

***Goal Two: Safe and Clean Water***  
***Subobjective 2.1.1: Water Safe to Drink***

**Drinking Water Program**

The following are the PWSS expectations that will be reviewed during FY 08. The expectations reflect the basic requirements for State PWSS programs to be noted in each PPA.

**A. Maintain Core Program**

The State agency must maintain and implement the core program as required by federal and State statutes and rules and as reflected in program delegations and other formal agreements. The primary reference defining the core program is 40 CFR Part 142 Subpart B. Public health will be best protected if the State uses multiple barriers to protect drinking water and water systems. In addition to the requirements in Parts 141 and 142, States are expected to have a balanced and integrated program that includes other SDWA programs such as implementation of the DWSRF (not covered by the PPA) and source water protection (covered elsewhere in the regional guidance).

**B. National Strategic and Performance Activity Measures.**

Each State must provide written commitment in the PPA to the following five measures at the levels shown. These levels are the regional FY 08 targets for the national measures.

Strategic Target 2.1.1: Percent of the population served by community water systems that receive drinking water that meets all applicable health-based drinking water standards through approaches including effective treatment and source water protection. FY08 National Target = 90% FY08 Regional Target = 90%

Strategic Target SP-1: Percent of community water systems that provide drinking water that meets all applicable health-based drinking water standards. FY08 National Target = 89.5% FY08 Regional Target = 89.5%

Strategic Target SP-2: Percent of “person months” (i.e., all persons served by community water systems times 12 months) during which community water systems provide drinking water that meets all applicable health-based drinking water standards. FY08 Target = 95% FY08 Regional Target = 95%

SDW-1a: Percent of community water systems (CWSs) that have undergone a sanitary survey within the past three years (five years for outstanding performers) as required under the Interim enhanced and Long-Term 1 Surface Water Treatment Rules. FY08 Target for Delegated States = 95%

### C. **Data Management/Maintain National Database**

Good data is fundamental to implementation of the PWSS program. Each State is expected to have a data management system capable of supporting its day-to-day activities and fulfilling federal reporting requirements. For those States with new systems, e.g., those still struggling to install SDWIS/State, some milestones commitments may be appropriate to have in the PPA. States will provide special interest arsenic and lead and copper information as periodically requested by the region on behalf of Headquarters. States must commit to reporting dates of sanitary surveys to National SDWIS database by end of 1Q FY08.

The State agency must maintain its data in the national database, ODS f/k/a SDWIS/FED. This includes timely data entry and quality assurance and data validation.

States are scheduled for data verification audits about every three years. States slated to have a data verification audit in FY 08 have not been identified as of the date hereof. As they are identified, those States will cooperate with the data verification process. If there are outstanding issues from the last data verification for any State, commitments to address the issues should be included in the PPA.

### **Source Water Assessment and Protection Program**

States should continue to implement active Source Water Protection (SWP) programs in accordance with the Safe Drinking Water Act and EPA's National Strategic Plan. Subobjective 2.1.1 includes the following environmental outcome measure relating to effective SWP program implementation:

#### **Strategic Target SP-4**

Minimize risk to public health through source water protection. Minimized risk is defined as substantial implementation (as defined by state) of actions in a source water protection plan or strategy.

The regional target for SP-4 for FY08 is **37%** of regional Community Water Systems meeting the measure, and **25%** of population. This measure is a state grant template measure, and all states are required to set an annual target for this measure in the FY08 PPA, and to report on achievement at the end of the FY. Each state is expected to contribute meaningfully toward achievement of the FY08 regional target.

The state is expected to maintain staffing for the SWP program, and to commit to the following activities in the PPA in support of SP-4:

- Annually report SWP Program progress as fully as possible using EPA-provided reporting matrix or electronic transfer protocol by the end of October of each year; at a minimum this reporting will address the percentage of systems and population served achieving minimized risk through substantial implementation of SWP plans.

- Provide technical and programmatic assistance to Public Water Systems, communities, and other entities working on local SWP issues.
- Provide technical assistance to support Public Water Systems development and implementation of SWP Plans.
- Provide technical assistance for the completion of Source Water Assessments for new water sources or systems.
- Coordinate as needed with other state programs such as the Drinking Water State Revolving Fund, technical service providers such as National Rural Water state affiliates, and with EPA Region 8.

## UIC Program Activity Measures

| <b>FY 2008<br/>UIC Measures</b>   | <b>Region<br/>8<br/>Target</b> | <b>What to Report</b>   | <b>Report<br/>Due to<br/>Region 8</b> |
|---|--------------------------------|---|---------------------------------------|
| <p><b><u>SDW-6</u></b><br/>Percent of identified Class V Motor Vehicle Waste Disposal wells that are closed or permitted.</p>   | 80%                            | <ol style="list-style-type: none"> <li>1. Number of MVWDWs <b>closed</b> in <i>program history</i>.</li> <li>2. Number of MVWDWs <b>closed</b> in <b>FY08</b>.</li> <li>3. Number of MVWDWs <b>issued permits</b> in <i>program history</i>.</li> <li>4. Number of MVWDWs <b>issued permits</b> in <b>FY08</b>.</li> <li>5. Number of MVWDWs <b>identified</b> in <i>program history</i>.</li> <li>6. Number of MVWDWs <b>identified</b> in <b>FY08</b>.</li> </ol> | <p>Apr 20, 08</p> <p>Oct 20, 08</p>   |
| <p><b><u>SDW-7a</u></b><br/>Percent of <b>Class I</b> injection wells that maintain mechanical integrity and thereby reduce the potential to endanger underground sources of drinking water.</p>  | 98%                            | Number of <b>Class I</b> wells with MI failures in FY08. ( <i>include when wellhead monitoring or other integrity monitoring has revealed a mechanical integrity failure of the well in addition to failures identified during an actual mechanical integrity test.</i> )   | <p>Apr 20, 08</p> <p>Oct 20, 08</p>   |
| <p><b><u>SDW- 7b</u></b><br/>Percent of Class II injection wells that maintain mechanical integrity and thereby reduce the potential to endanger underground sources of drinking water.</p>   | 98%                            | Number of <b>Class II</b> wells with MI failures in FY08. ( <i>include when wellhead monitoring or other integrity monitoring has revealed a mechanical integrity failure of the well in addition to failures identified during an actual mechanical integrity test.</i> )  | <p>Apr 20, 08</p> <p>Oct 20, 08</p>   |
| <p><b><u>SDW-7c</u></b><br/>Percent of deep injection wells that are used for salt solution mining (Class III) that maintain mechanical integrity and thereby reduce the potential to endanger underground sources of drinking water.</p> | 98%                            | Number of <b>Class III</b> wells with MI failures in FY08. ( <i>include when wellhead monitoring or other integrity monitoring has revealed a mechanical integrity failure of the well in addition to failures identified during an actual mechanical integrity test.</i> )   | <p>Apr 20, 08</p> <p>Oct 20, 08</p>   |
| <p><b><u>SDW-8</u></b><br/>Number, and national percent, of high priority Class V wells identified in ground water based community water system source water areas that are closed or permitted .</p>                                     | 96%                            | <ol style="list-style-type: none"> <li>1. Number of high priority Class V wells in ground water based community water system source water areas that have been <b>identified, and the number closed or permitted, in program history</b>.</li> <li>2. Number of high priority Class V wells in ground water based community water system source water areas that have been <b>identified, and the number closed or permitted, in FY08</b> (7520-2B IX.)</li> </ol>  | <p>Apr 20, 08</p> <p>Oct 20, 08</p>   |

## **FY08 UIC Reporting Instructions, Definitions and Schedule**

**FY08 UIC Reporting Instructions:** In FY08, please submit the following to your Region 8 UIC Project Officer according to the enclosed Reporting Schedule:

**7520's + “PAM’s” Electronic (spreadsheet) Report - to be provided later (Preferred Option)**

**or**

**7520's + the two “extra” Reports ( below)**

***Number of MI Failures Report***

| <b><i>MI Failures</i></b>                  | Class I | Class II<br>ER | Class II<br>SWD | Class III<br>Salt | Class III<br>Metal |
|--|---------|----------------|-----------------|-------------------|--------------------|
| MI failure<br><b>No endangerment</b>       |         |                |                 |                   |                    |
| MI failure<br><b>Possible endangerment</b> |         |                |                 |                   |                    |
| MI failure<br><b>Known endangerment</b>    |         |                |                 |                   |                    |

***Class V High Priority Wells Report***

| <b><i>Class V High Priority Wells</i></b>     | Number of wells <b>identified</b> | Number of wells <b>permitted</b> | Number of wells <b>closed</b> |
|---|-----------------------------------|----------------------------------|-------------------------------|
| MVWDW in<br><b>program history</b>            |                                   |                                  |                               |
| MVWDW in<br><b>FY08</b>                       |                                   |                                  |                               |
| Class V in SWP area in <b>program history</b> |                                   |                                  |                               |
| Class V in SWP area in<br><b>FY08</b>         |                                   |                                  |                               |

## **FY08 Reporting Definitions**

**Ground water-based CWS's:** The number is determined from the state SDWIS database, which is nationally defined in SDWIS as the number of CWSs where the primary source facility is a well or, if there is more than one source facility, the practical definition of this term is CWSs where all the of the source facilities are wells.

**High priority Class V wells:** High priority wells include motor vehicle waste disposal wells, large capacity cesspools, industrial wells, plus any other categories identified by the State. The considerations for adding categories are:

- 1) existence of the well type in the State,
- 2) likelihood of endangerment to USDWs based on geology and/or a quantitative assessment of the well types, and
- 3) whether the well type is or is not already sufficiently regulated by a governmental entity within the State.

*(State definitions for high priority wells will be established by the UIC Director for a Direct Implementation state or between the State Director and EPA Region for primacy states by the end of the first quarter of the reporting year.)*

**Inspection for Class I, II, III, and deep Class V wells:** A complete inspection for Class I, II, III and deep Class V wells should include an assessment of the well head, pressure and flow meters, pipeline connections, and any other equipment associated with the injection system. An inspection is considered complete only when a report has been filed with the regulating authority. *Citation: 7520-3.*

**Inspection for Shallow Class V wells:** A shallow Class V well inspection is an examination at a facility that has or is likely to have an injection well(s) to determine if it falls under the UIC Program's authority and if the facility is in full compliance with regulations. Class V inspections should include those that are done to inspect "for" Class V wells as well as for existing wells on the inventory. An inspection is considered complete only when a report has been filed with the regulating authority.

**Maintaining Mechanical Integrity (MI):** An injection well has maintained MI when: (1) there is no significant leak in the casing, tubing, or packer, and (2) there is no significant fluid movement into an USDW through vertical channels adjacent to the injection well bore. *Citation: 40 CFR 146.8*

**Permitted Motor Vehicle Waste Disposal Wells (MVWDWs)** Under the 1999 revisions to the Underground Injection Control Regulations for Class V Wells (64 FR 68545, December 7, 1999), MVWDWs are permitted if they are individually permitted, come under a general permit, or under an area permit.

**Permitted Wells:** An injection well has an authorization, license, or equivalent control document issued by EPA or an approved primacy state to implement the requirements of parts 144 (Underground Injection Control Program), 145 (State UIC Program Requirements), 146 (Underground Injection Control Program: Criteria and Standards), and 124 (Procedures for Decision Making). A permitted well is not authorized by rule (§144.21). *Citation: 40 CFR 144.3.*

**Significant Violations:** These violations are the same as injection wells in Significant Non-Compliance.

**For Class I:** Violations that are associated with a potential to impact a USDW (e.g., MI failure, excessive injection pressure, release to un-permitted zones, etc.), whereas minor infractions (e.g., late paperwork, absence of wellhead signs) would not necessarily require SNC reporting. A pattern of late reporting can be a SNC. *Citation: UIC Guidance # 81 (UIC Class I SNC Definition-3/95).*

**For Class II and III:** SNC is defined as follows:

- a. Unauthorized injection -any unauthorized emplacement of fluids;
- b. Mechanical Integrity -well operation without MI which causes the movement of fluid outside of the authorized zone, if such movement may have the potential for endangering a USDW;

c. Injection pressure - well operation at an injection pressure that exceeds the permitted or authorized injection pressure and causes the movement of fluid outside the authorized zone of injection;

d. Plugging and abandonment - the plugging and abandonment of an injection well in an unauthorized manner. The definition includes “walking away from” a responsibility to plug and abandon a well. These wells are in SNC only when there is endangerment of USDW and there is an identifiable owner/operator;

e. Violation of a Formal Order - any violation of a formal enforcement action, including an administrative or judicial order, consent agreement, judgement, or equivalent State action;

f. Falsification - The knowing submission or use of any false information in a permit application, periodic report or special request for information about a well. *Citations: 7520-2A (Compliance Evaluation), 7520-2B (Compliance Evaluation and Significant Noncompliance) and 7520 (Quarterly Exceptions List), Office Director Memo (12/4/86), and UIC Guidance # 81 (UIC Class I SNC Definition-3/95), Guidance # 58 (9/09/87), and 40 CFR 144.12.*

**Significant Violations addressed in a timely manner (a well returned to compliance):** A **Timely Response** addressing an injection well in Significant Violation is one of three actions listed to bring a well in violation into compliance within 90 days: 1 “ . . . verify that the owner/operator has returned to compliance; 2. place the owner/operator on an enforceable compliance schedule and track to ensure future compliance; or 3. initiate a formal enforcement action against the owner/operator.” *Citations: UIC Program Compliance Strategy for Primacy and DI States, p.20-21-3/87, and 7520-2A, and 7520-2B.*

**Survey:** “A survey is to determine whether a Class V well exists at a facility. Determinations can be made by contacting the facility owner/operator, by written correspondence, phone, or actual inspections.”

**Survey completed for counties or ground water based CWS’s:** A “complete” survey occurs when all likely high priority Class V well locations within the county or source water areas for a CWS are fully canvassed.

**Violations (for Classes I, II, III, and V):** The Agency recognizes six categories of UIC injection well violations as follows: (1) unauthorized injection, (2) MI violations, (3) operation and maintenance violations, (4) plugging and abandonment violations, (5) monitoring and reporting violations, and (6) generalized category of others. These violations can range from to non-significant to significant noncompliance (SNC). These six categories include all violations of the UIC regulations from significant to minor paperwork violations. *Citations: 7520-2A (Compliance Evaluation), 7520-2B (Compliance Evaluation and Significant Noncompliance), 7520-4 (Quarterly Exceptions List), and UIC Guidance # 58 (UIC Class I Significant Non-Compliance Definition 3/95).*

**Violations addressed:** Violations should be counted as addressed if:

a. A facility returns to compliance though informal means , such as through: (1) notice of violation (NOV), (2) or by other means such as informal written and verbal warnings; or,

b. A formal action has been issued, e.g., administrative order (AO), bilateral compliance agreement (State tool), or civil referral, etc (including closures or permit issuances).

**Wells closed:** Well closures include: (1) discontinuation of unauthorized injection of fluids, and (2) authorized plugging and abandonment procedures. *Citations: 7520-2B, 40 CFR 144.82 and 144.89.*

## FY08 - UIC Reporting Schedule

| <u>Report Required:</u>  | <u>Reporting Cycle</u> | <u>Due Date</u>                   |
|--|------------------------|-----------------------------------|
| <b>7520-1</b><br>(Permit Review & Issuance, AOR)   | Annual                 | Oct 20                            |
| <b>7520-2A</b><br>(Compliance Evaluation, Enforcement)   | Semi-annual            | Apr 20, Oct 20                    |
| <b>7520-2B</b><br>(Significant Non-Compliance, Enforcement)  | Semi-annual            | Apr 20, Oct 20                    |
| <b>7520-3</b><br>(Inspections, Mechanical Integrity Testing)   | Semi-annual            | Apr 20, Oct 20                    |
| <b>7520-4</b><br>(Quarterly Exceptions List)   | Quarterly              | Jan 20, Apr 20,<br>Jul 20, Oct 20 |
| <b>“PAM’s” OnLine Electronic Spreadsheet<br/>Report (Preferred Option)</b><br><i>or</i><br><b>“extra” Report</b> | Semi-annual            | Apr 20, Oct 20                    |
| <b>7520-5</b><br>(Final Financial Status Report, or “FSR”)   | Annual                 | Dec 31                            |

## ***Goal Two: Safe and Clean Water***

### ***Subobjective 2.2.1: Restore & Improve Water Quality on a Watershed Basis***

#### **National Strategic Targets and Program Activity Measures**

EPA's Strategic Plan for 2006-2011 has the following goal for Clean and Safe Water.

*Ensure drinking water is safe. Restore and maintain oceans, watersheds, and their aquatic ecosystems to protect human health, support economic and recreational activities, and provide healthy habitat for fish, plants, and wildlife.*

In support of that goal, protecting and restoring water quality on a watershed basis continues to be one of five national Water Program priorities for FY 2008. Overall success under the Clean Water Act is measured not only by the success of individual programs, but also by our overall ability to protect and where it is degraded, improve and restore the quality of our Nation's waters. After more than 30 years of implementation of the Clean Water Act, many of the remaining water quality challenges are complex ones. Frequently, no single program alone is enough to address remaining water quality concerns.

Under the watershed approach, focusing on the needs of a watershed or an individual waterbody allows us to bring to bear those programs and partners necessary for waters to support protection, improvement, or restoration of water quality. Accordingly, the Office of Water's FY 2008 guidance directs Regions to work with States to coordinate core program activities in the nonpoint source, TMDL, NPDES, Clean Water SRF and water quality monitoring programs to improve or restore water quality on a watershed basis. Other programs such as Wetlands are also central to healthy watersheds, and have a role in maintaining and restoring water quality, as does coordination across political boundaries where necessary.

Environmental outcome measures in the 2006-2011 Strategic Plan direct us to measure and report our overall successes on both a waterbody and watershed basis. A description of specific Program Activity Measures (PAMs) for each surface water quality programs follows; however, each of these programs is expected to contribute to achieving the environmental outcome measures described here. There are three environmental outcome measures under the Watershed Subobjective, strategic targets SP-10, SP-11, and SP-12 (see Table XX below). SP-10 was formerly called Measure L. SP-11 and SP-12 are new in FY2008. SP-12 replaces Measures A and B from FY2007. Beginning in FY2008, States are expected to set individual goals to support the National 2012 goals for these Strategic Targets, and to make specific, numeric commitments annually to demonstrate progress toward those goals.

Table XX Water Quality Outcomes Measures for FY2006-2011

| <b>Measure</b> | <b>Description</b>  | <b>National<br/>2012 Goal<br/>(cumulative)</b> | <b>Anticipated<br/>Region 8 2012<br/>Goal<br/>(cumulative)</b> | <b>Draft Region<br/>8 FY2008<br/>Target</b> |
|----------------|---|--|--|---|
| <b>SP-10</b>   | Number of waterbodies identified in 2002* as not attaining water quality standards where standards are now fully attained.(cumulative)        | 2,250  | 133  | 96  |
| <b>SP-11</b>   | Remove the specific causes of waterbody impairment identified by states in 2002*. (cumulative)  | 5600   | 250  | 212   |
| <b>SP-12</b>   | Improve water quality conditions in impaired watersheds nationwide using the watershed approach. Based on the 2002* 303(d) list. (cumulative) | 250  | 20   | 2   |

\* Baseline year is now 2002, or the nearest previously approved 303(d) list.

**Full Waterbody Restoration (SP-10)**

Attain water quality standards for all pollutants and impairments in waterbodies identified in 2002 as not attaining standards. This measure cumulatively tracks the number of waterbodies listed as impaired in 2002 (or 1998 if 2002 303(d) list is unavailable) where water quality standards are now attained due to one of the following reasons:

1. Water no longer is impaired because of restoration activities – meets water quality standards.
2. Water reassessed - shown to be meeting standards; not impaired.
3. Original basis for 303(d) listing is incorrect; water meets water quality standard
4. Change in WQS assessment methodology, water now meets water quality standard
5. Water originally listed as threatened but has continued to meet water quality standards and is no longer considered threatened.
6. Change in WQS; data shows that water meets new WQS.

SP-10 (formerly Strategic Target L) is required in the State Grant Template (attached) for CWA 106 water quality management programs. It is the sole strategic target that was identified during the 2005 OMB Program Accountability Rating Tool (PART) review of the EPA surface water quality program and state CWA 106 grant program. Consequently, this measure remains one of high visibility and significance. The national baseline for SP-10 is the 39,503 waterbodies identified in the 1998 or 2002 §303(d) lists. Starting in FY2008, States are expected to generate an individual target for this measure and report against this target at the end of the fiscal year. This target should be set to reflect the cumulative number of waterbodies expected to qualify as “Fully Restored” as defined in SP-10, and measured against the 2002 (or 1998) impaired waterbodies list.

States are expected to review and discuss draft SP-11 targets with Region 8 during the summer of 2007 and include a numeric commitment in their 2008 Performance Partnership Agreement (PPA).

#### **Partial Waterbody Restoration (SP-11)**

Remove specific causes of waterbody impairment identified by states in 2002. This measure reflects improvement of water quality by cumulatively tracking the number of specific waterbody impairment causes removed by states in subsequent Integrated Reporting cycles.

Whereas the Full Restoration measure (SP-10) tracks the number of waterbodies for which all impairments have been addressed, SP-11 tracks progress in restoring water quality by counting the number of specific impairments addressed. Two impairments restored on the same waterbody would count as two toward this measure. Progress for this measure is counted cumulatively against the 2002 (or 1998 if 2002 is not available) impaired waters list.

The national baseline is for SP-11 is the 69,677 waterbody impairments identified in the 2002 (or 1998) §303(d) lists. The baseline includes impairments in categories 5, 4a, 4b, and 4c segments as of 2002. The national goal is to remove at least 5,598 specific causes of waterbody impairment by 2012.

Starting in FY2008, states are expected to include a numeric target for partial waterbody restoration (SP-11) in their PPA and to report against that target at the end of the federal fiscal year. This target should be set to reflect the cumulative number of waterbodies expected to qualify as “Fully Restored” as defined in SP-11, and measured against the 2002 (or 1998) impaired waterbodies list.

States are expected to review and discuss draft SP-10 targets with Region 8 during the summer of 2007 and include a numeric commitment in their 2008 Performance Partnership Agreement (PPA). Since this measure is new in FY2008, R8 is also requesting that states set targets for partial restoration by 2012 in their 2008 PPA.

## **Watershed Improvement (SP-12)**

Improve water quality conditions in impaired watersheds using the watershed approach. This measure cumulatively tracks the number of impaired watersheds (12-digit HUCs) identified as priority watersheds where water quality is improved as a result of applying the watershed approach.

Watersheds reported under SP-12 must meet the following guidelines.

- Improvement or restoration comes from deliberately focusing on addressing water quality impairments on a watershed basis. The *watershed approach* is a coordinating process for focusing on priority water resource problems that:
  - Is focused on hydrologically defined areas,
  - Involves key stakeholders,
  - Uses an iterative planning or adaptive management process to address priority water resource goals, and
  - Uses an integrated set of tools and programs.
- *Watersheds* for this measure are defined at the 12-digit scale, as determined by (a) the draft or final Watershed Boundary Dataset (WBD), or (b) state or regionally defined boundaries of comparable scale. Watersheds which may be counted toward this measure must have been identified in advance as priority watersheds by the State and have been the recipient of coordinated efforts to address the water quality impairments.
- *Improved* means either that:
  - One or more of the waterbody impairment causes identified in 2002 (or 1998) are removed, as reflected in EPA-approved state assessments, for at least 40% of the impaired waterbodies or impaired stream miles/lake acres in the watershed; OR
  - There is significant watershed-wide improvement, as demonstrated by valid scientific information, in one or more water quality parameters or related indicators associated with the impairments.

During summer 2007 states are expected to work with Region 8 to finalize the universe of priority watersheds and to develop a numeric FY2012 goal for Strategic Target SP-12. Starting with FY2008, states are expected to include a numeric commitment in their PPA that demonstrates progress toward the goal and to report against that annual commitment.

**Water Quality Standards**

| <b>PAM</b>  | <b>PAM Explanation</b>  | <b>Expectations for States/Tribes</b>   |
|---|---|---|
| <b>WQ-1a: # of States and Territories that have adopted EPA approved nutrient criteria into their WQS. (cumulative)</b>   | State/Territory has adopted nutrient criteria in their WQS and submitted those WQS to EPA and EPA has approved those WQS.                 | The Region is not expecting development and adoption of statewide numeric nutrient criteria in 08. Development and adoption, statewide, of technically defensible numeric nutrient criteria is a longer-term goal. States are more likely to adopt site-specific numeric criteria in the short-term (as Colorado and Montana have done).            |
| <b>WQ-1b: # of States/Territories that are on schedule with a mutually agreed-upon plan to adopt nutrient criteria into their WQS. (annual)</b>   | States/Territories meeting its current year milestones in its nutrient criteria development plan.   | The Region's expectation is that two States, WY and ND, will have final plans completed in 08 and that CO, MT, & UT will begin implementing their final plans. SD is already implementing, but the expectation is that SD will work towards finalizing their plan.  |
| <b>WQ-2: # of Tribes with EPA approved WQS (cumulative)</b>   | Tribe has adopted and submitted WQS to EPA and EPA has approved the WQS.  | The Region's expectation is that by the end of 07 we will have three Tribes with approved WQS (adding the Ute Mountain Ute). The Region is currently working with a number of Tribes that are close to developing or adopting tribal WQS. For 08, the Region expects the Northern Cheyenne Tribe to submit WQS.                                     |
| <b>WQ-3a: #, and national %, of States and Territories that within the preceding three year period, submitted new or revised water quality criteria acceptable to EPA that reflect new scientific information from EPA or other resources not considered in the previous standards.</b> | State/Territory has submitted new or revised criteria, between May 1, 2005 and April 30, 2008, reflecting new criteria/guidance from EPA. | The Region's expectation is that, by the end of 08, all six States will have met this PAM. CO, MT, ND, WY have already adopted WQS reflecting EPA's updated criteria (as listed in the Agency's 2004 guidance) within the period of record applicable to this PAM. The Region's expectation is that SD and UT will meet this goal by the end of 08. |

| <p><b>WQ-3b: #, and national %, of authorized Tribes that within the preceding three year period, submitted new or revised water quality criteria acceptable to EPA that reflect new scientific information from EPA or other resources not considered in the previous standards.</b></p> | <p>Tribe has submitted new or revised criteria, between May 1, 2005 and April 30, 2008, reflecting new criteria/guidance from EPA.</p>  | <p>Ft. Peck and Flathead have already adopted WQS reflecting EPA’s updated criteria within the period of record applicable to this PAM. The Region expects WQS submittals from Ute Mountain Ute by the end of 07 and Northern Cheyenne during 08.</p>  |
|---|---|--|
| <p><b>PAM</b></p>   | <p><b>PAM Explanation</b></p>   | <p><b>Expectations for States/Tribes</b></p>   |
| <p><b>WQ-4a: % of State and Territorial WQS submissions (received in the 12 month period ending April 30<sup>th</sup> of the fiscal year) that are approved by EPA.</b></p>   | <p>Single package of WQS submitted to EPA for review by State/Territory between May 1, 2007 and April 30, 2008. No action or disapprovals do not count, only approvals count. Purpose is to shed light on “approvability” of WQS.</p> | <p>A Regional priority is to work with States/Territories well before final WQS adoption in an attempt to ensure adopted WQS are approvable. Occasionally, however, States/Territories will adopt WQS that the Region finds to be inconsistent with federal requirements. In such cases, disapproval is appropriate. Because the Region cannot anticipate total agreement on all aspects of revised WQS, the Regional commitment is 79% for this PAM. Nevertheless, our <u>goal</u> is 100% approvability.</p> |
| <p><b>WQ-4b: % of Tribal WQS submissions (received in the 12 month period ending April 30<sup>th</sup> of the fiscal year) that are approved by EPA.</b></p>  | <p>Single package of WQS submitted to EPA for review by Tribes between May 1, 2007 and April 30, 2008. No action or disapprovals do not count, only approvals count. Purpose is to shed light on “approvability” of WQS.</p>          | <p>A Regional priority is to work with Tribes well before final WQS adoption in an attempt to ensure adopted WQS are approvable. Occasionally, however, Tribes will adopt WQS that the Region finds to be inconsistent with federal requirements. In such cases, disapproval is appropriate. Because the Region cannot anticipate total agreement on all aspects of revised WQS, the Regional commitment is 79% for this PAM. Nevertheless, our <u>goal</u> is 100% approvability.</p>                         |

### **Water Quality Standards Continued...**

**(1) Outstanding Issues** - The Region expects States with outstanding disapprovals to amend their standards, as necessary, to resolve the disapprovals.

\* Backlog has been significantly reduced (2 outstanding disapprovals remain). States are actively working on addressing these remaining disapprovals. Time needed for State regulatory action is the principal issue delaying resolution at this point.

**(2) Endangered Species Act** - The Region encourages States and authorized Tribes to solicit early participation by the Fish and Wildlife Service in reviewing draft water quality standards proposals. To the extent feasible, the Region encourages the States and authorized Tribes to address issues related to the protection of threatened and endangered species as amendments to the standards are being developed. We would like a commitment from each State and Tribe stating that the Service will be notified of planned WQS revisions (i.e., ensure the Service is on the States'/Tribes' mailing lists) and that the Service will receive drafts of proposed amendments when those are available for public review.

\* Regional priority is to reduce/eliminate the existing ESA backlog.

**(3) Bacteriological Criteria** - The Region encourages States and authorized Tribes to adopt EPA's recommended bacteriological criteria (*E. coli*) at the next opportunity. The Region will work with States to address implementation issues/questions.

\* Five States have adopted *E. coli* standards. The one remaining State has agreed to add a commitment to the PPA to address *E. coli* in their next triennial review (2007).

**(4) Nutrients** - The Region is working with States and authorized Tribes to adopt numerical nutrient criteria (or narratives with implementation plans) or develop plans to adopt State- or Tribal-derived nutrient criteria. Plans and significant progress in implementing plans is expected by the end of 2006.

\* Regional priority is to provide technical and resource assistance to support development of final plans (North Dakota and Wyoming) and implement final plans (Colorado, Montana, South Dakota, and Utah) all aimed at meeting the numeric nutrient criteria goal. Technical support, in the short-term, will be an RTAG meeting in May 2007 and support for case studies aimed at addressing advantages and disadvantages of the reference waters-based approach. All of the States are now actively working on plans or projects to support numeric criteria development.

**(5) Biological Criteria** - The Region recommends that States and authorized Tribes adopt narrative biological criteria and continue ongoing work aimed at developing methods by which these narratives can be implemented on a case-by-case basis.

\* Issue: Since our States have not adopted numeric biocriteria in their WQS, the focus for the Region will be on assisting States in developing acceptable implementation procedures for narrative standards. To satisfy the PAM measure on implementation, a State must use quantitative values (e.g., a macroinvertebrate IBI) to interpret its narrative standards and support use attainment determinations.

## **Water Quality Standards Continued...**

(6) Updated Criteria for Toxic and Conventional Pollutants - The Region expects States authorized Tribes to revise criteria values to be consistent with the most recently published EPA recommendations or State- or Tribal-derived, defensible alternatives (e.g., the updated criteria recommendations in EPA's 2004 *National Recommended Water Quality Criteria*). \* Mercury: EPA needs to publish implementation guidance; draft under review.

(7) Refined "Fishable/Swimmable" Designated Uses - A longer term goal is that States and authorized Tribes refine, as needed, their aquatic life and recreational uses to more precisely describe the aquatic communities and recreational uses that are to be protected.

\* Regional priority is to work with States/Tribes on UAA approaches and implementation aimed at refining the level of protection, where appropriate, at specific sites as an interim step.

(8) Tribal WQS - The Region is working with a number (between 4 - 6) of Tribes that are close to developing or adopting final WQS.

\* Regional priority is to provide technical assistance and review of draft WQS; ensuring tribally adopted WQS will be defensible and approvable. Regional WQU will also process elements of the Tribal TAS applications, over which it has control, in a timely manner

## **Monitoring and Assessment**

EPA Region 8 embraces the EPA Office of Water's monitoring and assessment guidance and strongly encourages states to follow it. The guidance is contained in numerous documents, including, Elements of a State Water Monitoring and Assessment Program, Integrated Reporting Guidance, Consolidated Listing and Assessment Methodology, and the 106 Program Guidance and the Monitoring Initiative Guidance. These documents can be found on EPA's web site at:

<http://www.epa.gov/owow/monitoring>

<http://www.epa.gov/owow/monitoring/repguid.html>

[http://www.epa.gov/owow/tmdl/2008\\_ir\\_memorandum.html](http://www.epa.gov/owow/tmdl/2008_ir_memorandum.html)

### **Monitoring and Assessment continued...**

The focus for FY08 will be on continued implementation of state monitoring and assessment strategies, submittal of the 2008 Integrated Report and electronic data (ADB and GIS), and adherence to EPA guidance. Region 8 encourages States to provide their 2008 Integrated Report (303(d) and 305(b)), 2008 Assessment Database (ADB), and supporting GIS data (georeferenced 305(b) and 303(d) segments) by April 1, 2008. Region 8 staff will continue to meet with State monitoring and assessment staff to ensure agreement on state monitoring and assessment priorities and on achieving quality Integrated Report and electronic submittals.

The FY08 Program Activity Measures (PAMs) noted below are key monitoring and assessment measures. Following EPA guidance will ensure that the PAMs are fully achieved.

**WQ-5**        *Number of States and Territories that have adopted and are implementing their monitoring strategies in keeping with established schedules.*

Each of the Region 8 States has submitted a monitoring and assessment program strategy. Region 8 strongly encourages States to update these documents and to programmatically address shortcomings or gaps between current programs and the Elements document. Additionally, Region 8 encourages States to follow the Monitoring Initiative Guidance in order to obtain supplemental funds that address both monitoring strategy-identified needs and participation in the National Large Rivers and Wadeable Streams Surveys.

**WQ-7**        *Number of States and Territories that provide electronic information using the Assessment Database version 2 or later (or compatible system) and georeference the information to facilitate the integrated reporting of assessment data.*

Region 8 strongly encourages States to continue to prepare and deliver both the ADB Version 2.2 (or later) and NHD-referenced GIS layers of IR segments and categories with their 2008 Integrated Reports by April 1, 2008.

## **TMDL Program**

Water quality restoration planning through the development of TMDL plans continues to be a major EPA focus in FY2008.

### **Pace of Annual TMDL Development (WQ-8 in FY08).**

This measure is required in the State Grant Template (attached) for CWA 106 water quality management programs. TMDL development pace tracks the annual number of TMDLs that are established by states consistent with the national policy that all waterbody/pollutant combinations need to be addressed within 8 to 13 years of originally being listed. An overriding factor may be the need for a particular state to stay compliant with a court order, consent decree, or settlement agreement derived from litigation. In FY08 States will be expected to report the calculated FY08 TMDL pace number, establish an FY08 TMDL development commitment in their PPA, and report out the actual number of TMDLs developed and submitted to EPA for approval at the end of the fiscal year.

## **Non-Point Source Program**

Region 8 strongly encourages States to maintain active and effective Non-Point Source (NPS) Programs in accordance with EPA's Strategic Plan and CWA Section 319. We request that the state include the Program Activity Measures (PAMs) **WQ-9(a,b,c)**, and **WQ-10** in the 2008 State Performance Partnership Agreement.

The State NPS program should continue to focus on restoring waters impaired by NPS pollution, and should be used by the states as a cornerstone in restoring impaired water bodies and watersheds. EPA will continue to work with the states toward this end.

The priority objective for the use of CWA Section 319 grant funds is to implement the state nonpoint source program expeditiously to achieve the goals of the CWA, including the restoration and maintenance of the chemical, physical, and biological integrity of the Nation's waters. To achieve this objective, EPA places top priority on implementing on-the-ground measures and practices that will reduce pollutant loads and contribute to the restoration of impaired waters. The Program Activity Measures (PAMs) described below achieve this objective by directing the use of Section 319 funds to the development and implementation of watershed-based plans that are designed to restore waters that have been listed by States as impaired under CWA Section 303(d).

**WQ-9 (a,b,c)** *Estimated annual reduction in million of pounds of phosphorus and nitrogen and in tons of sediment from nonpoint sources to water bodies (Section 319-funded projects only).*

**Explanation:** EPA collects this information in its Grants Reporting and Tracking System (GRTS) for Section 319-funded on-the-ground implementation projects where one or more of these three pollutants is addressed by the project. States are not strictly required to enter this information into GRTS until after one full year of project implementation, although they may enter data prior to the one-year period if they so choose. Therefore, load reduction data entered into GRTS in a particular year usually reflect the results of a project that was implemented during a previous grant year. Load reduction data must be entered into GRTS by February 15, every year.

EPA HQ will provide this information based on data entry in GRTS. No Regional breakdown of load reductions will be provided.

**WQ-10** *Water bodies identified by States (in 2000 or subsequent years) as being primarily NPS-impaired that will be partially or fully restored (cumulative).*

**Explanation:** This is the main long-term environmental results measure for the NPS program. A more detailed description of how this measure will be computed will be available at: <http://www.epa.gov/ow/waterplan/>  
By “fully restored,” EPA means that all designated uses are now being met. By “partially restored,” EPA means either of the following two conditions are being met:

- a) A water body that has a use that is initially impaired by more than one pollutant, but after restoration efforts meets the criteria for one or more (but not all) of those pollutants; or
- b) A water body that initially has more than one use that is less than fully supported, but after restoration efforts one or more (but not all) of those uses becomes fully supported.

The national target of 250 waters by 2008 and 700 by 2012 includes both partially and fully restored water bodies.

Since the main referent for this measure will be State 303(d) or Integrated Reports, States which did not submit 2000 303(d) lists may substitute the 1998 list for their base year. “Water bodies” therefore refer to 303(d)-listed segments or Category 4 or 5 waters on the Integrated Report. The measure is not meant to include only water bodies restored by 319-funded projects, but instead counts all primarily NPS-impaired water bodies that a state restores subsequent to the base year of 1998/2000. The water must have been impaired as of the year 1998/2000.

Waters listed **after** 1998/2000 which are then delisted from the 303(d) list (for some or all pollutants) or which move from categories 4 or 5 to category 1 or 2 may also be counted against this measure. In other words, although 1998/2000 is the base year, the 303(d) lists for those years need not be the only referent lists.

Please note that a water cannot be counted simply because it has been delisted from a state 303(d) list, or moves from categories 4 or 5 to 1 or 2, for reasons other than actual restoration (e.g., it is determined that it was inappropriately listed in the first place, it has a TMDL done for it, etc.).

A water will not be counted towards this measure if no specific management activities have been taken (by any party) within the watershed to improve water quality. Furthermore, a given water cannot be counted twice under this measure if it goes from impaired to partially restored, and then from partially restored to fully restored. Any given water may only be counted once under this measure.

For a water to be counted as “partially or fully restored,” it must be described by a story on EPA’s NPS Success Story Website (<http://www.epa.gov/owow/nps/Success319/>). On the Success Stories web site, the heading “Stories about partially or fully restored water bodies” is the section that refers to this measure. Without such a story, the water will not be counted against this measure. A story may include more than one water body, where appropriate.

Success stories submitted for the States (or Tribes) must include the following:

- Title
- Problem
- Project highlights
- Results
- Partners and funding
- Photos and/or Table/graph/chart
- Contact information
- GRTS project number(s) (where applicable)
- Date delisted from 303(d) list, or list date it will be delisted (i.e. next 303(d) list)

The determination of whether or not a water is “primarily” NPS-impaired will be left to the best professional judgment of the States. EPA does not expect that the State should do a detailed analysis when making a judgment on whether a given water is “primarily” NPS-impaired, when a precise determination would be exceedingly difficult (such as, for example, when a single listed water moves through both permitted MS4 areas as well as through non-permitted areas).

## **NPDES Permitting Program**

The following are the NPDES expectations that will be reviewed during FY 08. The expectations reflect the basic requirements for State NPDES programs to be noted in each PPA.

### **A. Maintain Core Program**

#### **Statement to be included in all PPAs/SEAs**

The State Environmental Agency shall fully implement and enforce its delegated NPDES program (including, as appropriate, general permitting, pretreatment and biosolids programs) as required by 40 CFR Parts 122-124, 403, 501 and 503, its delegation MOA dated MOA DATE, SEA, Inspection Plan, and any other agreements with EPA regarding program implementation. The PPA may specify goals and objectives for activities beyond the base level of performance, but, in no way, should this be interpreted as relief from full implementation of the base program.

### **B. National Performance Activity Measures.**

Each State must provide written commitment in the PPA to address 2008 national Performance Activity Measures.

WQ-11: Number of follow up actions completed as result of a comprehensive assessment of NPDES program integrity.

WQ-12a: Percentage of all non-tribal NPDES permits that are considered current.

#### **Commitment for WQ-12a to be reflected as:**

# and % of facilities that have a discharge requiring an individual permit:

- a. that are covered by a current NPDES permit;
- b. that have expired individual permits;
- c. that have applied for, but have not yet been issued an individual permit, and
- d. which have individual permits under administrative or judicial appeal.

Each year, 90% of all permits are current and 95% of the priority permits targeted for issuance are current. If the number of expired permits is greater than 30% at any time, provide an overall permit issuance/backlog reduction plan showing how the state will expeditiously reduce the backlog to 10%.

WQ-13a-d: Number of facilities covered by individual or general permit under the following categories (reported separately).

13a: Number of MS4s;

13b: Number of industrial stormwater facilities;

13c: Number of construction stormwater facilities; and

13d: Number of CAFOs

WQ-14a: Number and Percent of Significant Industrial Users (SIUs) in POTWs with Pretreatment Programs that have control mechanisms in place.

WQ-14b: Number and Percentage of Categorical Industrial Users (CIUs) in non-pretreatment POTWs that have control mechanisms in place that implement applicable pre-treatment requirements.

WQ-15a-b: Percent of major dischargers in significant noncompliance at any time during the fiscal year and number on impaired waters.

WQ-16: Number and national percentage of major POTWs that comply with permitted discharge standards.

WQ-19a: Number and Percentage of scheduled "high priority NPDES permits" that are current for States.

WQ-20: Number of dischargers with permits providing for trading between the discharger and other water pollution sources

### **C. Other Point Source Program Commitments for 2008**

1. Implement the Storm Water Phase 2 Regulations - December 8, 1999, to the maximum extent possible. Specific commitments include:
  - a. Adopt, if necessary, the storm water Phase 2 regulations into State Rules; and
  - b. Provide information on compliance assistance activities and trainings conducted for permitted small MS4s.
2. Involve regulatory agencies and the public as necessary to effectively permit storm water discharges.
  - a. The State program is accessible by the public and regulated entities (i.e., contact information, hotlines, web sites, etc.);
  - b. Include EPA in the review process prior to issuing general permits for storm water discharges and individual Phase 1 permits for municipal separate storm sewer systems (MS4s); and
  - c. Track storm water general permit coverage and provide data to EPA on regulated agencies consistent with national efforts for data management (e.g., WENDB/RIDE data elements within EPA's (PCS/ICIS-NPDES)).

3. Implement a process for incorporating TMDLs with storm water allocations into general permits.
4. Perform audits on all approved pretreatment programs at least once per five years.
5. Update State rules and procedures to incorporate pretreatment streamlining regulations as appropriate to allow for implementation.
6. Implement the Sewage Sludge (Biosolids) regulations
  - a. % and # of NPDES permits that contain biosolids language.
  - b. Maintain data in the Biosolids Data Management System (BDMS) or equivalent database. Submit the data electronically by May 1 each year for the preceding monitoring year.
  - c. If 40 CFR 503 was adopted by reference maintain current reference. (Most recently revised as of July 1, 1998 and August 4, 1999.)
7. Implement the Unified National Strategy for Animal Feeding Operations - March 9, 1999 to the maximum extent possible. Specific commitments include:
  - a. Permit all CAFOs in accordance with the deadlines established in the February 12, 2003 and February 10, 2006 federal regulations.
  - b. For all permitted CAFOs enter permit facility data, permit event data and inspection data into PCS/ICIS-NPDES.
  - c. Implement the State's program to address all animal feeding operations that are impacting water quality. Provide progress on implementation to EPA.
8. If your State is scheduled for an NPDES audit in FY08, specific language will be inserted into the agreement. EPA's schedule for 5-year audits is as follows:

| State        | Next Audit                     |
|--------------|--------------------------------|
| Colorado     | FY 08                          |
| North Dakota | FY 09                          |
| Montana      | To be determined by MT office. |
| South Dakota | FY 10                          |
| Wyoming      | FY11                           |
| Utah         | FY12                           |

## **Ground-Water Program**

Within Region 8, ground-water uses have increased significantly during the past decade. Many areas within the Region rely heavily on ground water to supply domestic, irrigation and municipal needs. Large areas within Region 8 have experienced a significant drought. Global climate change is likely to increase the frequency and severity of droughts. This will result in significant decrease in annual recharge to critical aquifers. The combination of increased use of ground-water and decreased recharge makes it imperative to bring a renewed emphasis to the comprehensive management of ground-water resources. State, Tribal and Federal water resource management agencies need to effectively manage all ground-water resources in a way that promotes sustainable use of the resource and protects vital ecological resources that rely on ground-water discharge. Region 8's Ecosystem Protection Program requests that the States address the following activities in their 2006 Performance Partnership Agreement:

- Participate in the Ground-Water Protection Strategy Workgroup
- Develop and /or continue to implement ground-water monitoring programs as part of the State Water Quality Monitoring Strategies or otherwise.
- Continue work on mapping and characterizing major and minor aquifers within each State
- Assess the status of State ground-water management activities and increase coordination among State agencies that are responsible for ground-water management.

## ***Goal Three: Land Preservation and Restoration***

### **Underground Storage Tanks Program**

EPA Regional offices are responsible for working cooperatively with states to identify and implement needed program improvements, as well as negotiate the terms and amounts of Underground Storage Tanks (UST) program State and Tribal Assistance Grants (STAG) awards, Leaking Underground Storage Tanks (LUST) Trust Fund cooperative agreements, and PL 105-276 assistance agreements to Tribes. Regional offices also directly implement and enforce UST regulations in Indian Country and, to a limited extent, they supplement state activities in areas that are under state jurisdiction.

#### **1. Interim Measure and Associated Definitions for Region 8**

**“Number of corrective action plans (CAPs) implemented” through your regular STARs reporting schedule Continuing in FY06.**

*Number of Corrective Action Plans (CAPs) implemented. The cumulative number of CAPs implemented where the site has been identified as a leaking underground storage tank site (LUST) from a Subtitle I regulated petroleum UST system, submitted a CAP that was approved by a state agency and started remedial activities.*

*Clarification: “Corrective Actions Plans Implemented” is identified as an approved CAP by a state agency in which the state or responsible party has : 1) removal of free product, 2) management or treatment of contaminated soils, 3) management or treatment of dissolved petroleum contamination, or 4) monitoring of groundwater or soil being remediated by natural attenuation. Excavation of petroleum contaminated soils following the removal of tank(s), site investigation, and pilot study activities do not qualify as a “corrective action plan implemented”.*

#### **2. National Priorities**

##### **A. Cross Cutting Initiatives**

- **Implement USTCA:** Key requirements include: Complying with the requirements described in current EPA Guidelines implementing Subtitle B, Underground Storage Tank Compliance Act, of Title XV, of the Energy Policy Act.
- **Conduct Enhanced Program Evaluations:** Key objectives include: (1) continuing to provide analytical reports that track national and Regional program performance; (2) improving data quality; (3) examining viability and identifying ways to improve underground storage tank financial assurance mechanisms, including state cleanup funds, (4) conducting evaluations of

specific state cleanup workloads to determine strategies for expediting and improving state cleanups programs; (5) developing methods to explicitly highlight the environmental and public health outcomes and benefits of completing LUST cleanups; and (6) continued participation in advancing OSWER's Revitalization Initiative including leading EPA-state efforts to evaluate the need for vapor intrusion guidance for petroleum sites, and participating in cross-media task forces on ground water and long-term stewardship.

- **Funding and Oversight:** Key objectives will be developed after discussions with the Regional Division Directors and Regional UST/LUST Program Managers on issues related to the allocation of both STAG and LUST funds to the states.
- **Fostering and Expanding Partnerships:** Key objectives include: (1) fostering existing partnerships among EPA (headquarters and Regions), states, communities, Tribes and industry to prevent releases and clean them up quickly when they occur; and (2) expanding partnerships by including non-OSWER EPA offices and the UST/LUST Regional program offices to achieve an integrated approach on tank issues (e.g., vapor issues and source water issues.) See <http://www.epa.gov/OUST/swaustmemo.pdf>

#### **B. Program Specific Initiatives**

- **Improving Compliance:** Key objectives will be developed after discussions with the Regional Division Directors in mid-March 2006. Please note that the USTCA imposed a number of conditions on States receiving LUST funding. The key objectives will include what EPA has to do under the law to implement these conditions (e.g., issuing guidelines).
- **Reducing the Cleanup Backlog:** Key objectives include: (1) piloting innovative and cost-effective approaches (such as the use of multi-site cleanup agreements) for cleanup resulting from the cleanup workload study; (2) expanding efforts to optimize cleanups of difficult sites; (3) providing technical and financial assistance to address fuel additives including oxygenates, MTBE, and lead scavengers; and (4) achieving a better understanding of the current backlog of sites and remaining administrative legal and technical impediments to cleanup.
- **Promoting Redevelopment of Abandoned Gas Stations:** Key objectives include: (1) working with Brownfields and OSWER Revitalization programs as key participants in implementing the petroleum provision of the Brownfields law, (2) working to increase state tank program participation in revitalization of petroleum contaminated sites; and (3) identify lessons learned from EPA's investment in USTfields pilots.

### **C. Program Development**

In FY 2005, a new LUST measure was reported internally that supports OSWER's approach to revitalization. The new internal measure, acres available for reuse or in continued use at LUST sites, is based on the number of sites at which cleanups are completed each year, multiplied by an estimated average of one acre per LUST site. Total acres also include contaminated land that was abandoned, cleaned up and made available for development. Specific measurements are not currently reported for land that remains in continued use during cleanup, and for abandoned land that is available for reuse. This measure was a joint effort with the Regional and state LUST programs. See <http://www.epa.gov/ocfopage/plan/2003sp.pdf>.

One of the influences in program development is the Federal government's Program Assessment Rating Tool (PART). The PART was developed to assess and improve program performance so that the Federal government can achieve better results. The LUST program was reviewed to identify its strengths and weaknesses to make the program more effective. In FY 2004, the LUST Program received a final numerical score of 68 and an overall rating of "adequate" from OMB's PART review. To achieve this rating, the LUST Program created two long-term performance measures that focus on environmental outcomes. The first measure is to increase the number of sites that meet risk-based standards for human exposure and groundwater migration. This measure focuses on the LUST program's sole mission, which is to cleanup LUST sites, and is correlated with the annual performance goal of LUST cleanups completed. This measure tracks EPA's performance on overseeing cleanups performed largely by states. The second long-term measure is to reduce the backlog of cleanups that exceed state risk-based standards for human exposure in Indian Country.

The LUST Program developed a measure of program efficiency in FY 2004 that will compare LUST cleanups completed over a 3-year rolling average with public and private sector cleanup costs. In FY 2006, the LUST program will determine whether this efficiency measure results in a meaningful measure of efficiency or whether a new one needs to be developed.

The UST program may undergo a PART review in FY 2006, with the results to be released in the FY 2008 President's budget request.

### **2. Funding**

EPA provides funds to help states implement their programs through grants or cooperative agreements under the authorities and appropriations described above, and when funding is available, from EPA's Headquarters' Environmental Program Management (EPM) and LUST Extramural Operating Plan resources. Specific activities eligible for funding are determined through negotiations between the states and Tribes and the EPA Regional offices based on national guidance issued by OUST for implementation of the USTCA.

In FY 2007, state and tribal cooperative agreements funded with LUST appropriations may only be used for leaking underground storage tank cleanup activities authorized by Section 9003(h)(7) of the SWDA. Any financial assistance the Agency provides with LUST appropriations under Section 8001 of the SWDA must directly support state and tribal oversight and cleanup of LUST sites under Section 9003(h) of the SWDA.

#### **A. UST State and Tribal Assistance Grants (STAG) Program**

The primary funding authorities for EPA to provide STAG funds to assist state and tribal prevention and detection programs will remain Section 2007(f)(2) of the SWDA for states and Public Law 105-276 for tribes. However, under the President's FY 2007 Budget Request, EPA will also have authority to make grants or cooperative agreements for new activities authorized by the Underground Storage Tank Compliance Act of 2005 (USTCA) which was enacted as Title XV, Subtitle B of the Energy Policy Act of 2005. EPA will not use STAG funds for leaking underground storage tank cleanup activities that are authorized by section 205 of Superfund Amendments and Reauthorization Act of 1986, even if those activities are also authorized by the USTCA. Prior to the FY 2007 funding cycle, OUST will provide more detailed guidance to the Regions on what prevention and detection activities are eligible for funding with STAG funds in light of the new authorities provide by the USTCA.

States must match funds equal to 25% of their UST program Section 2007(f) grant awards. See <http://www.epa.gov/ogd/grants/cfda.htm> (66.804). State matches may include in-kind contributions. In FY 2007, EPA may consider granting case-by-case deviations from the 25% State match requirement in 40 CFR 35.335. There is no match requirement for grants to Tribes under PL 105-276. To assist the Regional offices in evaluating state and tribal programs and identifying opportunities for improvement, states and tribes need to provide a complete picture of their UST program activities and funding.

EPA and the States will need to develop and implement systems to track the uses of the STAG funds. This issue will be discussed with the Regional Division Directors in mid-March 2006.

## **B. LUST Trust Fund Cooperative Agreements**

Funds from the Leaking Underground Storage Tank (LUST) Trust Fund appropriation can only be used for those activities that are authorized by Section 205 of the Superfund Amendments and Reauthorization Act of 1986. Consequently, EPA awards cooperative agreements to states under authority of Section 9003(h)(7) of the SWDA. Under Public Law 105-276, Congress authorized EPA to use LUST Trust Fund appropriations to award cooperative agreements to tribes for the same purposes as those set forth in Section 9003(h)(7). Policies and procedures applicable to EPA-State LUST Trust Fund cooperative agreements are presented in detail in OSWER Directive 9650.10A, issued May 24, 1994. See <http://www.epa.gov/OUST/directiv/d965010a.htm> .

Funds for state cooperative agreements are distributed annually among the Regional offices based on a formula that calculates: (1) a base allocation; (2) bonuses and rewards marking progress toward State Program Approval (SPA); (3) a performance-based bonus pool for states that are either initiating or completing a higher percentage of cleanups than the national average; and (4) a need allocation. Regional offices are free to reallocate the funds among states and territories based on a closer assessment of their needs in meeting or exceeding the cleanup GPRA measure, and other relevant factors.

EPA allocates LUST funding to tribes on a case-by-case basis that takes into account primarily the tribe's funding needs.

A ten (10) percent state cost share is required. There is no match requirement for cooperative agreements to Tribes under PL-105-276. See <http://www.epa.gov/ogd/grants/cfda.htm> (66.805).

## **C. EPA's EPM and LUST Extramural Operating Plan Projects (Subject to availability of funds)**

EPM and LUST Extramural Projects are aimed at helping states correct specific deficiencies or make specific improvements in their UST/LUST programs. When funding is available, Regional offices receive funding from OUST's EPM and/or LUST Extramural budget. Within the limitations imposed by the EPA budget and appropriations structure, Regional offices are able to support projects through cooperative agreements, grants, or by obtaining contractor assistance to help states with a specific project.

Regional offices have discretion to decide which state projects to support, but all projects must be strategically important to state UST/LUST programs and OUST's national priorities.

#### **D. Grants to Tribes - PL 105-276**

In FY 1999, through PL 105-276, Congress gave EPA authority to provide assistance agreements to Federally-recognized Tribes. In general, such assistance agreements can be used for the same purposes for Tribes as they are used for states. However, EPA does not have authority under RCRA to approve Tribal programs to operate in lieu of the Federal program. Grants may be used to help Tribes develop the capability to administer their own UST and LUST programs. Examples of eligible projects include the development and implementation of a regulatory program in Indian Country, conducting an unregistered tank survey, and providing leak detection and installer training.

#### **4. Regional Coordination**

Regional Planning Meetings, annual Regional Division Directors' meetings, and regularly scheduled monthly conference calls between OUST and the Regional UST/LUST Program Managers provide opportunities for OUST and Regional management to assess the strengths and weaknesses of state programs and decide where EPA's support is most needed and would be most productive. OUST will hold additional Regional Planning Meetings, as needed.

#### **5. State Reporting Requirements and Schedule**

Regional offices and states must work out reporting schedules that will enable the Regional offices to submit states' data to OUST in a timely manner.

The FY 2008 National GPRA Goal for Cleanups Completed is 13,000.

At the end of FY 2006, states and Regional offices reported a baseline of 62% for the percent of UST facilities that are in significant operational compliance with both release detection and release prevention (spill, overfill, and corrosion protection) requirements. OUST's goal for each of the next four years is to increase compliance by one percent (1%) each year.

Regional offices are expected to verify the accuracy and completeness of data provided by states. Verification must be an ongoing process, in order to avoid "last minute" reviews, each time states submit data. Regional offices must either develop their own verification processes or follow verification guidance provided by OUST; in general, such processes should involve sufficient interaction with states that the Regional offices can be confident that the data submitted at the end of each reporting period are complete, up-to-date, and accurate. Each Regional office should conduct at least one on-site review of each state's data.

## 6. Underground Storage Tanks Program Performance and Efficiency Measures

| Goal | Obj | Measure   | Baseline  | Unit of Measure | FY 06 Enacted              | FY 07 Draft | FY 08 Draft | FY 09 Draft | Comment   |
|------|-----|---|---|-----------------|----------------------------|-------------|-------------|-------------|---|
| 3    | 1   | Percent increase of UST facilities that are in significant operational compliance with both release detection and release prevention (spill, overfill, and corrosion protection requirements). [APG/APM: ST6] | 66%   | %               | +1%                        | +1%         | +1%         | +1%         | At the end of FY 2005, a total of 66% of the estimated universe of approximately 246,650 facilities were in significant operational compliance with both release detection and release prevention (spill, overfill, and corrosion protection) requirements. |
| 3    | 1   | Number of confirmed UST releases nationa. [APG/APM: ST1]  | 8,361 confirmed releases for FY 2006              | UST Releases    | <10,000                    | <10,000     | <10,000     | <10,000     | Baseline: Between FY 1999 and FY 2005, confirmed UST releases averaged 10,844, and the annual number of confirmed releases in FY 2006 was 8,361.  |
| 3    | 2   | Number of cleanups that meet state risk-based standards for human exposure and groundwater migration (tracked as number of LUST cleanups completed). <b>PART</b> [APG/APM: 108]                               | 14,493 cleanups completed for FY 2006             | Cleanups        | Under negotiation with OMB | 13,000      | 13,000      | 13,000      | At the end of FY 2006, EPA completed 350,813 leaking underground storage tank cleanups.   |
| 3    | 2   | Comparison of LUST cleanups completed over a 3-year rolling average with public and private sector cleanups costs. <b>PART</b> [APG/APM: 109]   | Baseline Development                              | TBD             | TBD                        | TBD         | TBD         | TBD         |   |
| 3    | 2   | Number of acres of land available for reuse or in continued use at leaking underground storage tank sites. [APG/APM: 114]   | 14,285  | TBD             | 13,000                     | 13,000      | 13,000      | 13,000      |   |
| 3    | 1   | Number of cleanups that meet state risk-based standards for human exposure and groundwater migration in Indian Country. [APG/APM: 113]  | 51 clanups completed in Indian Country in FY 2005 | Cleanups        | 30                         | 30          | 30          | 30          | At the end of FY 2005, 677 leaking underground storage tank cleanups were completed in Indian Country.  |

## ***Goal Four: Healthy Communities and Ecosystems***

### ***Subobjective 4.3.1: Increase Wetlands***

#### **Wetlands Program**

EPA's Wetlands Program combines technical and financial assistance to State, Tribal, and local partners with wetlands regulation under CWA Section 404 for the purpose of restoring, improving, and protecting wetlands. EPA is currently developing a National Wetland Program Plan, and objectives include helping States and Tribes build wetlands protection program capacity and integrating wetlands and watershed protection. Wetlands Program guidance documents can be found on EPA's web site at:

<http://www.epa.gov/owow/wetlands/initiative/fy02elements.html>

<http://www.epa.gov/owow/wetlands/monitor>

<http://www.epa.gov/owow/monitoring>

The FY08 Program Activity Measures (PAMs) noted below are key State and/or Tribal wetland program capacity measures. EPA Region 8 requests that States include activities in their PPAs that support these measures, recognizing that full implementation of a comprehensive wetlands protection program will be a multi-agency effort.

#### **WT – 1      *Number of wetland acres restored or enhanced, under the President's 2004 Earth Day Initiative.***

EPA Region 8 requests State and Tribal nonpoint source programs include wetland and riparian protection and restoration as part of watershed plans and to track wetland and riparian restoration supported by 319 nonpoint source grants in the 319 program's GRTS database. EPA encourages States and Tribes to support wetland restoration through other EPA grant programs as well, such as the Wetland Five-Star Restoration Grants and Brownfield grants.

EPA Region 8 encourages all Region 8 States, as well as Tribes with Wetland Programs, to attend the 1<sup>st</sup> Wetlands and Watershed Workshop of our Region's Mountains and Plains Wetlands Work Group in Wyoming in 2008 (date TBD).

#### **WT – 2      *Number of States and Tribes that have build capacities in wetland monitoring, regulation, restoration, water quality standards, mitigation compliance, and partnership building.***

This measure reflects EPA's goal of increasing State and Tribal capacity in wetland protection. In reporting progress under this measure, EPA will be looking for substantial progress toward development of a State or Tribal Wetland Program in three of the six core elements of the measure during the last three years. EPA's 104(b) (3) Wetland Program Development Grants are available to States, Tribes and local governments to support building wetland program capacity.

## **Wetlands Program continued...**

For the monitoring core element, EPA Region 8 will track development and implementation of State Monitoring and Assessment Strategies that address wetlands consistent with the “Elements” document. EPA will continue to work with States that have not yet developed monitoring and assessment strategies for wetlands to identify current wetland activities that can be included in State strategies. EPA and State discussions will then focus on identifying priorities and gaps and developing a plan to address gaps and areas for enhancement.

### **WT – 4      *Number of States where the trend in wetland condition has been measured as defined through biological metrics and assessments.***

Improving monitoring, assessment, and reporting of wetland condition are National Water Program priorities. In March, 2003, EPA released guidance to States outlining the Elements of a State Water Monitoring and Assessment Program. This was followed in April, 2006, by release of an “Elements” document specific to wetlands to help EPA and State program managers plan and implement a wetland monitoring and assessment program. Also, in 2006, EPA re-initiated the National Wetlands Monitoring and Assessment Work Group to provide national leadership in implementing State and Tribal wetland monitoring strategies. The Work Group will also support planning for the National Wetland Condition Assessment, scheduled for fieldwork in 2011 and supported with CWA 106 funding similar to other National Assessments.

EPA Region 8 will track progress towards this measure through development and implementation of focus area ambient wetland surveys. These surveys are counted as meeting this measure where they have generated baseline wetland condition and are on track to resurvey and report any change in that condition by 2008. Baseline condition may be established using landscape assessment (Tier 1), rapid assessment (Tier 2), or intensive assessment (Tier 3). State focus area surveys should be included in State Monitoring and Assessment Strategies for wetlands.

In order to build capacity for wetland monitoring and assessment and prepare for the 2011 national survey, EPA Region 8 encourages all Region 8 States, as well as Tribes with Wetland Programs, to participate in the following EPA-sponsored workshops: September, 2007, 1<sup>st</sup> National Wetlands Monitoring and Assessment Work Group Meeting in Kansas City and April, 2008, 3<sup>rd</sup> Monitoring and Assessment Workshop of our Region’s Mountains and Plains Wetlands Work Group in Rapid City.