



Permitting for Environmental Results (PER)

NPDES Profile: Wyoming and Indian Country

PROGRAM RESPONSIBILITY

State of Wyoming: NPDES authority for individual permits, general permitting, federal facilities

EPA Region 8: NPDES authority for pretreatment, biosolids

EPA Region 8: NPDES authority for all facilities in Indian Country

Program Integrity Profile

This profile characterizes key components of the National Pollutant Discharge Elimination System (NPDES) program, including program administration and implementation, environmental outcomes, enforcement, and compliance. EPA considers profiles to be an initial screen of NPDES permitting, water quality, enforcement, and compliance programs based on self-evaluations by the States and a review of national data. EPA will use the profiles to identify program strengths and opportunities for enhancements. For more information, please contact Todd Parfitt, Wyoming Department of Environmental Quality, (307) 777-6709, or Debra Thomas, EPA Region 8, (303) 312 6260.

Section I. Program Administration

1. Resources and Overall Program Management

The State of Wyoming:

The Wyoming NPDES program was authorized on January 30, 1975. Authorization to regulate federal facilities occurred on May 18, 1981, and the general permits program was authorized on September 24, 1991. Wyoming does not have authorization for pretreatment or biosolids. The Wyoming NPDES program is administered through the Water Quality Division of the Wyoming Department of Environmental Quality (WDEQ). The Wyoming NPDES program is organized into three primary work units: permitting, compliance, and laboratory services. Field inspectors in the compliance work unit are located in Lander, Sheridan, Casper and Cheyenne. All permitting and laboratory services are conducted in Cheyenne.

The State currently has 26 full-time staff positions, also known as full time equivalents (FTEs) and one contract employee in the NPDES program. The positions consist of a program manager as well as 9 permit writers, 13 inspectors and enforcement personnel, and 4 laboratory personnel. Current staffing includes 8 additional FTE the WDEQ received to help close the resource gap associated with coalbed methane (CBM) development.

The State had a total budget of \$1,381,535 for the State fiscal year (FY) 2003 (July 1, 2002 through June 30, 2003), of which \$1,206,535 came from State funds and the remainder from federal funds.

All full time permit writers have attended EPA's NPDES Permit Writers' Course. Additionally, new staff are trained by a peer for at least two weeks. Weekly staff meetings are held to address internal questions and new issues. New inspectors are scheduled for the first available EPA Inspector Training course. New inspectors also work with a peer inspector for at least two weeks and are provided with oversight inspections by EPA Region 8. All laboratory personnel are trained on the equipment by the laboratory supervisor and sent to specialized training for specific instrumentation.

The State requested specialized whole effluent toxicity (WET) training from Region 8. At the request of Region 8 the Region 6 WET expert provided training in Cheyenne, Wyoming in May 2004. The training was well received and could not have been accomplished without the expertise of Region 6. This approach should serve as a national model of how EPA can help close some of its own resource gaps by making the best use of technical expertise across the country rather than trying to develop and maintain expertise in each region.

The oil and gas industry is the primary sector that the Wyoming NPDES program regulates. A summary of the permits by sector is as follows (data are from Wyoming's self-assessment dated 2/04):

Non-Stormwater Permits		
CBM	808	(52%)
Oil and Gas	467	(30%)
Municipal	77	(5%)
Industrial	53	(3%)
Concentrated Animal Feeding Operations (CAFOs)	39	(3%)
Coal Mine	33	(2%)
Commercial Wastewater Treatment	27	(2%)
Water Treatment	15	(1%)
Fish Hatcheries	12	(1%)
Other	22	(1%)
TOTAL	1553	(100%)
Stormwater Permits		
Industrial	609	(44%)
Construction	769	(55%)
Municipal separate storm sewer system (MS4)	10	(1%)
TOTAL	1388¹	(100%)

In 2003, the Wyoming State legislature created, through legislation, the Department of Environmental Quality Permitting Task Force. The task force was formed in response to the dramatic increase in CBM

¹ The Management Report, measures #1 through #3, show 25 major individual permits, 1,598 minor individual permits and 290 non stormwater general permit coverages, based on data as of June 30, 2004. This equates to a total of 1,913 permit coverages excluding stormwater. The table above represents a total of 1,553 permits, excluding stormwater. The discrepancies are due to the timing of data queries. The permit universe changed significantly during the first six months of 2004. Due to the implementation of a permit fee schedule, many operators requested individual and general permits be inactivated. WDEQ is confident that the national Permit Compliance system (PCS) database is accurate relative to the permit universe.

development which was placing a high demand on the WDEQ. The legislation specified the task force be comprised of nine members including: individuals from industry, trade associations, environmental consultancies, academia, government, affected landowners and the environmental community. The task force held several working meetings to discuss problems with the NPDES permitting program and possible solutions. The Department of Environmental Quality Permitting Task Force Report was issued on October 1, 2003. The problems identified pertained to NPDES compliance monitoring, laboratory facilities, data management, public participation, increased permitting volume and complexity, inconsistent NPDES program policies and lack of flexibility in permits. Actions which resulted from the recommendations of the Report include: 1) legislation was passed to allow for permit fees; 2) the State legislature approved 8 additional positions for the WDEQ; 3) the State legislature approved increased funding for ambient monitoring and new laboratory equipment; 4) standard operating procedures for the NPDES permitting program have been enhanced; 5) WDEQ is moving forward with a watershed-based approach for CBM permitting; and 6) WDEQ is making progress towards electronic submission of discharge monitoring reports (DMR).

EPA Region 8:

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

Table 1. EPA Region 8 Direct Implementation Responsibilities

	Individual Permits	General Permits	Federal Facilities	Pretreatment	Biosolids
CO			X	X	X
MT				X	X
ND				(Aurthorization in Process)	X
SD					
UT					
WY				X	X
27 Tribal Governments	X	X	X	X	X

EPA Region 8 is organized into 4 primary offices: Office of Partnerships and Regulatory Assistance (OPRA); Office of Enforcement, Compliance and Environmental Justice (ECEJ); Office of Ecosystems Protection and Remediation (EPR); Office of Technical and Management Services; and the Office of Regional Counsel. Refer to attached organizational chart at the end of this profile.

There are 9 FTEs, including a supervisor, in the Water Permits Unit (located in OPRA) that are responsible for implementing the overall NPDES program in Indian Country, implementing the programs for which States have not been authorized (see Table 1), and State oversight.

There is 1 FTE in the Water Quality Unit (located in ECEJ) that is responsible for direct implementation and State oversight of the stormwater program.

There are 7 FTEs, including a supervisor, in the NPDES Enforcement Unit (located in ECEJ) that are responsible for enforcement and compliance of the overall NPDES program in Indian Country, enforcement and compliance for programs for which States have not been authorized (see Table 1), and State oversight.

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

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

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

For Indian Country located in Wyoming, EPA Region 8 has currently issued 26 individual permits to minor facilities. EPA Region 8 has 12 current general permit coverages for biosolids outside of Indian Country in Wyoming. There are no biosolids general permit coverages in Indian Country located in Wyoming.²

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

The Water Permits Unit places a high priority on meeting training requests from the States. For example, when States indicate that they have several new permit writers, the Region has been successful in getting the National NPDES Permit Writers' Course offered in Region 8. Recent requests for WET training have resulted in Region 8 making arrangements with Region 6, a Region that has exceptional WET expertise, to develop and deliver WET training tailored to the Region 8 States. EPA Region 8 provides specialized training on an annual basis for pretreatment and biosolids. The specialized training is discussed in the pretreatment and biosolids sections of this profile. Additionally, Region 8 conducted

² The National Data Sources column of the Management Report, measure #3, shows 0 facilities covered by EPA-issued general permits in Wyoming. The ePIFT data that served as the source for the National Data Sources column for this measure included only aggregated data for Region 8, rather than data broken down by State.

a stormwater inspector training in 2002, hosted both the NPDES inspector training in 2001, and a “train the trainer” program for NPDES inspectors in 2004.

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

2. State Program Assistance

EPA Region 8:

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

3. EPA Activities in Indian Country

EPA Region 8:

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

4. Legal Authorities

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

In March 2001 the Wyoming Outdoor Council and the Powder River Basin Resource Council filed a petition for corrective action or withdrawal of the State of Wyoming’s authority to administer the Clean Water Act’s NPDES Program for problems related to a wide range of issues, including conflict of interest, inspections, enforcement, monitoring, public notice and public participation.

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 Wyoming:

Public participation procedures for Wyoming NPDES permits are specified in Wyoming Water Quality Rules and Regulations chapter 2, section 15. Specifically, permits are public noticed in a newspaper with general statewide distribution. The public notice is also mailed to any State whose water may be affected by the discharge and all persons on the NPDES mailing list, including governmental agencies identified in section 15. All public notices are posted for a minimum of 30 days. In addition to the notice in the newspaper, the public notice is posted on the “Current Events” section of the WDEQ/WQD Web page (<http://deq.state.wy.us/wqd/events.asp>) with a link to each draft permit.

The State's Web page also includes general information about all individual permits, permit application forms, and general permits. The WDEQ's Web site contains an electronic copy of the monthly public notice and each proposed permit advertised in the public notice. The WDEQ has also implemented a new process for scanning permit applications and final permits. These documents will also be placed on the Web site.

In addition, a copy of the WDEQ NPDES database is available for public review on the WDEQ Web site. The database includes data such as information related to permit tracking events (i.e., permit issue and expiration dates), contact and address information, outfall data (i.e., location and receiving stream), permit limits and DMR data.

The process the WDEQ uses to address comments received during the public notice process involves providing a copy of the written comments to the permittee, evaluating the comments, and preparing written responses. In some cases, additional information may be required to be submitted by the permittee or the permit may be modified prior to issuance. In addition, an interested party may appeal a final action or decision of the Administrator or Director to the Wyoming Environmental Quality Council within 60 days of final action. The process for conducting such an appeal is defined in the WDEQ Rules of Practice and Procedures.

As of September 2004, three major permits and fact sheets issued by Wyoming could be accessed via EPA's Web site. Instructions for accessing these documents are available at <http://www.epa.gov/npdes/permitdocuments>. All documents (e.g., permit records, fact sheets, permits, enforcement actions, correspondence) are also maintained in the WDEQ central files for internal use and public viewing.

The term "public" is not defined in the Wyoming Environmental Quality Act or WDEQ's rules and regulations. However, Wyoming Statute (W.S.) 35-11-103(a)(vi) defines "person" as "an individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, municipality or any other political subdivision of the State, or any interstate body or any other legal entity."

EPA Region 8:

For permit issuance, EPA Region 8 follows the federal public participation requirements in 40 Code of Federal Regulations (CFR) part 124. Region 8 provides for public notice of its proposed permit actions by publishing the public notice in a local newspaper near the permit action. Also, the public notice is sent to all persons who have identified themselves as "interested person" and to the agencies identified in 40 CFR 124.10.

The Region maintains an NPDES permit Web site where the draft permit and statement of basis are available for downloading. The notice period is typically 30 days. If there is significant interest, EPA may hold a public meeting or a hearing. For any hearing, EPA will provide at least 30 days notice and will leave the comment period open for at least 15 days after the close of the hearing or meeting to receive all comments. Where there are federally-approved water quality standards (WQS) affecting the permitting action, EPA will solicit certification under section 401 of the Clean Water Act (CWA) from the appropriate Tribe or State. Otherwise, the Region will provide 401 certification for the proposed permit.

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

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

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

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

6. Permit Issuance Management Strategy

The State of Wyoming:

The State has done an excellent job keeping backlogged permits to a minimum for major and minor facilities. As of the end of 2004, all major permits and 99% of minor permits are current.³

The NPDES program is continually developing permitting policies and procedures to ensure appropriateness and consistency of permits. The permits section conducts weekly staff meetings to discuss new issues. Prior to public notice, permits proposed for public notice go through an internal peer review and are then reviewed by the permitting supervisor and program manager before being cleared for public notice.

The NPDES program was the subject of a legislatively mandated task force in 2003 to evaluate the efficiency of the program. The task force found that the current average time to issue a permit was acceptable to the task force members, representing industry, government, landowner and environmental interest groups. Average time for permit issuance is tracked and evaluated on a quarterly basis to ensure permits are issued in a timely manner.

³ The National Data Sources column of the Management Report, measures #19 and #20 show 96% of major facilities and 82.8% of minor facilities, respectively, covered by current permits. For major facilities, the discrepancy is due to the timing of data pulls, with the 96% based on June 30, 2004 data and the 100% based on December 31, 2004 data. For minor facilities, the discrepancy is due to data entry errors in PCS. WDEQ will continue to work with Region 8 to address accuracy of permit tracking events.

Permit expiration dates are being coordinated so that all permits within a given watershed expire on the same date, allowing for a comprehensive review of cumulative impacts. The State is currently synchronizing and sequencing permit issuance for CBM development by watershed. Additionally, permits for oil fields have been synchronized and sequenced. General permits have been applied where appropriate for additional efficiency and consistency. Also, the State is in the process of developing electronic reporting capabilities. The electronic signatures will be handled through the “wet ink signature approach” involving a secured communication connection using secured socket layer (SSL) and server certificates for server authentication.

Table 2: Percentage of Facilities Covered by Current Permits in State

	2000	Nat'l Avg.	2001	Nat'l Avg.	2002	Nat'l Avg.	2003	Nat'l Avg.
Major Facilities	96%	74%	92%	76%	100%	83%	96%	84%
Minor Facilities Covered by Individual Permits	94%	69%	94%	73%	92%	79%	94%	81%
Minor Facilities Covered by Individual or Non-Stormwater General Permits	N/A	N/A	N/A	N/A	93%	85%	95%	86%

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

EPA Region 8:

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

For Indian Country located in Wyoming, 12 of 26 individual permits issued by EPA Region 8 are current. All expired permits have been administratively extended. EPA Region 8 is currently working on transitioning the expired lagoon individual permit to the recently issued lagoon general permit. Region 8 has not yet granted any general permit coverages under the recently issued lagoon general permit. The remaining expired individual permits are oil and gas facilities. EPA Region 8 will be reissuing these permits in 2005.

EPA Region 8 has 12 current general permit coverages for biosolids facilities outside of Indian Country in Wyoming. There are no biosolids general permit coverages in Indian Country in Wyoming.

7. Data Management

The State of Wyoming:

The State uses a Microsoft Access database to manage permitting, compliance, inspection and enforcement data for the NPDES program. The NPDES Access database contains data related to the company, facility, permit tracking dates, locational data for each point source, DMR and inspection data and enforcement action information for all major, minor and general permits. Information related to sanitary sewer overflows/combined sewer overflows (SSO/CSOs) are contained in a separate Access database.

All information entered into the State's Access database is uploaded weekly to the PCS database. At a minimum, the State uploads facility, company, permit tracking, enforcement, and inspection data. This information is uploaded for every permit, including stormwater discharges and discharges authorized under general permits. In addition, the State directly enters limits and DMR data into PCS for major discharge permits.

The State has a choice of being a direct user of the Integrated Compliance Information System (ICIS-NPDES) or being a State that will batch load their information in ICIS-NPDES via central data exchange (CDX). The State currently intends to use its own database. ICIS-NPDES will replace PCS and the State will be required to enter Water Enforcement National Data Base (WENDB) data element fields as defined in the State/EPA performance partnership agreement (PPA).

According to the April 2004 PCS data clean-up report, Wyoming's PCS data entry percentage rate is 86% for basic facility and permitting data (addresses, facility latitude and longitude and metadata, permit dates, and facility characteristics) for major facilities. The report also indicates a 45% data entry rate for basic facility and permitting data for minor facilities. Latitude and longitude data at the facility level is 98% complete for major facilities.

At this time, the State does not enter all required WENDB elements either because information is not available or the elements are not practical for the State to track. For example, many oil and gas facilities (the primary industry permitted in the State) have multiple wells and therefore do not have discreet facility locations, so facility latitude and longitude is not entered. This case is also true for construction projects that span over many counties.

The State continues efforts to resolve WENDB data issues by working with Region 8 to develop methods of addressing missing WENDB data elements. The State has identified several data types that must be updated and reviewed for accuracy. These initiatives include modifying the enforcement action codes in the NPDES database to be consistent with the reduced number of enforcement action codes in PCS; synchronizing enforcement action data between the NPDES database and PCS; updating permit tracking data (permit expiration dates); updating outfall latitude and longitude data and re-printing DMR forms for major facilities. The State is currently addressing re-printing of major DMR forms and updating permit tracking dates. Once this is complete, the State plans to address latitude and longitude data in PCS.

With the support of Region 8, the State applied for a grant to address PCS data issues, such as those listed above, but was not selected by EPA as a grant recipient. The State will continue to explore opportunities and work with Region 8 to resolve PCS data issues.

When the State receives an application that contains latitude and longitude data for proposed discharge points, the data is entered into the NPDES database. In addition, to confirm the location of outfalls, NPDES inspectors gather global positioning system (GPS) locational data for each outfall during inspections. The State's database may be updated in the future to also include the level of accuracy associated with the permitted outfall locations. At this time, the latitude and longitude of discharge pipes is not uploaded or directly entered into PCS. This is due to the current inability to upload this data from the Access database into PCS. The State is seeking contract money to fix this problem and also to help ensure consistency of other data from the Access database into PCS. The State would also welcome contractor assistance on PCS clean-up to get ready for the migration into ICIS-NPDES. However, there are no known targeted clean-up initiatives, except that the latitude and longitude data will likely be updated first.

Data are entered into the State's database as soon as possible because the database is a real-time database. For example, inspection, permit tracking data, and enforcement action data have high priority and are entered within 15 days of receipt of the inspection, permit or enforcement action. Other data are entered as time permits.

Data accuracy is ensured by enacting quality assurance/quality control procedures. Permits are updated in the system when they are modified, renewed, issued or terminated. Change of ownership notifications are identified as a priority for data entry. When data is uploaded to PCS, the PCS update/audit reports are reviewed for rejected transactions. The cause of the rejected transaction is researched and when appropriate the data is reentered into PCS.

According to the June 2004 PCS clean-up progress report, Wyoming is missing issuance dates for 4% of minor records (approximately 65 records), and missing expiration dates for 7% of minor records (approximately 115 records). Missing data may be caused by applications that were received and entered into PCS but the permits were never issued because the facility was never constructed or was ultimately covered under a general permit or because the data was rejected by PCS when it was uploaded from the Access database.

According to the April 2004 PCS clean-up progress report, Wyoming is also missing a large amount of zip code data (missing 85% for major facilities and 98% for minor facilities). Some of this may be due to the nature of Wyoming's facilities. Not all facilities have an address and zip code for the physical location of the facility. This is especially true for oil and gas facilities, which make up the majority of permittees in Wyoming.

EPA Region 8:

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

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

The PCS responsibilities for enforcement, inspections and DMR data entry are in the Planning and Targeting Program located in the Office of Enforcement, Compliance and Environmental Justice

(ECEJ). The PCS responsibilities for permit actions are in the Water Permits Unit located in the Office of Partnerships and Regulatory Assistance (OPRA).

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

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

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

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

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

PCS Quality Assurance: PCS data quality standards are evaluated based on an objective assessment of each of the following four measures:

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

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

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

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

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

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

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

Section II. Program Implementation

1. Permit Quality

The State of Wyoming:

Wyoming permits are peer reviewed by other permit writers, the permitting supervisor, and the program manager before going to public notice. The WDEQ Administrator and WDEQ Director also review the permits before issuance. EPA Region 8 is consulted when necessary and appropriate.

The State has worked closely with EPA Region 8 to resolve issues with regard to permit modifications, and timing and response to public comments. As documented in its October 26, 2001 NPDES Permits, Compliance and Enforcement Program Audit report, EPA identified instances where the WDEQ processed major permit modifications as minor modifications. The WDEQ has revised its internal procedures to assure consistency with the minimum federal requirements for major versus minor modifications.

Checklists are used for such actions as tracking the permitting process, completeness reviews, antidegradation reviews, and total maximum daily load (TMDL) development. A permit writer's checklist contains information to evaluate federal and State regulations, potential pollutants expected to be discharged, compliance history, and antidegradation. Permit writers use computer generated spreadsheets to complete water quality-based effluent limit (WQBEL) calculations and a permit writer tool that contains permit language for specific industries. This provides a level of consistency, reduces human errors, and increases permit writing efficiency. Standardized national permit quality review tools (i.e., permit quality checklists and central tenets) will be evaluated and be incorporated into the State's NPDES program if they are appropriate to enhance existing permit quality tools.

When determining if a WQBEL is needed in a permit, the permit writer will evaluate the potential pollutants that are expected to be discharged from the facility. These pollutants are then compared to the State's water quality standard criteria to determine if a water quality standard exists for the pollutants of concern and if it is applicable to the receiving stream. If it is determined that development of a WQBEL is appropriate, a WQBEL will be calculated. The WQBEL will also be compared to any applicable technology-based effluent limits (TBELs) and the more stringent limit incorporated into the permit.

For existing permits, permit writers use checklists, the statement of basis (SOB) and documentation that was compiled when drafting the existing permit to identify if limits in the permit are based upon TBELs. In addition, the federal regulations are researched for new and existing permits to determine if effluent limitation guidelines exist for a specific industry. If an applicable guideline exists then the TBELs will be calculated and compared to WQBELs. The basis for any limit, TBEL or WQBEL is included in the SOB.

The WET requirements that are incorporated into permits are based upon federal regulations. Typically, the State conforms to the Region 8 guidance document related to WET testing to determine how to incorporate WET limits into permits. Acute and chronic limits are included in permits when appropriate.

The State has developed a permitting approach that is designed to assist permit writers in determining when to incorporate WET limits into CBM permits. A copy of this permitting approach is available on the WDEQ Web site. The WDEQ also utilizes Region 8 guidance documents related to WET testing to determine how to incorporate WET limits into non-CBM permits.

EPA Region 8:

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

None of the discharges permitted by EPA Region 8 are to waters listed as impaired under CWA section 303(d) with TMDLs in place. In the event this situation presents itself in the future the Water Permits Unit would work closely with the TMDL program to ensure the wasteload allocation is appropriately reflected in the permit.

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

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

EPA Region 8 does not have a formal process in place to ensure timely and appropriate permits. The Water Permits Unit is evaluating: 1) management tools to ensure timely issuance of permits; and 2) national permit quality tools ("National Permit Quality Review Checklist" and the "Central Tenets") to verify appropriate conditions are included in all permits.

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

Technology-based limits are imposed for facilities which fall under effluent limitation guidelines (ELGs), and secondary treatment technology requirements are imposed for municipal facilities as appropriate. When a permit application is received the permit writer evaluates whether any ELG's

apply. If there is uncertainty other permit writers and the appropriate EPA headquarters ELG contact are consulted.

2. Pretreatment

The State of Wyoming:

Wyoming is not authorized to administer the pretreatment program.

EPA Region 8:

Wyoming has five approved pretreatment programs.

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

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

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

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

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

The annual report review for Wyoming is targeted for completion within 60 days of receipt. Follow-up is included in the 60 days except where local limits revisions and grease control programs are found to be necessary. These activities require varying amounts of time to complete.

SIUs are located in both approved and non-approved programs. Over 96% of the identified SIUs in approved programs in Wyoming have control mechanisms in place. The EPA does not issue permits or control mechanisms in non-approved programs, since there is no federal authority to do so. Industrial users in non-approved programs, if violating, may be issued a formal enforcement action.

3. Concentrated Animal Feeding Operations

The State of Wyoming:

The State adopted revised CAFO rules in November 2004. As of April 2005, Wyoming has permitted 62 CAFOs.⁴ Currently, 56 of the 62 CAFOs have approved nutrient management plans (NMPs). All CAFO permits are issued as individual permits.

The majority of the animal feeding operation (AFO) facilities in Wyoming fall within the medium and small threshold for animal numbers. WDEQ will coordinate with federal, State, and local agencies to initiate a voluntary approach to assist these AFOs in minimizing impacts to water quality. If voluntary efforts are unsuccessful, WDEQ will proceed with enforcement and require a CAFO permit for the facility. AFOs that are not CAFOs are being assisted through the WDEQ non-point source program in cooperation with the Natural Resources Conservation Service (NRCS), Wyoming Department of Agriculture and the Wyoming Association of Conservation Districts.

Every new CAFO permit requires a NMP. NMPs are typically developed by NRCS certified planners that take into consideration the minimum requirements for the NPDES program. The WDEQ, NRCS, Wyoming Department of Agriculture and the Wyoming Association of Conservation Districts routinely meet to discuss permitting, construction, and NMP issues. Inspectors review the NMPs with the operator to ensure that the NMP is being properly implemented. CAFO's not in compliance with permitted NMP requirements are being targeted for enforcement action.

All permits are being issued in a timely manner and the revised CAFO rules are currently being incorporated into the State program. The NMP technical standards were finalized in April 2004. The new State CAFO regulations were adopted in November 2004. The 1998 State CAFO compliance strategy was updated in November 2004. All existing permits will be renewed on or before 12/06.

CAFO's are inspected within one year of permit issuance or renewal and at least one additional time during the life of the permit. Certain CAFOs are targeted for additional inspections, especially if they are located within the same sub-watershed as an impaired waterbody on the CWA section 303(d) list or near a waterbody scheduled for a TMDL likely to be associated with CAFOs. The 1998 CAFO enforcement strategy describes how compliance assistance, inspections and enforcement are targeted and managed.

The WDEQ, NRCS and Wyoming Association of Conservation Districts have conducted and continue to conduct outreach efforts on the new CAFO rules. The technical standards were finalized in April 2004 using the new federal rule as a guide.

EPA Region 8:

Permitted CAFOs are inspected, at a minimum, once during the life of the permit or once every five years. Region 8 has used ground surveys, aerial flyovers and surveys of U.S. Geological Survey (USGS) aerial photographs to inventory AFOs and CAFOs in Indian Country. Region 8 has surveyed and inspected 13 of the 26 Tribes in the Region for high priority CAFOs and 12 CAFOs have been identified. Fiscal year 2005 funding has been acquired to inventory/inspect 4 more reservations.

⁴ The National Data Sources column of the Management Report, measures #11 and #26 show that Wyoming has an estimated 39 CAFOs, all covered by NPDES permits. This is based on information provided in March 2004.

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

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

4. Stormwater

The State of Wyoming:

The State has stormwater general permits for industrial activities, mineral mining activities, large construction, and small construction, and small MS4's.⁵ The State does not require small construction sites to submit a notice of intent (NOI) or application for coverage under the general permit; rather, sites are covered if they meet the eligibility requirements. All regulated stormwater activities are covered by general permits with the exception of industrial and mineral mining stormwater activities potentially affecting Class 1, outstanding waters. Industrial and mineral mining stormwater discharges to Class 1 waters are covered using individual stormwater permits.

Class 1 waters are defined in the Wyoming Water Quality Rules and Regulations. Class 1 waters are those surface waters in which no further water quality degradation by point source dischargers other than from dams will be allowed. In designating Class 1 waters, the Environmental Quality Council shall consider water quality, aesthetic, scenic, recreational, ecological, agricultural, botanical, zoological, municipal, industrial, historical, geological, cultural, archaeological, fish and wildlife, the presence of significant quantities of developable water and other values of present and future benefit to the people.

There are currently 7 individual stormwater permits, plus one other that is under public comment and 1388 coverages under general stormwater permits. The State does not envision any opportunity to increase the use of general permits to improve efficiency in the stormwater program. The number of permittees covered under a general permit (1388) does not include small construction sites because Wyoming is not required to track this information per the Phase 2 stormwater permitting requirements.

Stormwater monitoring reports are tracked electronically through the stormwater tracking database (an Access database). The primary information tracked electronically includes the permit holder, facility name and location, receiving waters, issue and expiration dates, hydrologic unit codes (HUCs), and basin identification. Sectors which require monitoring are timber products, metal mining, scrap and auto salvage, and clay, concrete and gypsum.

⁵ The National Data Sources column of the Management Report, measure 30, shows that the small MS4 permit is in draft, based on data as of July 1, 2004. This permit was issued February 1, 2005.

EPA Region 8:

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

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

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

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

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

5. Combined Sewer Overflows/Sanitary Sewer Overflows

The State of Wyoming:

There are no combined sewer systems identified in Wyoming. Therefore, no long-term control plans or notification procedures for combined sewer overflows (CSOs) have been developed. However, WDEQ has a response plan addressing sanitary sewer overflows (SSOs). Wyoming's SSO response plan consists of a background on SSOs, a strategy on how to develop the SSO inventory, Wyoming's preventative program, and the response program. The plan does not contain procedures to notify the public and public health authorities of SSO events because notification is currently handled by the local authorities.

In the past year, 2 of 4 SSOs known to be discharging were inspected. Three letters of violation were issued to systems with SSOs.

EPA Region 8:

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

6. Biosolids

The State of Wyoming:

The State does not have authority to administer the sludge program.

EPA Region 8:

EPA Region 8 has direct implementation of the biosolids program in Wyoming. There are twelve facilities in Wyoming granted coverage under the regional general permit WYG650000. This general permit became effective in August 2002 and does not cover facilities or operations that incinerate sewage sludge. The general permit covers details on the generation, treatment/monitoring, and the use/disposal, along with the amount and location of biosolids. Use and disposal of biosolids covers land application, landfill, and surface disposal.

In addition to facilities covered under WYG650000, general permit WYG651000 covers facilities located in Indian Country in Wyoming.

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

In Wyoming, 63% of facilities use land application, accounting for 44% of the biosolids.

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

Section III. NPDES Compliance Monitoring and Enforcement Response

In a separate initiative, EPA's Office of Enforcement and Compliance Assurance, 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 Wyoming:

The State has an Enforcement Management System (EMS) document to determine the appropriate level of enforcement response needed for each violation. Enforcement can be in the form of a letter of violation (LOV), a notice of violation (NOV), a NOV with an administrative order, a NOV with penalties, a NOV with penalties and an order, or a referral to the State Attorney General's office. Enforcement is escalated when a facility fails to comply with the previously issued enforcement action. The EMS includes responses for violations of WET requirements and although not explicitly, the EMS also addresses wet-weather issues (CAFOs, SSOs, stormwater).

The State is notified of significant environmental issues by permittees in accordance with the permit conditions and self monitoring reports, through inspections conducted by the State, or through complaints from a third party. The enforcement response is based on the EMS. Compliance in the stormwater program is gauged through site inspection results. Enforcement of the stormwater program is conducted in accordance with the EMS. The State has committed to developing an enforcement and compliance strategy for stormwater.

WDEQ does not routinely take FEAs against facilities which appear in SNC for one quarter. The Region 8 and WDEQ enforcement agreement places a priority on enforcement against major facilities which are in SNC for two quarters. This accounts, in part, for the low percent of facilities in SNC which were addressed by FEAs. In fiscal year 2003, WDEQ took enforcement action against one of two major facilities which were in SNC for two consecutive quarters.⁶ The rate of SNC in Wyoming has decreased significantly each of the last three years. The number of major facilities in Wyoming which appear on the QNCR as in SNC may have been skewed by data problems in PCS. WDEQ has participated in data clean up of PCS which may account for some of the drop in the SNC rate. In general, enforcement actions issued by WDEQ contain appropriate provisions to return the facility to compliance including specific timetables for compliance.

Wyoming's written NPDES penalty policy is part of the EMS document. The policy addresses the recouping of an economic benefit through the issuance of a NOV with penalties or a referral to the State Attorney General's office.

⁶ The National Data Sources column of the Management Report, measure #35, shows 0% of facilities in SNC addressed by FEAs. The facility against which a formal enforcement action was taken was one of 5 in SNC during the time frame considered for the measure, but there were data errors in linking the enforcement action to the violation in PCS.

There were fifteen NOV's issued between January 1, 2001 and December 31, 2003. There was one NOV issued during the 2001 calendar year. This was a NOV with an administrative order.

There were 11 NOV's issued during the 2002 calendar year. There was one NOV with no associated penalty or administrative order. There were three NOV's issued with administrative orders. There were seven NOV's issued with penalties. A total of \$36,000 in penalties was levied with the State collecting \$26,500. The State is waiting for the payment of the remaining combined \$9,500 penalty from three separate NOV's. Of the \$26,500 in penalties collected thus far, \$15,000 was paid as a supplemental environmental project (SEP) to a conservation group conducting a study to address impairments in the Powder River.

In the 2003 calendar year there were two NOV's issued with administrative orders and one NOV issued with a penalty of \$42,500. Of the \$42,500 in penalties, \$7,000 will be paid as a SEP to support a Bureau of Land Management (BLM) and Wyoming Game and Fish enhancement project and \$23,500 is to be paid as a SEP to a conservation group to support a study to address impairments in the Powder River. There was one referral to the State Attorney General's Office in 2003.

The Region 8 and WDEQ enforcement agreement defines timeliness of enforcement against major facilities as issuance of an enforcement action prior to a facility's second appearance on the QNCR for the same violations. Timeliness of enforcement actions has been an issue. To alleviate this issue, EPA and Wyoming have continued to have quarterly meetings where enforcement actions are discussed, and WDEQ has begun closer review of the QNCR. Also, WDEQ has recently instituted changes in the way it works with the Wyoming Attorney General's Office to improve the timeliness of enforcement actions. The WDEQ has also added additional inspection and compliance staff which will improve efficiency.

Once a NOV is issued, the compliance supervisor tracks and monitors its status through the NPDES enforcement database. Quarterly reports on the status of all NOV's are provided to the NPDES Program Manager and the WDEQ Administrator.

EPA Region 8:

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

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

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

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

The Region routinely conducts inspections at the over 180 wastewater treatment facilities on Indian Country, the vast majority of which are not major facilities. The appropriate enforcement response is then guided by the Region 8 Guidance for Compliance Assistance and Enforcement Procedures in Indian Country.

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

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

Table 3: Enforcement Actions taken by EPA Region 8 in all Region 8 States and Indian Country

	Administrative Orders	Administrative Penalty Orders	Penalties Collected
Fiscal Year 2001	18	7	\$ 40,000
Fiscal Year 2002	8	6	\$ 295,952
Fiscal Year 2003	34	9	\$ 163,776

All of the penalties recovered economic benefit at a minimum.

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

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

2. Record Keeping and Reporting

The State of Wyoming:

The State enters data as quickly as possible into the WDEQ NPDES database and establishes priorities for the entry of data into the database. As an example, the priority associated with entering inspection, permit tracking data and enforcement action data is high. Therefore, these data are entered into the

database within fifteen days of receipt of the inspection, permit or enforcement action. Other types of data with lower priorities are entered as time permits. Further information on data entry into PCS can be found in the data management section of the profile.

The State reviews all DMRs for compliance with permit limits and conditions. In addition, if laboratory reports are submitted with the DMRs, the reports are compared to the values reported on the DMRs.

During the 2001 audit of WDEQ's NPDES program and a subsequent file review, 8 of 23 files reviewed did not include DMRs. It is believed that some of the DMRs were missing because they were still waiting for data entry into PCS. No more recent information is available on the completeness of files. Also, the 2003 Department of Environmental Quality Permitting Task Force Report recommended to the State Legislature that a full time position be funded to "manage and direct the DMR program." This position was approved and filled in the fall of 2004.

WDEQ has developed a standard operating procedure regarding access to public information (policy P-2). All files are available for public review at the Cheyenne office except enforcement sensitive information. This policy also outlines the content of NPDES permit files, and basic archiving requirements for those files.

EPA Region 8:

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

3. Inspections

The State of Wyoming:

The current WDEQ NPDES database assigns base points to each major facility to ensure the facilities receive a high priority and are inspected each year. Additionally, all facilities are given priority points based on type and number of violations, the last time the facility was inspected, and when the current permit expires. All minor facilities are to be inspected at least once every five years. CAFO inspections are conducted in accordance with the 1998 Wyoming CAFO Enforcement Strategy.

The 25 major facilities currently operating in Wyoming are considered to be facilities that pose the greatest risk to designated uses of surface waters of the State. Due to the current and projected pace of CBM development in Wyoming, CBM discharge permits have warranted a higher priority for inspection. Facilities which discharge water with a lower risk to public health or the environment receive a lower inspection and monitoring priority.

The WDEQ typically inspects 100% of major facilities and 20% of minor facilities each year. The number of stormwater inspections is negotiated with EPA every year. Due to the addition of more than 800 new CBM facilities over the last five years, the number of facilities inspected has increased over the past three years.

WDEQ participates in EPA initiatives, particularly wet-weather. Each year WDEQ has committed to targeting a certain number or percent of stormwater, SSOs, and CAFO facilities for inspection.

Additionally, WDEQ has developed enforcement strategies for CAFOs and SSOs, and is developing a strategy for stormwater.

WDEQ conducts a file review for every inspection except for the cases in which a facility is inspected multiple times during a year.

EPA Region 8:

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

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

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

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

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

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

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

4. Compliance Assistance

The State of Wyoming:

To help the regulated community comply with environmental requirements, the State NPDES program provides quarterly outreach to operators to assist with proper completion of applications, understanding and interpretation of permit conditions and proper completion of DMR forms. The State has had individual meetings with all facilities covered by the Phase II stormwater regulations and participates in

meetings with the contractors association. The State works closely with Casper College to provide assistance to small municipal wastewater facilities. Also, WDEQ often provides assistance to facilities which are out of compliance. Information on how WDEQ measures outcomes from compliance assistance activities is not available.

As a measure of environmental results from enforcement actions, Wyoming does not use loading reductions. Rather, the State measures the environmental results of its actions by the reduction of SNC with NPDES permit requirements.

The State utilizes a number of approaches to identify areas with environmental concerns, including; 1) use of the program database to identify segments of the regulated community that are experiencing substantial noncompliance, 2) contact from specific groups with concerns about compliance, and 3) feedback from inspectors identifying specific sectors or entities that need assistance in understanding and meeting compliance goals.

The State identifies appropriate tools for achieving compliance based on past experience, discussions with other States and EPA, feedback from stakeholder groups, and evaluation of successful efforts in other State programs.

EPA Region 8:

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

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

Section IV. Related Water Programs and Environmental Outcomes

1. Monitoring

The State of Wyoming:

Wyoming is one of the few States that has implemented a probabilistic survey design which began in 2004. While the current percentage of stream miles assessed is quite low, when enough data have been collected to formulate a reasonable and defensible statewide assessment, the number for percentage of stream miles assessed will rise significantly.

Wyoming has developed a five-year monitoring strategy which is posted on the State's Web site <http://deq.state.wy.us/wqd/watershed/index.asp>. It is a strategy for ambient water quality monitoring and was not meant to be a strategy for the NPDES program. The strategy is only intended to assist the NPDES program with monitoring for the development of wasteload allocations. The strategy is largely based on existing resources. The biggest limiting factor to expanding the monitoring program is staffing. According to WDEQ, the greatest non-staffing resource need is for funds to complete the national wetlands inventory (NWI) for Wyoming. The area of greatest energy development in Wyoming is in the northeast, which is also where the NWI is most lacking. A wetland monitoring program would be difficult to carry out without a complete inventory of the resource. Further, with funding for NWI completion being uncertain at best, a timeline for its completion cannot be determined at this time.

The strategy also includes the development of a lake monitoring program. Currently, the lake program is focused on large reservoirs with public access and recreational uses. Increasing lake monitoring would require additional resources, largely in the form of staff. With existing staffing levels, expanding the NPDES program is a higher priority than enhancing the lake monitoring program.

The NPDES program identifies priority waterbodies associated with point source discharges for monitoring. Permit expiration dates are being coordinated so that all permits within a given watershed expire on the same date, allowing for a comprehensive review of cumulative impacts. The WDEQ NPDES and watershed management programs coordinate work efforts in accordance with the watershed management's five year ambient monitoring program. The program strategy includes a portion of sampling to support characterizing ambient water quality for permit reissuance.

Fish tissue monitoring in the State is considered to be the responsibility of the Wyoming Game and Fish Department (WGF.) The WGF, EPA's Environmental Monitoring and Assessment Program (EMAP), and the National Water-Quality Assessment (NAWQA) program of the USGS have conducted fish tissue monitoring in Wyoming. Wyoming will review all data as they become available to assess whether fish tissue contamination is an issue before the State decides to invest in collecting additional stream fish tissue data.

2. Environmental Outcomes

The State of Wyoming:

Wyoming reports an assessment of 3.5% and 1.5% of river and stream miles and lake acres, respectively. This percentage may appear small for two reasons; 1) Wyoming samples a full suite of chemical, biological and physical parameters, and 2) Wyoming does not extrapolate beyond the actual stream segment that has been assessed when sites are chosen with a targeted design. These sites, which comprised the majority of stream sites assessed between 1998 and 2004, were selected because they had at least some information that suggested that uses were not fully supported. The use of these data to estimate statewide water quality conditions would be inherently biased and result in inflated estimates of miles of impaired streams.

The State's monitoring strategy includes implementation of a probabilistic design for streams, which will significantly increase the percentage of stream and river miles assessed for aquatic life use. The strategy includes the development of a lake monitoring program (not in place previously), though the number of lakes planned for sampling is limited. Additional resources would be needed to increase this number, and the strategy is based only on existing resources. There is limited language on wetlands monitoring.

EPA Region 8:

EPA Region 8 tracks the environmental effects and results of enforcement actions with the Case Conclusion Data Sheets that are a part of the ICIS tracking system. Pollutant loading reductions are calculated for all enforcement actions and tracked in ICIS as well.

3. Water Quality Standards

The State of Wyoming:

The surface water standards contain both numeric and narrative criteria. With few exceptions, the numeric criteria are based on either EPA's nationally recommended criteria for the protection of aquatic life and human health under the CWA section 304(a) or Safe Drinking Water Act (SDWA) maximum contaminant levels for the protection of public drinking water supplies, whichever is more appropriate for the particular designated use. These numeric criteria are risk-based values developed by EPA. The State relies upon EPA's recommendation that they are protective of the uses for which they were designed.

In addition to the numeric criteria, narrative criteria have been adopted that describe acceptable waterbody conditions for types of pollution that cannot be reasonably expressed as numeric values. Narrative criteria have been adopted for: dead animals and solid waste; floating and suspended solids; taste, odor, and color; industrial water supplies; agricultural water supplies; undesirable aquatic life; biological condition; and toxic substances not otherwise covered by numeric criteria. The narrative criteria are protective of the designated uses of the waters to which they apply by setting limits on the type of pollution to be at a level that will not result in significant adverse effects to the designated uses of the particular water. Compliance with the narrative criteria is determined on a site-by-site basis.

The WDEQ views numeric nutrient and sediment criteria development as a low priority for the next five years. WDEQ believes that the extreme heterogeneity in landform, geology and climate in Wyoming makes reference development for numeric criteria extremely costly; nutrient criteria development is

better done on a site-specific basis. Wyoming is investing in biological condition assessment by developing biological criteria, such as an improved multimetric index and a new predictive bioassessment model. The WDEQ believes that used together, narrative WQS, good water quality data, and accurate assessments of biological condition should identify sediment and nutrient problems, and preclude the need for numeric sediment and nutrient criteria.

EPA's review of Wyoming's NPDES permits has demonstrated that the WDEQ's implementation of the State's antidegradation rule is consistent with its revised WQS, including the antidegradation provisions and the Antidegradation Implementation Policy.

Neighboring States whose WQS are considered during permitting include Colorado, Utah, Idaho, Montana, South Dakota and Nebraska.

4. Total Maximum Daily Loads

The State of Wyoming:

A majority of the permits that require TMDL development have been identified on the State's list of impaired waters prepared under CWA section 303(d). For TMDLs that are incorporated into NPDES permits, the TMDL is based upon the wasteload allocation, load allocation and a margin of safety. The wasteload allocation, based upon the mass balance approach, utilizes the instream standard, the upstream flow of the receiving stream, the maximum discharge volume and the upstream concentration of the constituent to calculate the maximum allowable concentration of the constituent in the effluent. The wasteload allocation typically is used to calculate WQBELs in the permit. The WQBELs are then compared to the TBELs and the most stringent limit is incorporated into the permit. All TMDLs that are developed are submitted to Region 8 for review and approval. The State maintains an Access database to track the TMDLs that have been submitted and approved by EPA. Based on the information in the management report, Wyoming has maintained an outstanding pace in development of TMDLs. Of the TMDLs established through fiscal year 2003 in Wyoming, about one-quarter included NPDES point sources.

The need for WQBELs is determined when the permit writer evaluates the potential pollutants to be discharged and compares them with the State's applicable WQS. If a WQS exists and is applicable to the receiving stream, then a WQBEL is calculated. If the expected concentration of the pollutant is expected to exceed that of the WQS or WQBEL, the WQBEL will be incorporated into the permit.

When developing TMDL's the ambient conditions are characterized by evaluating available water quality data. The source of the data typically is USGS, WDEQ or the permittee.

In impaired waters that have no TMDL, the effluent limit of the pollutant of concern is equivalent to the water quality standard. The WQBELs are then established to ensure that the discharge does not contribute additional load to the receiving stream and the impairment.

All developed TMDLs are sent to EPA for their review and approval. Currently, 100% of the State's TMDLs are approved and there have been no delays in completing them.

EPA Region 8:

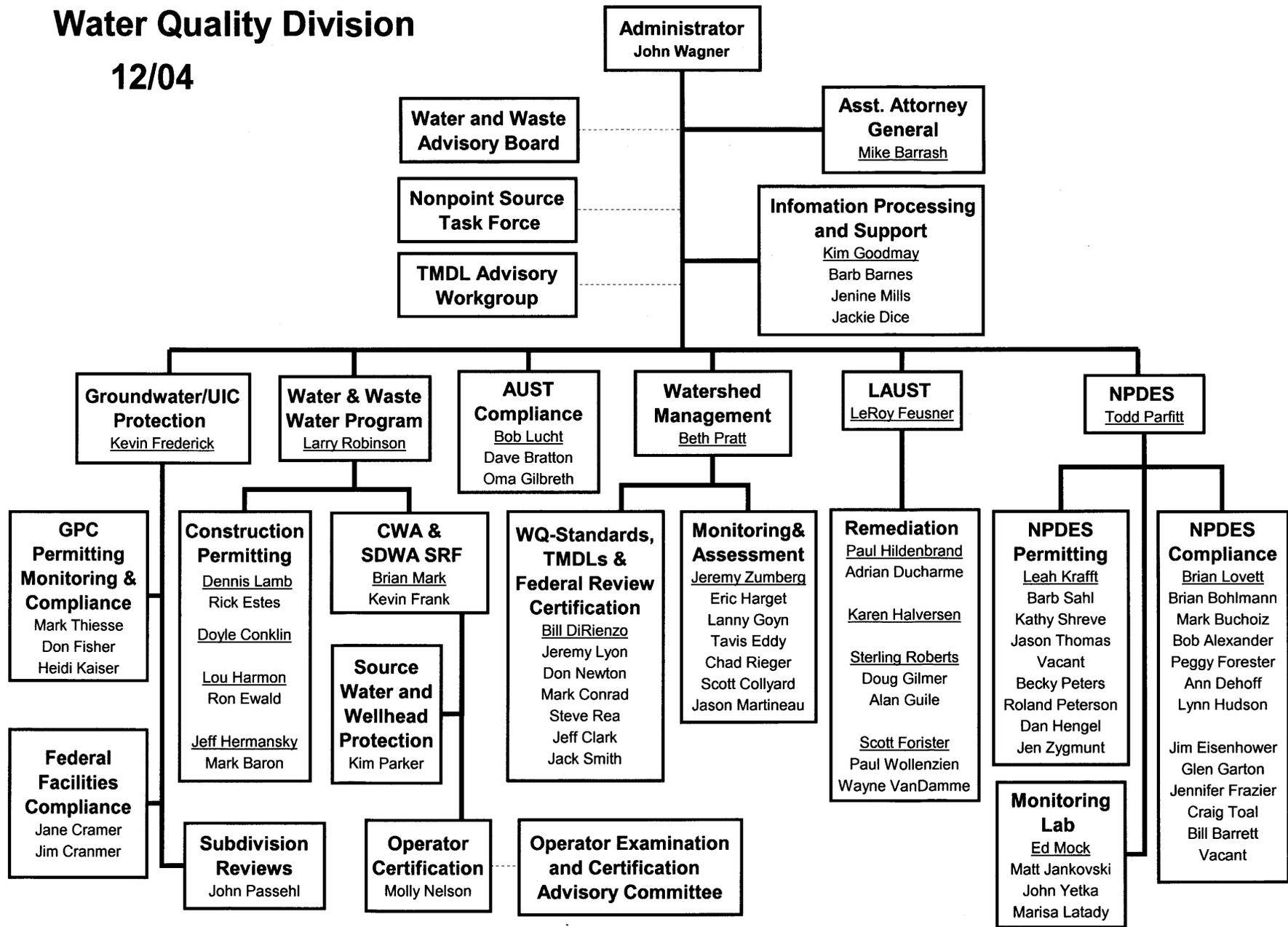
None of the discharges permitted by EPA Region 8 are to listed waters with TMDLs in place. In the event this situation presents itself in the future, the Water Permits Unit would work closely with the TMDL program to ensure the wasteload allocation is appropriately reflected in the permit.

5. Safe Drinking Water ActThe State of Wyoming:

As stated in Section IV.3 WQS, the SDWA is used to help set numeric criteria to meet the water's designated uses.

Water Quality Division

12/04



NPDES Management Report, Spring 2005

Wyoming

		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	25	0	
	2	# minor facilities covered by individual permits (42,057 total)	I.1		n/a	1,598	26	
	3	# minor facilities covered by non-storm water general permits (39,183 total)	I.1		n/a	290	0	12
	4	# priority permits (TBD)	I.6			--	--	
	5	# pipes at facilities covered by individual permits (142,761 total)	I.7		n/a	2,750	--	
	6	# industrial facilities covered by individual permits (32,505 total)	I.1		n/a	1,499	26	
	7	# POTWs covered by individual permits (15,197 total)	I.1		n/a	80	0	
	8	# pretreatment programs (1,482 total)	II.2		n/a	n/a	5	
	9	# Significant Industrial Users (SIUs) discharging to pretreatment programs (22,158 total)	II.2		n/a	n/a	27	
	10	# Combined Sewer Overflow (CSO) permittees (831 total)	II.5		n/a	0	--	
	11	# CAFOs (current and est. future) (17,672 total)	II.3		n/a	39	--	62
	12	# biosolids facilities (TBD '05)	II.6			--	--	
NPDES Program Administration	13	State or Region assessment of State NPDES program (none (N)/assessment (A)/profile (P))	I.1	50 states 2004	n/a	A, P	P	
	14	% pipes at facilities covered by individual permits w/ lat/long in PCS	I.7		46.3%	15.6%	--	
	15	State CAFO legal authority expected (mo/yr)	II.3	2005	n/a	4/04	n/a	11/04
	16	# Withdrawal petitions/legal challenges (22 total)	I.4		n/a	1	n/a	
	17	DMR data entry rate	I.7		95%	88%	--	
	18	# permit applications pending (1,011 total)	I.6		n/a	64	--	
NPDES Program Implementation	19	% major facilities covered by current permits	I.6	90%	83.7%	96.0%	n/a	100.0%
	20	% minor facilities covered by current individual or non-storm water general permits	I.6	90% 12/04	87.0%	82.8%	46.2%	99.0%
	21	# major facilities w/permits expired >10 yrs. (56 total)	I.6		n/a	0	0	
	22	% priority permits issued as scheduled (TBD '05)	I.6	95% 2005		--	--	
	23	% pretreatment programs inspected/audited during 5 yr. inspection period	II.2		85.3%	n/a	100.0%	
	24	% SIUs w/control mechanisms	II.2		99.2%	n/a	96.3%	
	25	% of CSO permittees with long-term control plans developed or required	II.5	75% 2008	82.2%	n/a	--	
	26	% CAFOs covered by NPDES permits	II.3		35%	100%	--	100%
	27	% biosolids facilities that have satisfied part 503 requirements (TBD '05)	II.6			--	--	
	28	# Phase I storm water permits issued but not current (76 total)	II.4		n/a	0	0	
	29	# Phase I storm water permits not yet issued (5 total)	II.4		n/a	0	0	
	30	Phase II storm water small MS4 permits current (Y/N/D (draft) (35 States)	II.4	100% states 2008	n/a	D	n/a	
	31	Phase II storm water construction permit current (Y/N/D (draft) (49 States)	II.4	100% states 2008	n/a	Y	Y	
NPDES Compliance Monitoring and Enforcement Response	32	% major facilities inspected	III.3		71%	81%	0%	85%
	33	(inspections at minors) / (total inspections at majors and minors)	III.3		76%	95%	100%	
	34	% major facilities in significant non-compliance (SNC)	III.1		20%	12%	--	
	35	% SNCs addressed by formal enforcement action (FEA)	III.1		14%	0%	--	20%
	36	% SNCs returned to compliance w/o FEA	III.1		70%	80%	--	
	37	# FEAs at major facilities (666 total)	III.1		n/a	1	1	
	38	# FEAs at minor facilities (1,660 total)	III.1		n/a	2	0	

Explanation of Column Headers:

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

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

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

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

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

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

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

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NPDES Management Report, Spring 2005

Wyoming

		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	113,101	n/a		
	40	Lake acres (27,775,301 total)	IV.2		n/a	410,166	n/a		
	41	Total # TMDLs in docket at end of FY 2003 (52,795 total)	IV.4		n/a	203	--		
	42	# TMDLs committed to in FY 2003 management agreement (2,435 total)	IV.4		n/a	10	0		
	43	# Watersheds (2,341 total)	IV.2		n/a	--	--		
Water Quality Administration	44	On-time Water Quality Standards (WQS) triennial review completed (42 States)	IV.3		n/a	Y	n/a		
	45	# WQS submissions that have not been fully acted on after 90 days (32 total)	IV.3	<25% submissions	n/a	n/a	0		
Water Quality Implementation	46	State is implementing a comprehensive monitoring strategy (Y/N) (TBD)	IV.1	all states 2005	--	--	--		
	47	% river/stream miles assessed for recreation	IV.2		13.8%	3.5%	n/a		
	48	% river/stream miles assessed for aquatic life	IV.2		22.0%	3.5%	n/a		
	49	% lake acres assessed for recreation	IV.2		49.4%	1.5%	n/a		
	50	% lake acres assessed for aquatic life	IV.2		48.5%	1.5%	n/a		
	51	# outstanding WQS disapprovals (23 total)	IV.3		n/a	1	n/a		
	52	WQS for E. coli or enterococci for coastal recreational waters (12 States)	IV.3	35 states 2008	n/a	n/a	n/a		
	53	WQS for nutrients or Nutrient Criteria Plan in place (13 States)	IV.3	25 states 2008	n/a	N	n/a		
	54	Cumulative # TMDLs completed through FY 2003 (10,807 total)	IV.4		n/a	193	--		
	55	# TMDLs completed in FY 2003 (2,929 total)	IV.4		n/a	11	0		
Environmental Outcomes	56	# TMDLs completed through FY 2003 that include at least one point source WLA (5,036 total)	IV.4		n/a	54	--		
	57	% Assessed river/stream miles impaired for swimming in 2000	IV.2		--	8.5%	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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