permits. At municipal facilities, looking at a facility's compliance with biosolids and pretreatment requirements is included in the Compliance Evaluation Inspections (CEIs) and Compliance Sampling Inspections (CSIs), which are entered into PCS as CEI and CSI inspection data. Copies of CEI/CSI inspection reports for municipal major and minor facilities are also submitted to EPA. Region 3 actually collects the annual DMRs from municipal facilities that generate biosolids and enters the data into PCS. Non-municipal biosolids facilities permitted in West Virginia are tracked in ERIS and ETS. In addition, through monthly tabulations of enforcement actions, WVDEP reports monthly to EPA the number of non-municipal biosolids inspections conducted. In addition, EPA receives copies of enforcement actions related to any biosolids generating facility, although the copies are not in electronic format.

Methods used to collect latitude/longitude data include the use of global positioning system (GPS) units and mapping software, using the information provided on the application, or both. ERIS has a validation

routine that validates the latitude/longitude information with the address information entered into ERIS. When these do not match, ERIS does not allow the record to be saved. For mining permits all new applications submitted after July 1, 2002, will have the coordinates of the discharge points verified through the Watershed Characteristic Modeling System (WCMS) using ArcView as the GIS.

West Virginia, in coordination with EPA Region 3, has conducted PCS data cleanup. This has helped to eliminate about 400 minor individual permits that were inactive and otherwise would have been counted as expired permits.

Section II. NPDES Program Implementation

1. Permit Quality

The State of West Virginia:

The basis for all WQBELs is set forth in the fact sheet for major permits or the basis for limitations for minor permits. The explanation includes a discussion of the reasonable potential analysis (an assessment of the reasonable potential to cause or contribute to a violation of water quality standards), any applicable mixing zone analysis, and data used to determine receiving stream background concentrations. The State uses background concentration data collected in the watershed monitoring program in its reasonable potential analysis. For impaired waters that have not yet had a TMDL developed, WVDEP uses WQBELs protective of the standards at the end of pipe. No mixing zones are granted for those parameters for which the receiving water is impaired. The permit may be evaluated for modification after development of the TMDL.

West Virginia includes Whole Effluent Toxicity (WET) monitoring requirements in NPDES permits to generate data for use in assessing compliance with an existing WET limit or to assess whether a WET limit is needed. At a minimum, toxicity testing is required for major permits at least once during each permit cycle. Some WET testing is performed by the State in cooperation with EPA Region 3's Wheeling, West Virginia, laboratory. West Virginia performs a reasonable potential analysis to assess whether a WET limit is needed using the statistical approach recommended by EPA in its "Technical Support Document for Water Quality-based Toxics Control." If reasonable potential is found, WET limits are imposed in the permit. The State has developed a spreadsheet to determine the need for chemical-specific and WET-based WQBELs. This spreadsheet has helped to increase consistency in the calculation of WQBELs.

West Virginia imposes 85% removal permit limits for 5-day biochemical oxygen demand (BOD₅) and total suspended solids (TSS) for municipal permits consistent with the secondary treatment regulations. The State requires influent monitoring data for the calculation of the 85% removal requirement for BOD₅ and TSS.

The State uses available sources to identify background data, including STORET (an EPA database), application data, and site-specific monitoring. Where no reliable background data exist, the State reserves some of the total loading capacity to act as safety factor. Where data are available, the State calculates the background concentration using an arithmetic mean for toxics and a geometric mean for coliform bacteria.

EPA Region 3:

The last formal EPA assessment of the whole West Virginia NPDES process was conducted in 1996 and included all Region 3 delegated States. It included file reviews, interviews with State permit writers and managers, and a simulated permit exercise. The mock permit exercise was designed to assess the methods used to calculate and apply WQBELs. The findings and recommendations formed the basis for discussions with the State, and many have been addressed since then.

Based on EPA Region 3's review of draft permits over the past few years, the tools discussed below and EPA's oversight efforts have helped to address the findings and recommendations from previous reviews or to confirm implementation of program requirements.

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

Region 3 has also developed and maintains the PTS as a tool to supplement the national PCS database information. Information in PTS assists the Region's NPDES Permits Team and Division management in tracking draft permit reviews and permit development; provides detailed information such as locations of CSO and stormwater outfalls; and allows the Region to identify permitting issues such as CAFO information, impaired waters and TMDL requirements, and regulatory requirements under CWA sections 316(a) (thermal discharges) and 316(b) (cooling water intakes).

For the past 19 years, EPA Region 3 and Region 3 States have held an annual "States NPDES Meeting" to discuss NPDES permit issues. In May 2003 about 80 State participants joined representatives from other federal agencies, the River Basin Commissions, and EPA Headquarters and Regional staff to discuss the latest policy, procedures, and expectations in the NPDES compliance, permits, and TMDL programs. The meeting also included separate breakout sessions on coal mining issues and enforcement and compliance assistance.

EPA Region 3 and its States have developed an NPDES permit checklist to use in developing draft NPDES permits. This checklist was developed by the States and the Region with help from EPA Headquarters, with the central tenets in mind, to ensure the quality of draft NPDES permits. The checklist was conceived to reduce resources spent on permit oversight and ensure consistency while serving as a management tool for the States and EPA, adding quality control and including State certification that draft permits have met all regulatory requirements. West Virginia has been submitting draft permits to Region 3 accompanied by the checklist, which has reduced the EPA review period to about 10 days, compared with 30 days for draft permits submitted without the checklist. The use of the checklist has aided in reducing the Region's backlog numbers.

EPA Region 3 conducts permit quality reviews using the NPDES permit checklist; review of permit applications, DMRs, water quality model information, and fact sheets; and review of the PTS database that tracks the regulatory history of NPDES permits in the Region.

Region 3 has developed a program that tracks the 12 oldest expired major permits in the Region. The list is constantly updated: as one permit is issued, another backlogged permit takes its place, so that 12 backlogged permits are always on the list. Most of these permits deal with complex permit determinations and are resource-intensive. Since May 2001 West Virginia has issued four permits listed on EPA's "daunting dozen" list. West Virginia does not have any facility on this list at present.

Region 3 has used these tools to ensure that West Virginia's NPDES permits are issued consistent with the federal and State requirements. The State documents all its permit decisions in the fact sheet. When issues arise, the EPA Regional permit writer discusses them with his or her counterpart at the State, resulting in very few cases where the Region has needed to issue a permit objection to address the Regional concern.

2. Pretreatment

The State of West Virginia:

The State has nine approved pretreatment programs with a total of 90 significant industrial users (SIUs).² There are also 58 SIUs in cities that do not have, and are not required to have, a pretreatment program. All the SIUs have control mechanisms. Of the 33 categorical industrial users, 14 are in cities with pretreatment programs and 19 are in cities without pretreatment programs.

The State requires permits for all nondomestic dischargers to a publicly owned treatment works (POTW). A POTW accepting nondomestic wastewater notifies WVDEP and submits an industrial user (IU) form. Based on the guidelines in 40 CFR part 403, WVDEP determines whether the nondomestic discharger is significant or nonsignificant. The control authority establishes permit limits for the industrial user based on the appropriate categorical standards and local limits based on the treatment capacity of the POTW. The State issues permits to SIUs and non-SIUs in nonapproved cities; the POTW issues permits to SIUs in its approved service area. The IU is required to submit self-monitoring data to the POTW by using the DMRs. The POTW attaches the DMRs to its own, which are then submitted to the State. If the POTW has any instance of significant noncompliance, all the SIU DMRs are reviewed.

EPA Region 3:

EPA Region 3 performed an audit of WVDEP's pretreatment program in September 1997 and identified areas for improvement. In particular, the State needed to improve its oversight of approved pretreatment programs, including the need to conduct inspections and audits. To help improve program oversight, EPA Region 3 staff began conducting pretreatment compliance inspections (PCIs) of the approved programs in West Virginia. The Region also conducted several field audit inspections to determine whether the POTWs were sampling regulated IUs. The Region served as mentor to State pretreatment staff, who accompanied the Regional inspector on audits and inspections. The Region requested the State to develop a corrective action plan to address all identified deficiencies.

In the past 2 years, WVDEP has improved the implementation of the pretreatment program. The State now conducts inspections on its own and conducted four in 2004. On the basis of the inspection results, the State is recommending corrections to IU permit language and is initiating select program modifications. The State approved a new pretreatment program in 2003 for the City of Clarksburg. No existing POTWs need to develop an approved pretreatment program.

² The National Data Sources column on the Management Report, measure #9, indicates that West Virginia has 75 SIUs in cities with approved pretreatment programs, while the above text indicates 90 SIUs. The reason for the difference is that the number in the text was reported by the State in August 2004, whereas the Management Report for this measure reflects PCS data from June 2004.

WVDEP should conduct audits of all the approved programs within the next several years, at a frequency of at least once every 5 years for each approved program. This should be supplemented by periodic PCIs, field audits, or both. The most recent audits of record were conducted in 1994. The State should develop a plan to enter all pretreatment Water Enforcement National Database (WENDB) data, including SIU and inspection and annual report data, into PCS.

3. Concentrated Animal Feeding Operation

The State of West Virginia:

The CAFO permitting program in West Virginia is still under development. There have not yet been any individual CAFO permits written in the State. However, West Virginia is in the process of writing a general WV/NPDES permit to cover CAFOs within the State. A draft general WV/NPDES permit is being put together with assistance from other State and federal agencies such as the Department of Agriculture, Farm Bureau, West Virginia University Extension Agency, and Natural Resources Conservation Service (NRCS), as well as various industry representatives and environmental representatives. WVDEP hopes to have the draft CAFO general permit in public notice to receive public comments by October 2004, to hold public meetings around the State, and to issue a final CAFO general permit by April 2005. The permit will address nutrient management plans (NMPs) and the “nine minimum standards.” West Virginia is in the process of revising its NPDES regulations for CAFOs and adopting a nutrient technical standard to be consistent with federal CAFO regulations before issuance of the general permit. The permit requirements will be based on EPA’s effluent limitation guidelines and new CAFO regulations. The NMPs being developed for West Virginia CAFOs will be developed by certified planners.

EPA estimates that 30 CAFOs may be subject to the new regulations. West Virginia currently does not have an exact universe of CAFOs subject to coverage under this general permit. To date, West Virginia has identified two facilities that meet the definition of a CAFO. These facilities are racetracks regulated under traditional NPDES permits for treated wastewater discharges and are tracked accordingly in PCS, ERIS, and the ETS. Aggressive public education on the implementation of the CAFO program is necessary in West Virginia to make people aware of what qualifies a facility as a CAFO. EPA is also funding a project in West Virginia on outreach to CAFOs.

WVDEP has not been involved in the development of NMPs by AFOs. The State will use the NRCS NMP guidance in the implementation of the CAFO program. The NRCS and the Department of Agriculture are the agencies that have been developing NMPs in the West Virginia farming industry through voluntary programs.

Upon coverage under the general WV/NPDES General CAFO permit, inspections will take place frequently until WVDEP can determine that permittees are complying with the CAFO requirements. It is the hope of WVDEP that permittees that have enforcement problems will be able to use the voluntary services of the NRCS, the Department of Agriculture, and the West Virginia Extension Service to gain compliance with the CAFO permit requirements. Environmental inspectors within WVDEP need to be effectively trained on the CAFO permit and how to evaluate NMPs and best management practices (BMPs). Upon completion of this training, the environmental inspectors should be given the task of measuring and evaluating the effectiveness of NMPs.

4. Storm Water

The State of West Virginia:

West Virginia has issued stormwater general permits for industrial activities, construction activities, and small MS4s. West Virginia has three stormwater general permits in place, which cover about 2,211 stormwater discharges in the State. The stormwater facilities covered by the general permits are composed of 1,315 construction activities, 857 industrial activities, and 39 small MS4s.

Industrial: West Virginia reissued its Multi-Sector Industrial Storm Water Permit on April 1, 2004. This permit covers about 857 facilities.

Construction: West Virginia has covered construction projects with 3 acres and greater of earth disturbance since 1992, first under the Industrial Storm Water General Permit and then in 1997 under a separate Construction Storm Water General Permit. For these projects the State requires developers to submit a site registration application (SRA) and a stormwater pollution prevention plan (SWPPP). DWWM reviews the SWPPP for administrative completeness and technical correctness. There are about 1,315 construction facilities subject to this general permit.

In December 2002, West Virginia reissued the Construction Storm Water Permit and lowered the threshold for coverage to 1 acre of earth disturbance. For construction sites between 1 acre and less than 3 acres, a notice of intent (NOI) is required to be submitted by the developer. The NOI is a simplified SRA and does not require that an SWPPP be submitted. The permit does require that an SWPPP be developed and implemented and kept on-site for agency personnel review.

Stormwater discharges associated with construction activities for oil and gas operations regulated pursuant to West Virginia Code Chapter 22, Article 6 (Oil and Gas Operations), are covered by the Construction General Permit. Under this general permit, the Office of Oil and Gas will regulate runoff generated during the construction of roads, well sites, and some pipelines as it always has, as well as some additional requirements as spelled out in the permit.

Municipal: West Virginia issued the Small MS4 General Permit on March 7, 2003. Currently, 39 MS4s have submitted NOIs to be covered by this general permit. The State does not have any Phase I MS4s required to have permit coverage.

West Virginia provides public notice for each small MS4 that submits an NOI for coverage under the State Small MS4 General Permit. The State also issues public notices for new industrial facilities that submit NOIs for coverage under the Storm Water Multi-Sector General Permit. For the construction general permit, the State requires that within 24 hours of the filing of an NOI (for 1 to less than 3 acres) or an SRA (3 acres or more), the permittee must display a sign for the duration of the construction project near the entrance of the project or, for linear projects, at a location near an active part of the project that is accessible by the public. The sign must contain the following information:

- The registrant's name or the name of a contact person along with a telephone number
- A brief description of the project

- A statement indicating that the NOI or SWPPP, as applicable, has been filed with the State
- The address and telephone number where the NOI or SWPPP is maintained
- Notification that any person may obtain a copy of the NOI or SWPPP by contacting the State at (304) 558-4253

The sign must be a minimum of 2 feet by 2 feet and at least 3 feet above ground level. If it is not feasible to display a sign at or near the project, the registrant may, with prior approval from the State, post a notice containing the foregoing information at a local public building, including a town hall or public library.

All facilities that have submitted NOIs are tracked in the State Internet tracking system http://www.wvdep.org/WebApp/_dep/search/Permits/OWR/OWRPmtsearchpage.cfm?office=OWR. Also, the State sends a monthly report to EPA on permits issued by the State, including facilities covered by these general permits.

5. Combined Sewer Overflows/Sanitary Sewer Overflows

The State of West Virginia:

All CSO facility NPDES permits require the nine minimum controls to be implemented. Each entity develops its own public notification procedure on the health risks of CSO/Sanitary sewer overflow (SSO) events, which may consist of radio and television notices. The State requires annual notification of CSOs and requires that signs be posted at CSO outfalls indicating that there should be no contact with the water when the CSO is active.

- West Virginia has 55 CSO facilities.
- One community has eliminated all CSO outfalls.
- One community plans to eliminate all CSOs by sewer separation.
- Two communities are planning or have completed partial sewer separation.
- Three communities have completed projects to increase the design flow to the POTW to handle wet-weather flow.
- Thirty-nine entities have submitted long-term control plans (LTCPs), and the State has approved 23 of them. Two communities are under administrative orders to develop and submit an LTCP.
- Eight permits have been issued and six more applications have been submitted for the communities with approved LTCPs.

All the communities that have approved LTCPs are in the process of implementing them. NPDES permits reissued to CSO communities with approved LTCPs need WQBELs requiring compliance with

the numeric performance standards for the CSO controls based on maximum number of overflow events per year and minimum percent capture.

West Virginia has six communities (Beckley, Dunbar, Keyser, Martinsburg, Morgantown, and St. Albans) that are implementing their LTCPs. The City of Morgantown has submitted a request to WVDEP for a use attainability analysis (UAA) for its CSOs. EPA Region 3 is working with the State to address this request. WVDEP needs to coordinate the review of the UAA with the WV EQB. Also, WVDEP should coordinate the review and approval of the LTCPs with the WV EQB.

All the CSO communities in West Virginia are small communities, with populations ranging from 220 to 24,623. CSO communities in West Virginia face a host of challenges in implementing the CSO Policy, such as a limited population (64% of CSO communities have fewer than 2,000 customers), a limited funding base (median household income ranges from \$18,300 to \$49,310 and is less than \$30,000 for 82% of communities), and challenges associated with securing grant funding.

Region 3 has recently become aware that Phase II NPDES permits issued to CSO communities in the Region might not contain all the provisions required of Phase II permits and anticipates issuance of a final memorandum and guidance from EPA Headquarters regarding how NPDES permits must conform to the 1994 CSO Policy. The Region intends to research this issue further and follow up with States as deficiencies are identified.

West Virginia uses administrative orders to address SSO discharges. The State has included the following permit language for facilities with SSOs:

“Unless otherwise authorized under Section A of this permit, any discharge from any point other than a permitted treatment outfall or permitted combined sewer system is expressly prohibited. In the event there is a prohibited discharge from a sewer conveyance system, the permittee shall follow the reporting requirements contained in Appendix A, Part IV, Section 2.”

6. Biosolids

The State of West Virginia:

West Virginia is not authorized to administer the biosolids program under 40 CFR part 503. The DWWM has authority to administer its State program under sections 22-15-8, 22-15-20, and Title 33 Series 2 of the Legislative Rule. The effective date of the Legislative Rule was June 12, 2000. The West Virginia Division of Mining and Reclamation has a memorandum of understanding (MOU) with DWWM allowing the depositing of sewage sludge on surface mining operations as a soil amendment.

WVDEP inspects POTWs, land application sites, and haulers for compliance with biosolids requirements. A review of the biosolids requirements includes the inspection process at POTWs. These inspections, however, are not specifically coded as biosolids inspections; rather they are coded more generally, as compliance evaluation inspections. WVDEP reports manually to EPA monthly, through statewide monthly activity reports (SMARs), the total number of biosolids inspections at land application sites and the number of haulers. EPA keeps records of the SMARs. In FY2003, more than 60 land application sites and/or septic haulers were inspected. A review of inspection reports would be

required to determine the number of POTWs for which biosolids requirements were reviewed by WVDEP staff.

EPA Region 3:

EPA promulgated the Sewage Sludge Use or Disposal Regulation (40 CFR part 503) on February 19, 1993. This rule includes standards that apply to publicly, privately, and federally owned facilities that generate or treat sewage sludge as well as any person who uses or disposes of sewage sludge, or domestic septage. These standards consist of general requirements, pollutant limits, management practices, operational standards, and requirements for monitoring, record keeping, and reporting. The rule includes requirements for the beneficial use of sewage sludge, as well as the generation of high-quality sludge-based soil amendments and fertilizer products that are given away or sold on the open market. The rule is designed to protect public health and the environment when sewage sludge is beneficially applied to land, placed in a surface disposal site, or incinerated. It was developed according to the 1987 Amendments to the Clean Water Act.

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

Although West Virginia does not have EPA delegation to administer the Sludge Program under 40 CFR, Part 503, DWWM has authority to administer its State Program under sections 22-15-8, 22-15-20 and Title 33 Series 2 of the Legislative Rule. The effective date of the Legislative Rule is June 12, 2000.

WV Department of Natural Resources has a Memorandum of Understanding with WV Department of Environmental Protection allowing the depositing of sewage sludge on surface mining operations as a soil amendment.

EPA Region 3 developed a sewage sludge DMR form that is used by facilities required to report (i.e., all major facilities, any minor facilities required to have a pretreatment program) to EPA on February 19 of each year. The report information is entered into PCS. Region 3 obtains a printout from PCS to determine how much sewage sludge is generated annually and the amount of sewage sludge used or disposed of (i.e., land applied, surface disposed, sent to a municipal solids waste landfill, incinerated, or sent to another facility for treatment). Currently, 24% of West Virginia's sewage sludge is being land applied or distributed for reuse.

EPA Region 3 developed a sewage sludge inspection form for facilities that use or dispose of their sewage sludge and an inspection form for the land applicators of sewage sludge. To date, the Region has not inspected any facilities or land applicators of sewage sludge in West Virginia. Sewage sludge inspections can be entered into PCS. West Virginia includes sludge inspections during normal POTW inspections. West Virginia manually reports the number of sludge inspections at land application sites and haulers.

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

Section III. NPDES Compliance Monitoring and Enforcement Response

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

1. Enforcement Program

The State of West Virginia:

West Virginia's NPDES Enforcement Program is divided among two parts of WVDEP. Environmental Enforcement (EE) handles compliance and enforcement activities for various environmental programs, including traditional NPDES discharge permits; the Division of Mining and Reclamation manages compliance and enforcement activities for the coal mining and quarry industry. EE and the Division participate in quarterly meetings with EPA to discuss facilities in the QNCR. These quarterly enforcement meetings are EPA's process for evaluating a State's implementation of EPA's timely and appropriate (T&A) policy. EPA maintains documentation of these conference calls/face to face meetings. While EE and DMR do take T&A enforcement actions consistent with EPA's policy to address facilities with significant noncompliance (SNC) violations, EE and the Division use their discretion to prioritize taking formal enforcement actions against major and minor facilities that are causing actual environmental harm. With limited resources, WVDEP must maximize environmental benefit by taking immediate enforcement action against a facility that is contaminating a drinking water source or releasing toxic substances and therefore would be willing to allow some facilities with frequent violations for more conventional pollutants to linger in SNC before a formal enforcement action is taken. Region 3 has no current issues with WVDEP's failing to take T&A enforcement action but will continue to focus on the T&A policy during the quarterly enforcement meetings and, as appropriate, between meetings.

WVDEP routinely collects penalties as part of its administrative and civil enforcement actions and requires penalties to be held in abeyance and remitted if compliance is not compelled. Over the past 3 years, WVDEP has collected nearly \$2.3 million. When a facility does not return to compliance, WVDEP routinely escalates penalties, raises the action level through referrals, or both. The most recent case in which this has been demonstrated involved a small, economically challenged municipality with unauthorized CSOs and SSOs that had failed to operate and maintain its collection system and submit an LTCP. The municipality and WVDEP entered into a consent order with a settlement penalty of \$28,000. The facility failed to meet the terms of the consent order. The municipality and WVDEP entered into another consent order with a settlement penalty of \$187,500. After the facility failed to meet the first milestone in the second consent order, the case was referred to Region 3. Although there is no written NPDES penalty policy, there are some guiding principles used to determine the appropriate range of a penalty settlement. Field offices recommend a settlement value; however, the central WVDEP office makes the final decision. Each settlement value is reviewed by the same person to ensure consistency between the field offices and past cases. The only area of improvement that may be needed is in

calculating economic benefit. At least in initial enforcement actions, gravity tends to be the driving force behind the penalties. However, WVDEP's position is that economic benefit calculation is a timely undertaking that would be too taxing on its current level of resources. As follow-up, Region 3 will review the guiding principles to determine whether inflation has been taken into account since these principles were instituted and will look at determining whether a simplified approach can be implemented to determine economic benefit for industrial sources, which would better bring West Virginia in line with EPA's T&A policy.

One possible enhancement to the enforcement program would be to increase the use of compliance orders, consent orders, and consent decrees to require the implementation of LTCPs approved by WVDEP, ultimately making all LTCP schedules enforceable. Such enforcement mechanisms should include the deadline for bringing CSO discharges into compliance with the water quality-based requirements of the CWA and identifying the CSO WQBELs in effect (pursuant to the permittee's NPDES permit) and to be achieved through LTCP implementation.

WVDEP identifies noncompliance problems through fish kill reports, citizen tips and complaints, watershed groups, inspections at permitted facilities, targeting unpermitted facilities based on EPA priorities such as wet weather (stormwater and CAFOs), and reporting mechanisms such as verbal notification from facilities and DMRs. Inspections are also targeted based on environmental harm and risk to public health. For example, noncompliance causing environmental harm and human health concerns, like a toxic release near a drinking water supply, is a priority for investigating promptly and taking appropriate and immediate enforcement actions. WVDEP's priority is to bring all facilities causing environmental harm or human health concerns into compliance or to eliminate harmful discharges. After addressing high-priority enforcement actions, WVDEP addresses repeated violations based on EPA's SNC policies.

2. Record Keeping and Reporting

The State of West Virginia:

All reporting records submitted under permit requirements are maintained and are accurate and up-to-date. DMRs are submitted to EPA for major facilities, and all inspection reports and enforcement actions are submitted to EPA as issued. Performance of sources and enforcement actions, which WVDEP is required to record, are maintained in PCS and therefore are electronically available to the public through EPA's Web site. Files can be reviewed through the State's Freedom of Information Act (FOIA) process.

3. Inspections

The State of West Virginia:

EE does more thorough inspections (CEI and/or CSI), which include file reviews at facilities that have a greater risk to the environment and human health or have a history of noncompliance. Because of wet weather concerns, WVDEP has also included CSO, industrial stormwater, and construction stormwater inspections in the mix. The rationale or approach for targeting facilities changes year to year and may vary by different categories of NPDES facilities, such as major and minor facilities and stormwater. Although EE emphasizes inspection and enforcement activities at facilities causing actual environmental or human health harm, it has been very open to participating in EPA initiatives. In response to EPA's

emphasis on stormwater, EE has shifted some resources away from inspecting major facilities to add stormwater inspections to the mix. Trend data provided by OECA show that the coverage of major facilities is variable: 59% in 2000, 58% in 2001, 73% in 2002, and 55% in 2003. EPA believes that PCS does not accurately reflect the resources expended by WVDEP on major or minor facilities. WVDEP inspects 100% of major facilities every year. The only shift in resources has been to conduct CEI and/or CSI for at least 50% of major facilities and to conduct at least one reconnaissance inspection (or a level somewhere between a reconnaissance and a CEI or CSI) at the remaining major facilities. A reconnaissance inspection may also lead to a CEI and/or CSI depending on findings. This is a decrease in staff hours and not coverage of the major facilities. The data reflected in the trend analysis captures only CEI/CSI inspections for the major sources. Therefore, Region 3 believes West Virginia meets a 100% inspection coverage rate for major facilities, far exceeding the national average.³

Trend data provided by OECA also show that the number of State inspections of major and minor facilities was up slightly from 326 in 2000, to 330 in 2001, and 332 in 2002, and then down to 247 in 2003. As discussed in the Data Management section, the universe of minor facilities is not complete in PCS, and therefore the inspection information is not complete or reflective of the resources expended by WVDEP to inspect minor facilities. Overall, WVDEP conducts more than 4,000 non-mining inspections per year. This total reflects all types of inspections at major and minor facilities, and includes every visit if there were multiple visits to a facility. It does not include the initial spill responses, complaint investigations, or on-site visits to verify permit application information. It is difficult to correlate this information to coverage, but it demonstrates a consistently high level of field presence.

The decrease in staff hours used to inspect major facilities has been shifted to look at wet-weather issues over the past few years. For example, approximately 50% of the stormwater facilities were inspected in FY2003. The State also committed to conducting all CSO inspections for the FY2004 Statistically Valid Noncompliance Rates (SVNCR) project. All 15 SVNCR inspections were conducted by April 2004, well in advance of the end of the year deadline. WVDEP conducted CAFO determination inspections at AFOs upon issuance of the Unified Strategy for CAFOs and conducted over 100 inspections in the Potomac River Basin in the first year alone. WVDEP continues to inspect AFOs and take enforcement actions to eliminate pollution to State waters. Under the old CAFO rule, West Virginia had no CAFOs. Therefore, all the CAFO determination inspections were conducted at small AFOs (under 300 animal units). WVDEP has also geared up to do MS4 inspections in FY2004.

In addition to EE's strong performance in conducting inspections, the Division of Mining and Reclamation inspects each site monthly and completes a CSI and a CEI every 3 months. File reviews are routine for CSI/CEI inspections, but reconnaissance inspections may also lead to CSI/CEI inspections. A strength of WVDEP is that it far exceeds its section 106 grant commitments each year. WVDEP excels in maximizing its impact on protecting the environment with very limited resources. On a similar note to making the best use of its inspection resources, WVDEP is also developing its own policy that will mimic EPA's Performance Tracking program. This policy will ultimately affect the frequency at which a

³ The Management Report, measure #32, indicates that West Virginia inspected 50% of the major permittees in 2003, while the above text indicates that the State inspected 100% of the major facilities. The difference between the Management Report value and the value indicated above is that the definition for this measure on the Management Report does not include reconnaissance inspections.

facility is inspected. This will benefit industries with good environmental compliance records and allow resources to be used to focus on problem areas.

A unique feature in West Virginia is the State's Watershed Management Framework, in which the State is divided into five groups. The Framework helps to reallocate the permitting workload, making it equal during the five permitting cycles, and to sequence water quality monitoring and TMDL development. This affects inspections (a) by assisting the permitting staff by doing facility walkthroughs to verify permit applications and identifying compliance issues, and (b) directing thorough inspections in areas where water quality is impaired by NPDES dischargers.

According to the West Virginia 2002-2003 Department of Environmental Protection Report, the State performed the following inspections in FY2003:

- Performed 3,791 inspections of water pollution control facilities
- Issued 807 notices of violations
- Issued 732 inspections as follow-up to notices of violations

4. Compliance Assistance

The State of West Virginia:

WVDEP determines the effects of compliance assistance through follow-up inspections. West Virginia provides assistance to help "regulated facilities" in the operation of their wastewater treatment systems, through both scheduled courses on operational issues and site-specific problem solving. WVDEP also administers pollution prevention technical assistance to businesses and public facilities.

The State conducts several workshops each year on sediment control and intends to create a regularly scheduled series of workshops for the construction industry, including both contractors and plan developers. DWWM does not yet have sample stormwater pollution prevention plans (except one for homebuilders) but does plan to develop several for other types of construction activities. DWWM plans to finish its Sediment Control Manual this year, and it will contain sample sediment control plans. DWWM has conducted one MS4 workshop and has worked with many individual communities and their technical staff. Several more workshops are planned.

Region 3 encourages compliance assistance, and federal grants can be used to fund site visits or methods targeted to reach a broader audience. These compliance activities are reported in a tabulated format monthly to EPA, and as required by section 106 grant commitments. WVDEP requires compliance assistance given during inspections to be noted in inspections reports. In the course of reading inspection reports of later inspections following a site visit in which compliance assistance was provided, Region 3 has come across the inspector's observations as to how the facility responded to the assistance. Based on WVDEP's self-assessment, it seems that WVDEP determines the effects of compliance assistance through follow-up inspections and it has been Region 3's experience that this is true. Region 3 has not recently reviewed this aspect of WVDEP's program and does not have a standard to measure the State's performance. Because there is no electronic tracking, reviewing this aspect would involve time-consuming file reviews and interviews, which would provide no additional value toward environmental

improvements. In the future, if workshops are funded through federal dollars, WVDEP can be encouraged to measure effectiveness and include the results in reporting requirements.

Section IV. Related Water Programs and Environmental Outcomes

1. Monitoring

The State of West Virginia:

WVDEP devotes considerable water quality monitoring resources to supporting and evaluating the effectiveness of its NPDES permit program. Types of water quality monitoring studies conducted by WVDEP include qualitative biological community assessments, water/sediment chemistry sampling/analysis, WET tests, fish (caged and native) contaminant sampling/analysis, bacteriological sampling/analysis, dissolved oxygen sampling/analysis/modeling, and other hydrologic sampling/modeling. The watershed approach allows evaluation of the entire watershed and all individual permittees in the watershed at the same time. Approximately 600 sites are sampled annually, or a total of 3,000 one-time assessments during the 5-year watershed cycle. West Virginia is revising its monitoring strategy to address the 10 elements included in the "Elements of a State Water Quality Monitoring Program Guidance," EPA document number 841-B-03-003. The monitoring strategy should address the State's need to have adequate instream data for permit background calculations and for the calibration of wasteload allocation models. The State should include in its strategy the use of existing water quality data, such as data in EPA's STORET database or from drinking water treatment facilities, to provide information on water quality condition before permit issuance or renewal.

According to the West Virginia 2002-2003 Department of Environmental Protection Report, the State completed the following monitoring projects in FY2003:

- Collected water quality information quarterly at 25 sites along West Virginia's major rivers
- Collected 172 samples from 20 sites along major streams targeted for intensive study
- Collected water quality and biologic information on 150 randomly selected sampling sites statewide
- Collected 362 samples from 329 sites on 215 streams under normal Watershed Assessment Program protocols
- Collected 4,306 samples from 505 sites on 346 streams for pre-TMDL monitoring work

WVDEP is responsible for coordinating the implementation of a comprehensive, statewide water quality monitoring program, which is described in detail in a May 1997 WVDEP report entitled "West Virginia Watershed Management Framework." A key goal of the State's multimedia-based water quality monitoring program is to provide data to support WVDEP water quality protection programs and evaluate their effectiveness. The NPDES permit program is one of the WVDEP water quality protection programs targeted by the monitoring strategy. WVDEP clearly recognizes that comprehensive water quality monitoring is necessary to support sound water quality decision making at all levels of government.

WVDEP issues all NPDES permits in a watershed during the same year. This is done on a 5-year cycle, meaning that each major watershed is revisited every 5 years. Except for the State water quality trend monitoring activities and probabilistic sampling, WVDEP schedules the timing of water quality data collection and analysis such that the data for each watershed are available before the initiation of the permit development process. Consequently, the monitoring activities performed to support the NPDES permit program normally occur in a watershed 1 year before the actual permit issuance year. This approach allows evaluation of the effectiveness of current permits in protecting water quality, identification of water quality issues that need to be addressed in the next permit, and incorporation of requirements in the next permit to address these issues. TMDLs are developed approximately 6 months in advance of permitting procedures.

Some of the water quality-monitoring program is devoted to the measurement of temporal and spatial trends in the quality of surface waters. Water quality trend monitoring data are used to help evaluate the effectiveness of WVDEP's water quality protection programs, including the NPDES program. For the mining program there are 250 trend stations located throughout the State. Sites are sampled for baseline monthly, heavy metals quarterly, and biological/benthic semiannually. West Virginia has an ambient water quality monitoring network, which consists of 27 sampling stations where physical and chemical samples are analyzed every month. The data are entered into STORET.

As an FY2004 section 106 grant commitment, an update of the State's comprehensive monitoring strategy will be completed by September 30, 2004. One of the general goals of this strategy update is to develop means to increase both the percentage and type (e.g., wetlands) of waters assessed in the State. Over past reporting cycles, there has been a general upward trend in the percentage of waters assessed. For the 2004 integrated reporting cycle, the State is developing its report using the categories suggested in the 2004 integrated reporting guidance. This is helping to identify where additional monitoring is needed as water segments are placed in Category 3, insufficient data to make an impairment decision.

2. Environmental Outcomes

The State of West Virginia:

West Virginia has a total of 32,278 river/stream miles, of which 48.2% were assessed for recreation and aquatic life. Based on the NPDES Management Report, 13.6% of assessed river/stream miles were impaired for swimming. The State has 22,373 lakes acres, of which 75.6% were assessed for recreation and aquatic life. Based on the 2000 water quality inventory prepared under CWA section 305(b), 0% of assessed lake acres were impaired for swimming. Through the implementation of the TMDL program, West Virginia has restored 119.76 river miles.

3. Water Quality Standards

The State of West Virginia:

The WV EQB is responsible for issuing rules setting water quality standards for West Virginia's surface and ground waters. The ultimate approval authority for water quality standards regulations in West Virginia rests with the legislature. WVDEP does not promulgate water quality standards. The WV EQB works with EPA Region 3 through the triennial review process to accomplish this task. Through this process, parameters of concern for West Virginia waters are evaluated for the protection of various uses.

West Virginia's water quality standards regulations contain general policies addressing implementation issues (e.g., variances, mixing zones).

WVDEP is working with EPA Region 3 on a pilot project to conduct a UAA for the City of Wheeling's CSO LTCP. In addition, the City of Morgantown may consider a UAA as part of its LTCP revision. It is very important that WVDEP coordinate these UAA studies with the WV EQB.

A triennial review of West Virginia's water quality standards has been recently completed. The State has consistently met its triennial review schedule. The CWA provides that a State must from time to time, but at least once every 3 years, hold public hearings to review applicable water quality standards and, as appropriate, to modify and adopt standards. The State reviews the surface water standards during open meetings. At this time and throughout the process, the NPDES permitting authority can comment on West Virginia's water quality standards. When West Virginia proposes changes to the standards, it holds public hearings to review comments, concerns, and suggestions from the regulated community, the environmental community, and the public in general. Written comments may also be submitted. West Virginia reviews all timely filed comments before submitting the final proposed changes to the water quality standards to the State legislature for its review and approval.

States are developing plans to document how they will adopt water quality criteria for nutrients consistent with EPA's recommendations. EPA concurred on West Virginia's nutrient criteria adoption plan in May 2004 and anticipates that nutrient criteria will be in place by 2008.⁴ The State discussed adopting new bacteria standards during its last triennial review but did not propose and make final any new bacteria standards. It may take up new bacteria standards in the future.

4.Total Maximum Daily Loads

EPA is under a consent decree in West Virginia to develop TMDLs. All consent decree deadlines since 1997 have been met or legally extended. EPA is on track to meet all consent decree deadlines and has met 100% of the consent decree requirements for FY2003. According to the 2002 list of impaired waters prepared under CWA section 303(d), West Virginia will have to develop 1,192 TMDLs.⁵ The State has developed a TMDL development schedule, which is available to the public on the WVDEP Web site at: <http://www.wvdep.org>. In FY2002 EPA, in cooperation with the State, developed 679 TMDLs, meeting the September 30, 2002, consent decree deadline. In 2002 the Office of Water recognized the EPA West Virginia TMDL Team with the Gold Medal for this milestone.

TMDLs for a watershed in West Virginia were among the first in the nation where implementation resulted in attainment of water quality standards. Formerly listed as part of the consent decree, the North Fork of the South Branch of the Potomac River was listed for bacteria impairment. Applying BMPs has had a demonstrated effect on water quality during a wide range of weather conditions, including drought.

⁴ The National Data Sources column of the Management Report, measure #53, shows that West Virginia does not have a Nutrient Criteria Plan in place because it is based on the status as of January 1, 2004, prior to the Region's concurrence on the plan.

⁵ The count of 1,192 TMDLs differs from the 1,496 TMDLs shown in the National Data Sources column of the Management Report, measure #41, due to discrepancies in the Region's data entry into the National TMDL Tracking System.

Monitoring in this watershed has shown bacteria counts to be reduced to levels that meet West Virginia's fecal coliform water quality criteria.

West Virginia uses its Watershed Management Framework cycle approach for the TMDL program. The framework divides the State into 32 major watersheds and operates on a 5-year, 5-step process. The watersheds are divided into five hydrologic groups (A through E). Each group is assessed once every 5 years, and waters are placed on the 303(d) list of impaired waters, as necessary. The TMDL process begins in the first year of the cycle with pre-TMDL sampling and public meetings in the affected watersheds. The data are compiled, and TMDL development begins in year 2 of the cycle. In the third year, TMDL development continues and the TMDL is drafted. The TMDL is finalized in the fourth year. In the fifth year of the cycle, TMDL implementation is initiated through the NPDES permitting process and efforts toward limiting nonpoint source loading. Throughout the TMDL development process, there are numerous opportunities for public participation and input.

Hydrologic Group A TMDL development started in July 2001 and will complete the fourth year of the cycle with TMDL approval by EPA in December 2004. TMDL development for Hydrologic Groups B, C, D, and E starts in July 2002, 2003, 2004, and 2005, respectively.

West Virginia's TMDL development progress is detailed in Table 3:

Table 3: West Virginia TMDL Development

Fiscal Year	Hydrologic Group	# TMDL Waterbodies	# TMDLs (water body and pollutant)	Date of TMDL Approval	Remarks
2002	B	205	679	9/30/2002	Developed by EPA
2003	C				WV TMDL program building
2004	D	65	183	3/30/2004	Developed by EPA
2005	E	105	248	12/31/2005	Developed by WV
2006	A	177	341	12/31/2006	Developed by WV
2007	B	83	148	12/31/2007	Developed by WV
2008	C	85 (proposed)	To be determined	12/31/2008	Developed by WV
2009	D	To be determined	To be determined	12/31/2009	Developed by WV

The State reviews each TMDL to determine the appropriate wasteload allocation (WLA). WLAs are expressed in the same terms set forth in the TMDL for the particular receiving stream. NPDES permits in West Virginia have been synchronized in terms of major watersheds. As a result, all point sources discharging to a particular receiving water will have permits reissued within a 12-month period. This approach allows WVDEP to focus on properly implementing any TMDL for all point sources in the watershed. Furthermore, WVDEP maintains a list of TMDLs on its Web site.

There is good coordination between the assessment/monitoring programs and the TMDL program in the State. Monitoring for TMDL development continues to be a significant component of the State's program. In West Virginia, a major monitoring priority in support of TMDL development remains an effort to evaluate acid mine drainage-impaired segments with emphasis on several key criteria (selenium and aluminum). Other key State initiatives include bacteria impairments and enhancements of the State's biological assessment program.

5. Safe Drinking Water Act

The State of West Virginia:

The West Virginia Bureau for Public Health, Office of Environmental Health Services, administers the State Drinking Water Program. This office also manages the State Drinking Water Treatment Revolving Fund and provides training and certification for water and wastewater treatment plant operators. WVDEP coordinates the issuance of NPDES permits discharging close to drinking water intakes with the West Virginia Bureau for Public Health. The State has included the following language on permits discharging close to drinking water intakes:

The permittee shall notify the operator of the drinking water facility in case of an oil spill, release of a toxic or noxious substance, or an irregularity or upset in the wastewater treatment process or effluent quality that could adversely affect the quality of the water at the point of the intake of downstream water supply.

Section V. Other Program Highlights

The State of West Virginia:

General Permits: West Virginia has expanded the use of general permits to increase permit efficiency. The State has developed seven general permits, which cover 3,914 facilities. Currently about 75 percent of minor non-stormwater facilities are covered by general permits. These general permits address the following categories: groundwater remediation, vehicle washing establishments, home aeration units, sewage facilities with less than 50,000 gpd, municipal potable water supply, hydrostatic pressure test water, and sewage sludge disposal. Copies of these permits are available at the following WVDEP Web site: <http://www.wvdep.org/alt.cfm?asid=66>.

Watershed Schedule for Permit Issuance: West Virginia has developed a strategy for scheduling permit reissuance. This concept is designed to use available resources for NPDES permitting. The concept involves reissuing NPDES permits according to a watershed approach. There is a timetable for reissuance of individual permits based on receiving water bodies. Under this approach, all the permits in each individual watershed expire and are reissued in the same year. Each of the thirty-two 8-digit watersheds in the State is placed in one of five watershed groupings. The entire schedule will be repeated every five years in the same order. A complete cycle of reissuance will occur every 5 years, with approximately 20 percent of the permits being reissued each year. The watershed schedule was implemented with the objective of establishing the most efficient plan for water quality monitoring, inspections, permit reissuance, and TMDL development.

Trading: WVDEP is sponsoring a stakeholder group that was initiated almost 2 years ago to examine the possibility of a trading program for the State. The stakeholder trading group has concluded its examination and submitted a report with draft recommendations. In addition, West Virginia's antidegradation implementation procedures specifically recognize trading as an option in the permitting process.

The Region is involved in the Cheat River Trading pilot project. This project has been initiated to assess the potential for point sources facing expensive upgrades to meet effluent limits by trading effluent credits with acid mine drainage remediation, which could result in more ecological improvement at a lower cost.

Electronic Tools: The DWWM and the Division of Mining and Reclamation are using the following data processing tools in the permitting process:

- A client server system called ERIS, which includes the following functions:
 - Tracking the approval process of permit applications
 - Interfacing with federal EPA systems
 - Generating the actual permit document (permit writer)

- Recording inspection and enforcement actions
- A PC-based WCMS (Watershed Characteristics & Modeling System) that allows the user to
 - View spatial relationship of regulated facilities
 - Determine flow characteristics of the watershed
- A sample database named Environmental Quality Information System (EQuIS), which
 - Stores publicly available baseline quality data
 - Supports data collection, processing, management, and evaluation aspects of environmental project work

The DWWM and the Division of Mining and Reclamation have the following electronic reporting mechanisms:

- Electronic DMRs based on diskettes
- Electronic application submittal via a Web-based ePermitting system
- Stormwater Construction
 - Surface mine applications (and associated NPDES)
 - Surface mine renewals
 - Others under construction
- Electronic submission of sample data through a Web-based EQuIS interface

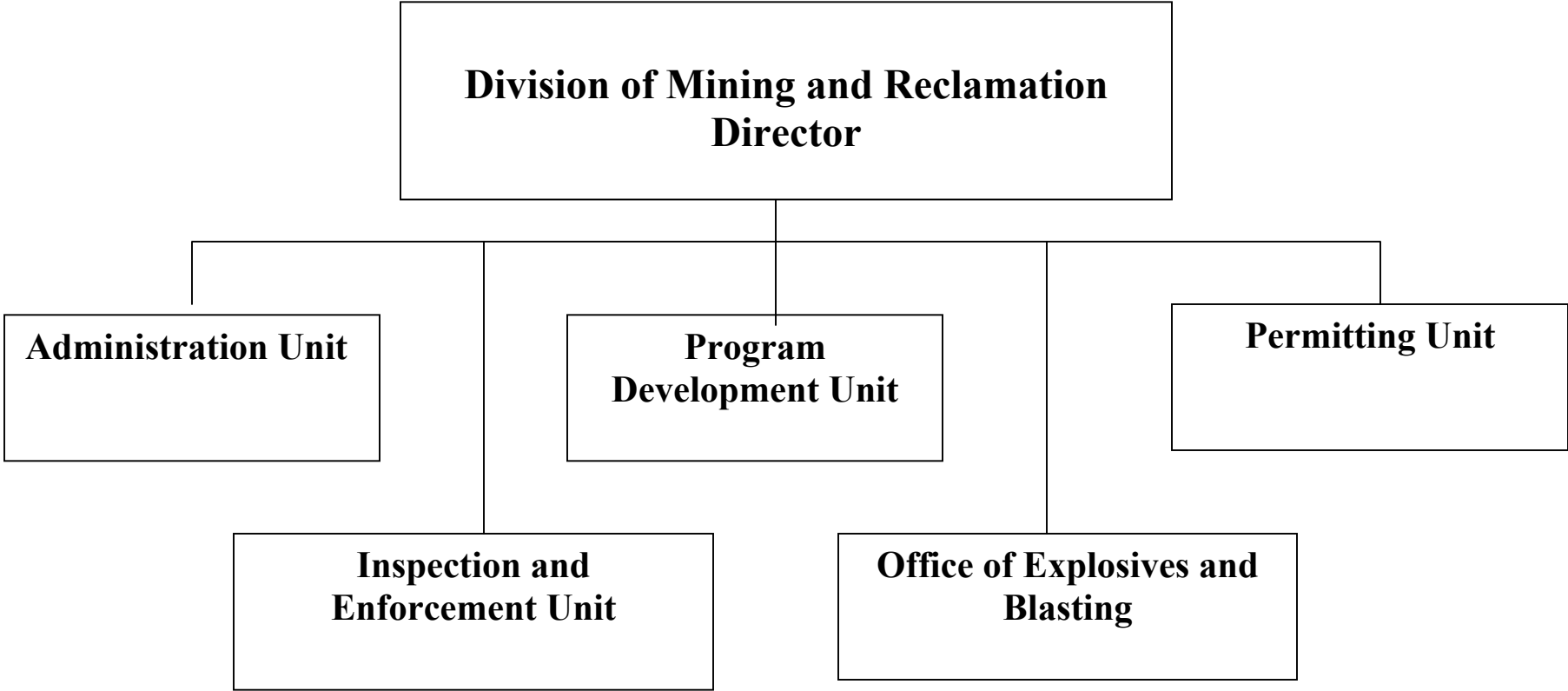
The use of electronic signatures is awaiting legislation and procurement at the State level. West Virginia currently requires a hard copy signature page.

West Virginia does not use the Permit Application Software System (PASS), but uses ERIS, as mentioned above. Following are the average applications processed within ERIS per month:

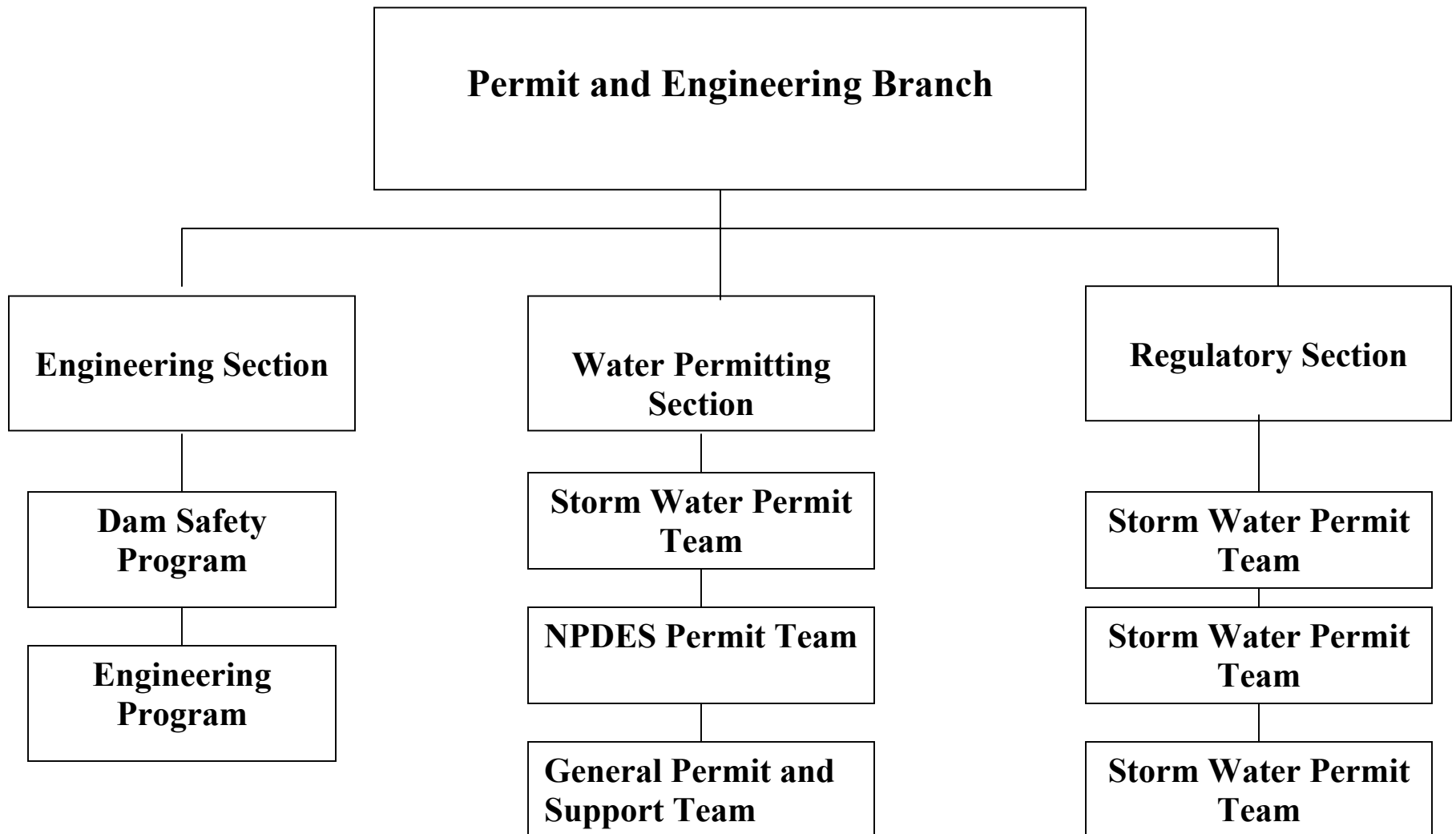
- | | |
|--|-----|
| • Division of Mining and Reclamation, Hydrologic Protection Unit | 80 |
| • Division of Mining and Reclamation, Surface Mining | 176 |
| • DWWM, Office of Water Resources | 124 |

The tools discussed above have increased the efficiency and consistency of the implementation of the NPDES program.

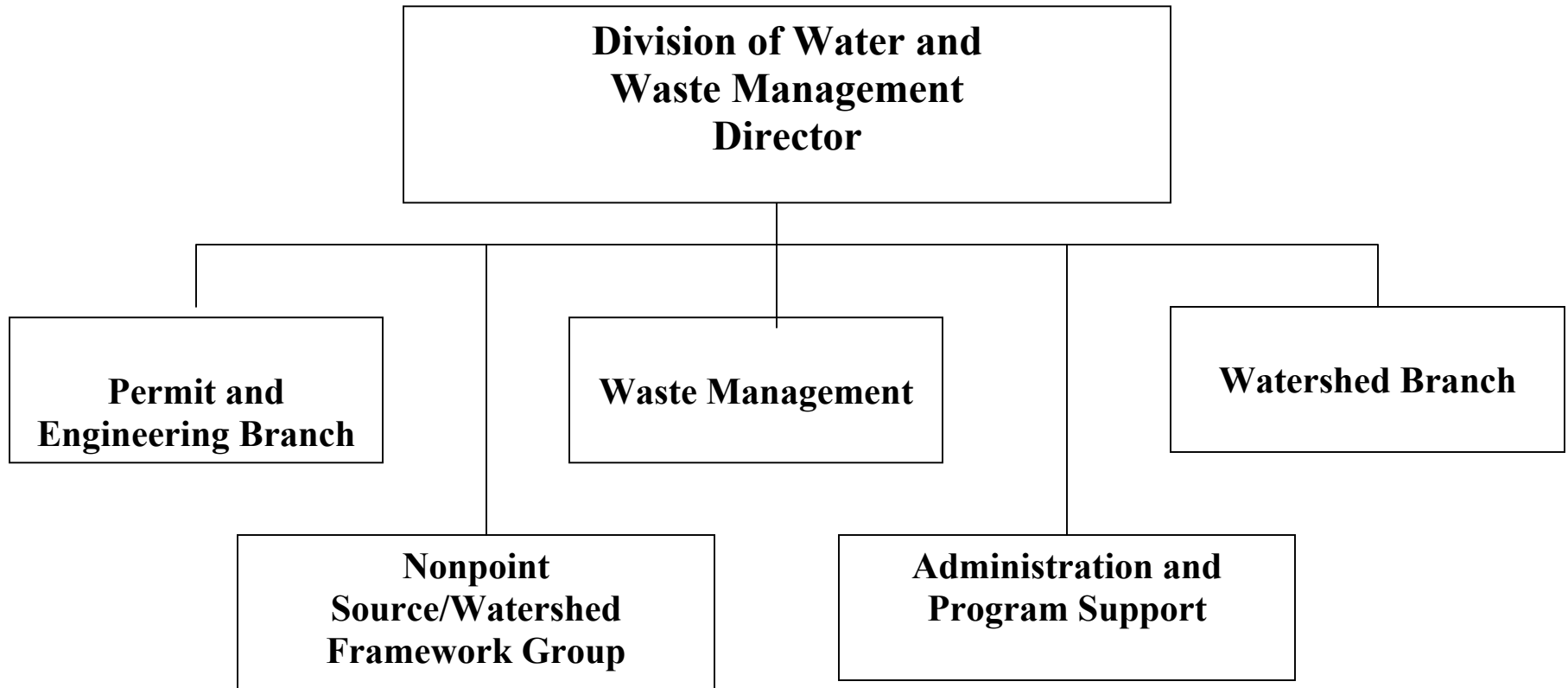
**West Virginia Division of Mining and Reclamation
Organization Chart**



**West Virginia Division of Water and Waste Management
Water Permitting and Engineering Branch
Organization Chart**



**West Virginia Division of Water and Waste Management
Organization Chart**



NPDES Management Report, Fall 2004

West Virginia

			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	98	0		
	2	# minor facilities covered by individual permits (42,057 total)	I.1		n/a	913	0		
	3	# minor facilities covered by non-storm water general permits (39,183 total)	I.1		n/a	3,387	0	3,914	
	4	# priority permits (TBD)	I.6			--	--		
	5	# pipes at facilities covered by individual permits (142,761 total)	I.7		n/a	2,608	--		
	6	# industrial facilities covered by individual permits (32,505 total)	I.1		n/a	742	0		
	7	# POTWs covered by individual permits (15,197 total)	I.1		n/a	270	0		
	8	# pretreatment programs (1,482 total)	II.2		n/a	9	--		
	9	# Significant Industrial Users (SIUs) discharging to pretreatment programs (22,158 total)	II.2		n/a	75	--	90	
	10	# Combined Sewer Overflow (CSO) permittees (831 total)	II.5		n/a	55	--		
	11	# CAFOs (current and est. future) (17,672 total)	II.3		n/a	30	--		
	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%	61.3%	--		
	15	State CAFO legal authority expected (mo/yr)	II.3	2005	n/a	4/05	n/a		
	16	# Withdrawal petitions/legal challenges (22 total)	I.4		n/a	0	n/a		
	17	DMR data entry rate	I.7		95%	98%	--		
	18	# permit applications pending (1,011 total)	I.6		n/a	1	--		
NPDES Program Implementation	19	% major facilities covered by current permits	I.6	90%	83.7%	93.9%	n/a	98.0%	
	20	% minor facilities covered by current individual or non-storm water general permits	I.6	90% 12/04	87.0%	88.7%	n/a		
	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%	--		
	24	% SIUs w/control mechanisms	II.2		99.2%	100.0%	--		
	25	% of CSO permittees with long-term control plans developed or required	II.5	75% 2008	82.2%	100.0%	--		
	26	% CAFOs covered by NPDES permits	II.3		35%	0%	--		
	27	% biosolids facilities that have satisfied part 503 requirements (TBD '05)	II.6			--	--		
	28	# Phase I storm water permits issued but not current (76 total)	II.4		n/a	0	n/a		
	29	# Phase I storm water permits not yet issued (5 total)	II.4		n/a	0	n/a		
	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	n/a		
NPDES Compliance Monitoring and Enforcement Response	32	% major facilities inspected	III.3		71%	50%	4%		
	33	(inspections at minors) / (total inspections at majors and minors)	III.3		76%	63%	20%		
	34	% major facilities in significant non-compliance (SNC)	III.1		20%	37%	--		
	35	% SNCS addressed by formal enforcement action (FEA)	III.1		14%	17%	--		
	36	% SNCS returned to compliance w/o FEA	III.1		70%	75%	--		
	37	# FEAs at major facilities (666 total)	III.1		n/a	2	1		
	38	# FEAs at minor facilities (1,660 total)	III.1		n/a	3	3		

Explanation of Column Headers:

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

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

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

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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, Fall 2004

West Virginia

		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	32,278	n/a	
	40	Lake acres (27,775,301 total)	IV.2		n/a	22,373	n/a	
	41	Total # TMDLs in docket at end of FY 2003 (52,795 total)	IV.4		n/a	1,496	--	1,192
	42	# TMDLs committed to in FY 2003 management agreement (2,435 total)	IV.4		n/a	0	0	
	43	# Watersheds (2,341 total)	IV.2		n/a	--	--	
Water Quality Administration	44	On-time Water Quality Standards (WQS) triennial review completed (42 States)	IV.3		n/a	Y	n/a	
	45	# WQS submissions that have not been fully acted on after 90 days (32 total)	IV.3	<25% submis-sions	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%	48.2%	n/a	
	48	% river/stream miles assessed for aquatic life	IV.2		22.0%	48.2%	n/a	
	49	% lake acres assessed for recreation	IV.2		49.4%	75.6%	n/a	
	50	% lake acres assessed for aquatic life	IV.2		48.5%	75.6%	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	Y
	54	Cumulative # TMDLs completed through FY 2003 (10,807 total)	IV.4		n/a	1,274	--	
	55	# TMDLs completed in FY 2003 (2,929 total)	IV.4		n/a	0	0	
Environmental Outcomes	56	# TMDLs completed through FY 2003 that include at least one point source WLA (5,036 total)	IV.4		n/a	102	--	
	57	% Assessed river/stream miles impaired for swimming in 2000	IV.2		--	13.6%	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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