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OCT 21 2015

Ref: 8P-W-WW

Walt Baker, Director
Utah Division of Water Quality
P.O. Box 144870
Salt Lake City, Utah
84114-4870

Re: NPDES Program Audit

Dear Mr. Baker:

Please find enclosed the Final Utah 2014 National Pollutant Discharge Elimination System Permitting Quality Review (PQR) Audit.

I extend my sincere appreciation to you and your staff for the time and effort spent with us during the on-site portion of the PQR Audit and review of the draft report. If you have any questions concerning the report please call me or have your staff contact Sarah Bahrman, at 303-312-6243 for NPDES permit questions.

Sincerely,

Colleen Rathbone

Colleen Rathbone, Acting Director
Water Program

Enclosures
1. Final 2014 Utah PQR Report
2. Utah Comments on Draft PQR Report

cc: Erin Flannery-Keith, EPA Headquarters (via email)

FINAL

Region 8 NPDES Permit Quality Review

Utah

October 19, 2015

United States Environmental Protection Agency
Region 8
1595 Wynkoop Street
Denver, Colorado 80202

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I. PQR BACKGROUND

National Pollutant Discharge Elimination System (NPDES) Permit Quality Reviews (PQRs) are an evaluation of a select set of NPDES permits to determine whether permits are developed in a manner consistent with applicable requirements established in the Clean Water Act (CWA) and NPDES regulations. Through this review mechanism, EPA promotes national consistency, and identifies successes in implementation of the NPDES program and identifies opportunities for improvement in the development of NPDES permits.

EPA's review team consisted of two EPA Region 8 staff who conducted a review of the Utah NPDES permitting program, which included an on-site visit to the Utah Department of Environment Quality (UDEQ) in Salt Lake City on April 21-April 25, 2014. Two other EPA Region 8 staff conducted a review of the State Review Framework (SRF) for the enforcement program from June 23-27, 2014. This report only addresses Utah NPDES permitting program review findings. A separate report will address the SRF findings for the enforcement program.

The Utah PQR consisted of two components: permit reviews and special focus area reviews. The permit reviews focused on core permit quality and included a review of the permit application, permit, fact sheet or statement of basis, and any correspondence, reports or documents that provide the basis for the development of the permit conditions.

The core permit review involved the evaluation of selected permits and supporting materials using basic NPDES program criteria. Reviewers completed the core review by examining selected permits and supporting documentation, assessing these materials using standard PQR tools, and talking with permit writers regarding the permit development process. The core review focused on the Central Tenets of the NPDES Permitting program to evaluate the Utah NPDES program. In addition, discussions between EPA and Program staff addressed a range of topics including program status, the permitting process, responsibilities, organization, and staffing. Core topic area permit reviews are conducted to evaluate similar issues or types of permits in all states. The national topics reviewed in the Utah NPDES program were: nutrients, pesticide general permit, pretreatment, and stormwater.

Regional topic area reviews target regionally-specific permit types or particular aspects of permits. The regional topic areas selected for review were permit applications, Whole Effluent Toxicity (WET), reasonable potential (RP) and Great Salt Lake (GSL) permits. This review provides important information to Utah, EPA Region 8, EPA Headquarters (HQs) and the public on specific program areas.

A total of eighteen permits were reviewed as part of the PQR. Fourteen permits were reviewed for the core review - of these, seven permits were also reviewed for national topic areas. Permits were selected based on issue date and the review categories that they fulfilled.

II. STATE PROGRAM BACKGROUND

A. Program Structure

The UDEQ, Water Quality Division (Division) administers the Utah Pollution Discharge Elimination System (UPDES) Program. EPA approved the UPDES program for Utah (including federal facilities, pretreatment and general permits) on July, 7, 1987. Approval to issue biosolids permits was granted on June 14, 1996.

The main Division office is located in Salt Lake City, UT. The major responsibilities conducted in the main office are drafting permits, inspecting facilities, developing enforcement actions, review compliance, updating the database, and maintaining necessary hard copy files. The Division does not have any field offices located in the state.

The UPDES program has 12 full-time permit writers. Permit writers develop permits and receive training as well as internal mentoring to support their development. New permit writers receive on-the-job training and attend the U.S. EPA NPDES Permit Writers' Course and other training as available. Other technical staff that support NPDES permitting include an Integrated Compliance Information System (ICIS) Coordinator, Stormwater Online Permit Database Coordinator, GIS specialist, two water quality modelers and one water quality unit staff member. There is one additional support staff who helps the permit writers with tasks such as updating the database, mailing correspondence and public notices, and updating the UPDES web pages.

The Water Quality Standards Unit is responsible for the development of a Wasteload Analysis (WLA) for the NPDES permit writer. There is separate group within the Division who develops the total maximum daily loads (TMDLs) which consists of seven staff members.

The UPDES Program uses EPA's ICIS for tracking of permit data and compliance monitoring. The Program also utilizes a Water Quality Database (WQX) an in-house data management system for housing all Program monitoring data and beneficial uses support information.

B. Universe and Permit Issuance

The UPDES Program (Program) administers individual permits for 38 major facilities (28 POTWs and 10 non-municipal) and 87 minor non-stormwater facilities (36 POTWs and 51 non-municipal), based on information obtained from UPDES database in March 2014. In addition to these individual permits, the Program administers 90 municipal, 634 industrial, and 2469 construction storm water permits. The Program also has 195 permits from the non-stormwater NPDES general permits. The Program has a total of 3,571 permits.

Based on the information obtained from the UPDES database in March 2014, 4 major and 5 minor permits are backlogged.

Significant industries in Utah are mainly mining and other energy production facilities.

When permit applications are received they are date stamped, electronically scanned, the supervisor is notified that the application was received and the hard and electronic copies of

the application are given to the assigned permit writer. Permits are assigned a specific permit writer and that permit writer maintains that permit unless it is re-assigned by a supervisor. The permit writer will review the permit application for completeness and either call or mail a letter to the permittee if the application is deemed incomplete.

Approximately six to eight months before the expiration of an existing permit, the Program will mail a renewal application to the permittee. The Program tries to not administratively extend permits and strives to reissue permits on-time so administrative extension is not needed. However, for the more complex permits additional time may be needed to prepare a renewal permit and administrative extension may be necessary.

In the past, the Program used a one-page renewal application which did not comply with the requirements in 40 CFR 122.21. As of the beginning of 2014, the Program requires all permittees to complete EPA Form 1 and the appropriate EPA Form 2 that is specifically applicable to the facility for all new and renewed permits (except new and existing POTW/Treatment Works completing 2A and 2S which are not required to complete an EPA Form 1). If an antidegradation review (ADR) is needed, the Program will ask for more time than the normal 180 days to complete the application.

Once the permit application is reviewed and deemed complete by the assigned permit writer, the permit writer will request a WLA from one of the three staff members in the WQS group who prepare WLAs for UPDES permits. The permit writer will request a WLA by completing a WLA Request Form. The WLA provides water quality-based effluent limits (WQBEL) for the UPDES permit. The WLA is the portion of a receiving water's assimilative capacity that is allocated to one of its existing or future point sources of pollution. The Program conducts a WLA to calculate the maximum amount of a pollutant that a waterbody can receive and still meet water quality standards.

WLAs are performed to determine point source effluent limitations necessary to maintain designated beneficial uses by evaluating projected effects of discharge concentration on in-stream water quality. The WLA also takes into account downstream designated uses (UT Administrative Code R317-2-8). Projected concentrations are compared to numeric water quality standards to determine acceptability. The numeric criteria in a WLA may be modified by narrative criteria and other conditions determined by staff of the Program. The WLA identifies the pollutants of concern (POCs), but does not explain how the POCs were determined and does not calculate RP for those POCs.

Computer models are used extensively for water quality management and determining WQBELs for discharge permits. The models predict the water quality in a water body in response to changes in seasons, pollutant loading, and various WLA strategies. General guidelines have been developed for how the Program calculates WLAs. WLAs uses models for determining the WQBEL based upon ambient data in the WQX database, studies, and/or facility data. Once the WLA is prepared, it is provided to the permit writer for incorporation into the

UPDES permit. The permit writer develops technology-based effluent limits (TBELs) for the permit.

The Program utilizes Qual2K to calculate mixing zone requirements. The Program has adopted the QUAL2Kw model for the determination of UPDES permit limits for nutrient related discharges to dissolved oxygen-sensitive rivers and streams. Other models and tools are used to evaluate the discharge of conventional and toxic pollutants to rivers and streams, as well as discharges to lakes and reservoirs. QUAL2Kw is a water quality model that simulates nutrient and oxygen dynamics in rivers and streams. It is applicable to rivers that are vertically well mixed and for periods with steady flow. QUAL2Kw is widely used for TMDL studies of rivers for evaluation of temperature and eutrophication, including nutrients, dissolved oxygen, and pH.

The Program intends to collect site specific data to support model building and calibration. Due to limited resources, this is not possible in all cases. Sites are prioritized based on the magnitude of the discharge and the sensitivity of the receiving water. Standard operating procedures (SOPs) have been developed for the data collection to support QUAL2Kw modeling.

Permittees can submit site-specific information on both the receiving waterbody and the discharge characteristics for consideration. Permittees are encouraged to plan ahead when considering any data gathering effort. Many of these efforts require seasonal data collected during low stream flow conditions.

Once the models are built and calibrated, they are used by Program staff for determining discharge permit limits. The results of the WLAs are included as an addendum to the Fact Sheet/Statement of Basis (FSSOB) for the UPDES permit.

Ambient data considered is primarily from the last five years of Division monitoring, although they can use the data collected by the permittee if needed. If there is no background data, the Program will assume the following background levels: zero for chlorine, 2/3 of the chronic WQS for metals, and 2/3 of the WQS for ammonia.

All raw data and calculations are saved in the Permit Quality Review spreadsheet. This spreadsheet is part of the permit record in the permit file. The Permit Quality Review Spreadsheet contains many of the guidelines associated with permitting. The purpose of the spreadsheet is to have one place that contains all the information (raw data, calculations, maps, and Discharge Monitoring Report (DMR) data) that was used as the basis for permit development. This will allow future permit writers to understand the rationale associated with the limits and other permit requirements. In addition, there are several implementation policies and SOPs to assist the permit writers.

For RP, the Program first does a qualitative review. This consists of reviewing the existing effluent data and if the data is significantly lower than the WQS then no RP is determined. If the Program determines that there was the potential for RP based off of the qualitative review, it will conduct a quantitative review. For this the Program reviews the effluent data and if the

average data is more than 50% of the WQS, an effluent limit (with a multiplier) is included in the permit. If the data is less than 50% of the WQS, then the Program concludes there is no RP and does not include an effluent limit in the permit but may include monitoring for that pollutant. The Program does not typically utilize spreadsheets/models to calculate a quantitative RP analysis on individual permits.

The Program developed and utilizes Monitoring, Recording and Reporting Guidelines for Municipal Wastewater Treatment Plants which, based upon the flow of the POTW, determines the following:

- Frequency of reporting;
- Frequency of monitoring based upon the pollutant; and
- Sample type based upon the pollutant to be sampled.

Monitoring for industrial wastewater discharges follow, in general, the same guidelines. However, the pollutants measured, frequency, and sampling type may vary from the guidelines developed for Municipal Wastewater Treatment Plants.

The Program has determined that all permittees will report compliance data monthly except for a few oil and gas permittees which report quarterly.

The Program implements their narrative WQSs in all permits (UT Administrative Code R317-2-7.2). The Program implements the NPDES standard conditions found in 40 CFR 122 almost verbatim in their permits.

The Program maintains permit templates for municipal wastewater treatment facilities (WWTF) although due to high variability of industrial facilities, it generally does not have permit templates for industrial permits. WWTP permit boilerplates contain narrative standards and standard conditions and are continually updated. If a permit contains provisions for a specialty media (e.g. stormwater, biosolids, pretreatment, etc.), a peer review of the permit is conducted by the staff member who specializes in that area. The templates utilized by the Program originally came from EPA. The templates can be modified to meet the specific requirements for facilities. All permits have an accompanying FSSOB which are drafted with the permit by the permit writer. The FSSOBs also have boilerplates.

In the last year, the Program has designated a staff person who prepares CWA 401 certifications. The purpose of the 401 Water Quality Certification program is to ensure that federally permitted or licensed activities (such as 404 permits issued by the U.S. Army Corps of Engineers) will be conducted in a manner that will comply with applicable Utah discharge and water quality requirements in order to maintain the chemical, physical, and biological integrity of waters affected by the project. Those seeking federal permits or licenses needing 401 Certification must apply separately to the Program by completing an application.

After the permit is drafted it is reviewed internally. The Program has developed flow charts and checklists to assist permit writers in the preparation of the permit and FSSOB. The flow charts and checklists include:

- Overview of the Permit Issuance Process;
- Application Process;
- Permit and FSSOB Drafting;
- Review of the Draft Permit and FSSOB;
- Public Notice; and
- Final Permit Package.

Once the permit is fully developed, the immediate supervising manager reviews the complete permit, after which the second line supervisor reviews the permit and FSSOB as well. The Program implements a Permit Development Log Sheet to track the internal media (e.g. pretreatment, stormwater, WET, TMDL, etc.) specific review and management review process as well as additional information such as:

- Application Received and Complete Dates;
- Public Notice Date;
- Permit Appeal Date (if any);
- Permit Issuance and Effective Dates;
- Public Notice Hearings (if any); and
- DMR Coding and Mailed Dates.

After internal review, the pre-public notice version of the permit and FSSOB are sent to the permittee for review. After the permittee reviews the pre-public notice version of the permit and FSSOB, the documents are routed the Assistant Director for approval. Once the documents are approved, the permit writers develop a "permit package" (public notice, permit, FSSOB, and any additional documents) which is put into eDOCs (electronic files) for mailings.

The ICIS Coordinator determines the newspaper for the publication and the date of publication. After the mailings, the permit and FSSOB are re-scanned into eDOCs after the final newspaper publication dates are determined and the permit writer or manager contacts the IT website department for the permit package documents to be added to the Program website. Public comments are sent to the permit writer (per the public notice) who prepares a response to comments for the final permit which is included in the FSSOB. The Program has not had many public hearing requests. Appeals are sent to the Attorney General's Office where an administrative law judge is appointed and a formal appeal process is followed. In the past few years, the Program has received approximately five appeals which have been settled with negotiation and third party agreements. None of the appeals have resulted in a hearing.

The Program keeps the final administrative record in the permit file room. Confidential business information that is contained in the permit file is kept in a separate location than the file room.

The Program has an antidegradation policy (UT Administrative Code R317-2-3) and associated forms to conduct an ADR. All permits undergo an ADR review which is documented in the permit. There are two types of an ADR review: Level I and Level II. Level I reviews are intended to ensure that the action will not degrade "existing uses." Level I reviews are conducted by Program staff. Level II reviews are conducted for waters where water quality is better than the criteria assigned to protect designated uses. If a Level II review is required, the permittee provides the following for a Program review: a statement of the social and economic importance, a list of parameters of concern, an alternatives analysis, and any proposed mitigations. Program staff resources are available to assist permittees as they prepare their materials. In Level II review, the forms are submitted and approved by the Program and the forms are included as an appendix to the FSSOB.

The permit writer determines if anti-backsliding requirements are triggered in the permit development by comparing new effluent limits to the previous permit effluent limits. If it is determined that anti-backsliding is triggered, the determination/justification is documented in the FSSOB.

When permitting an impaired receiving water (pre-TMDL), the Program sets the WQS as the effluent limit (end-of-pipe) in the permit. When permitting an impaired receiving waters (post-TMDL), the load is in the TMDL which gets incorporated in the WLA for establishing an effluent limit. A compliance schedule may also be included, if needed, to comply with the TMDL.

The permit and application specify the methods that are needed for sufficiently sensitive detection of pollutants (such as mercury). The standard condition in all permits requires that permits comply with the monitoring requirements in 40 CFR 136. When using application data, the Program uses half of the detection limit for data that was reported as non-detectable.

For pathogen monitoring, the Program uses E. coli for the water quality criteria for all waters (fresh and marine) rather than fecal coliform.

C. State-Specific Challenges

The Program has been working to implement various programs within the agency. In the past several years, the program has been developing and implementing the State's Great Salt Lake Water Quality Strategy (Strategy). The Strategy is designed to develop numeric water quality criteria for the protection of the aquatic life and recreational designated uses of the Great Salt Lake (GSL), improve water quality monitoring and prioritize research, implement a plan to monitor and assess the water quality of the GSL's wetlands, and to implement a plan to assess nutrients. The GSL is discussed further in Section IV.D.

D. Current State Initiatives

The Program has been working diligently to address nutrient pollution. The Program has assembled a toolbox of comprehensive and adaptive solutions to tackle the problem of nutrient pollution in Utah. Strategies to address nutrient pollution include:

- Nutrient standards that limit pollutants and protect water bodies for their beneficial uses.
- Statewide monitoring to identify water bodies with nutrient problems.
- Site-specific strategies that account for the differences in water bodies and their sources of nutrient pollution.
- Technology- based effluent limits for wastewater treatment discharges to be phased in over time.
- An environmental stewardship certification program, along with guidance on the application of Best Management Practices (BMPs), for agricultural nonpoint sources of nutrient pollution.
- Funding to address nonpoint sources of nutrient pollution.
- Watershed scale nutrient reduction strategies, with an initial focus on headwaters.

The Program also continues to work closely with the regulated community. Permitting staff provide training to sanitary sewer operators under the State's Sewer Management Program (USMP) and pesticide applicators on permit conditions and requirements. Permitting staff also routinely conduct site visits in order to develop a complete understanding of the operation of the permitted facility.

III. CORE REVIEW FINDINGS

A. Basic Facility Information and Permit Application

1. *Facility Information*

Basic facility information is necessary to properly establish permit conditions. For example, information regarding facility type, location, processes and other factors is required by NPDES permit application regulations (40 CFR 122.21). This information is essential for developing technically sound, complete, clear and enforceable permits. Similarly, FSSOBs must include a description of the type of facility or activity subject to a draft permit.

The eighteen UPDES permits and FSSOBs reviewed during the core review included permit issuance, effective and expiration dates, authorized signatures, and specific authorization-to-discharge information. The FSSOBs reviewed included a basic description of the facility including location, and the treatment process. Permits and FSSOBs identify the receiving water body by name and surface water classification. The specific location of the outfall is included in all of the permits.

2. *Permit Application Requirements*

Federal regulations at 40 CFR 122.21 and 122.22 specify application requirements for permittees seeking NPDES permits. Although federal forms are available, authorized states are

also permitted to use their own forms provided they include all information required by the federal regulations. This portion of the review assesses whether appropriate, complete, and timely application information was received by the state and used in permit development.

For the permit renewals reviewed, the UPDES Program has used a short permit application which is a simple two page letter application that requires permittees to check one the following three options.

(Please check one)

____ *Renewal -- Our operating conditions have not changed significantly since the permit was first obtained.*

____ *Renewal -- Our operating conditions have been modified or changed significantly since the permit was first obtained. Attached is an explanation of the present procedures.*

____ *Non-renewal -- No longer discharging therefore an UPDES permit is not required. It is requested that our existing permit be allowed to expire. Attached is an explanation of the reasons why we no longer are required to have an UPDES permit. We also understand that all reporting requirements still need to be met until our existing permit has expired.*

The second page to the application required the permittee to check the additional options below and submit information as required.

Please submit the following:

____ *Flow diagram showing treatment units and the hydraulic and treatment design capacity for these units.*

____ *Site plan and location map (such as a 7 1/2 minute or 15 minute USGS topographic map).*

____ *Treatment units currently in use.*

____ *Treatment units removed from service since last permit issuance.*

____ *List and location of outfalls and bypasses.*

____ *Name(s), address(es), and telephone number(s) of the responsible official and of the individual(s) most familiar with the treatment process.*

____ *Averages of discharge analytical results for each outfall during the last five years (i.e., TDS, Iron, TSS, etc.).*

____ *If discharges are within (to) the Colorado River Basin, and the discharge concentration of Total Dissolved Solids (TDS) is greater than 500 mg/L AND the TDS loading is greater than 1-ton/day, then*

Please submit a report summarizing the following for the current permit:

1) *Efforts made to minimize high TDS discharge waters from entering downstream waters.*

2) *Alternative plans considered that could reduce or eliminate TDS discharge.*

3) *Plausible explanation(s) for any increased annual average TDS levels, both concentrations and loading levels.*

However, as of February 2014, the Program started to use EPA Forms 2A-D for all new and renewal permit applications and requires EPA Form 1 for all permittees completing EPA Forms 2C-2E (e.g. new and existing POTW/Treatment Works completing 2A and 2S are not required to complete an EPA Form 1).

This letter application previously used by the Program did not contain all information required by 40 CFR 122.21. In the files reviewed, EPA identified several permits which had applied using the one-page letter application; however, upon permit renewal, all the permits that were reviewed during the PQR will be required to utilize the new permit application forms.

B. Technology-based Effluent Limitations

NPDES regulations at 40 CFR 125.3(a) require that permitting authorities develop technology-based requirements where applicable. Permits, FSSOBs and other supporting documentation for publicly owned treatment works (POTWs) and non-POTWs were reviewed to assess whether technology based effluent limitations (TBELs) represent the minimum level of control that must be imposed in a permit.

1. TBELs for POTWs

POTWs must meet secondary or equivalent to secondary standards (including limits for BOD, TSS, pH, and percent pollutant removal), and must contain numeric limits for all of these parameters (or authorized alternatives) in accordance with the secondary treatment regulations at 40 CFR 133. A total of seven POTW permits were reviewed as part of the PQR.

UPDES permits establish effluent limitations for BOD_5 and TSS in appropriate units and forms. Utah applies effluent limitations based on secondary treatment standards for TSS and BOD_5 in municipal permits.

Seven POTW permits were reviewed during the core review (Tremonton City Corp, Moab - City of, Brigham City Corp, Perry/Willard Regional WWTP, St. George City Corporation, Cedar City Corporation, and Central Davis Sewer District).

In general, the National Secondary Treatment Standards were appropriately applied to the seven POTW permits reviewed. However, the Central Davis permit had a lesser percent removal limit for BOD and TSS than the National Secondary Treatment Standards. The FSSOB stated that

the percent removal was lowered from the 85% due to high infiltration and inflow (I/I) into the collection system and that it was less costly to treat the excessive I/I rather than reducing it. The Program sent a letter to Central Davis allowing the lesser percent removal; however, the Program did not indicate how Central Davis met the conditions in 40 CFR 133.103(d) for a lesser percent removal exception.

2. *TBELs for Non-POTW Dischargers*

Permits issued to non-POTWs must require compliance with a level of treatment performance equivalent to Best Available Technology Economically Achievable (BAT) or Best Conventional Pollutant Control Technology (BCT) for existing sources, and consistent with New Source Performance Standards (NSPS) for new sources. Where federal effluent limitations guidelines (ELGs) have been developed for a category of dischargers, the TBELs in a permit must be based on the application of these guidelines. If ELGs are not available, a permit must include requirements at least as stringent as BAT/BCT developed on a case-by-case using best professional judgment (BPJ) in accordance with the criteria outlined at 40 CFR 125.3(d).

Seven non-POTW permits were reviewed during the core review (Jordan Valley Water Conservation District, Miller-E A, Inc., Canyon Fuel LLC Sufco Mine, ATI Titanium, Genwal Resources - Candall Canyon Mine, Nucor Steel-Plymouth Division, Weir Specialty Pumps). The TBELs for 4 permits were based on the ELGs (Canyon Fuel LLC Sufco Mine, Nucor Steel-Plymouth Division, Miller-E A, Inc., and Genwal Resources - Candall Canyon Mine).

In general, FSSOBs for these facilities include a general description of waste streams produced and wastewater treatment processes. FSSOBs provided a brief discussion of facility categorization and specific reference to whether effluent limitations are based on BCT, BPT, or BAT. However, EPA did find the FSSOB for Nucor steel-Plymouth Division lacked explanation on what the authorized wastestream was and if that wastestream was subject to an ELG. The FSSOB for Miller-E A also lacked an adequate explanation or justification for the use of BPJ to establish a nitrogen limit from the simple slaughterhouse subcategory (Subpart B) in 40 CFR 432. Additionally, the FSSOB for Miller-E A used 2430 lbs/day as a live kill weight to calculate mass loadings, however, there was no justification on whether this is a reasonable measure of actual production for this facility, as required per the ELG.

The state's oil and grease limit of 10 mg/L is based upon BPJ and is used for POTW and non-POTW permits. However, the state lacks justification for this and inquired about how other states have justified using 10 mg/L for oil and grease.

C. Water Quality-Based Effluent Limitations

The NPDES regulations at 40 CFR 122.44(d) require permits to include any requirements in addition to or more stringent than technology-based requirements where necessary to achieve state water quality standards, including narrative criteria for water quality. To establish such "water quality-based effluent limits" (WQBEL), the permitting authority must evaluate the proposed discharge and determine whether technology-based requirements are sufficiently

stringent, and whether any pollutants or pollutant parameters could cause or contribute to an excursion above any applicable water quality standard.

The PQR for the Program assessed the processes employed by permit writers and water quality modelers to implement these requirements. Specifically, the PQR reviewed permits, FSSOBs, and other documents in the administrative record to evaluate how permit writers and water quality modelers:

- determined the appropriate water quality standards applicable to receiving waters,
- evaluated and characterized the effluent and receiving water including identifying pollutants of concern,
- determined critical conditions,
- incorporated information on ambient pollutant concentrations,
- assessed any dilution considerations,
- determined whether limits were necessary for pollutants of concern and, where necessary,
- calculated such limits or other permit conditions.

For impaired waters, the PQR also assessed whether and how permit writers consulted and developed limits consistent with the assumptions of applicable EPA-approved total maximum daily loads (TMDLs).

The permits and the FSSOBs reviewed identify the receiving stream and applicable classification. The FSSOBs identify applicable numeric and narrative water quality standards through reference to their location in the R317-2 of the UT Administrative Code. The FSSOBs reviewed discuss the impairment status of a stream appropriately.

Permit files provide good explanations of effluent limitation development. UPDES Program FSSOBs contain a general statement that the FSSOB demonstrates that the existing and designated uses of the receiving water will be protected under the conditions of the proposed permit. All FSSOBs reviewed provide a brief description for antidegradation analysis.

In several of the permits reviewed (Nucor Steel-Plymouth Division, Weir Specialty Pumps, Central Davis, and Perry Willard Regional WWTP, Swift Beef, Brigham City, St. George, and Moab) the FSSOB failed to discuss if the receiving water was impaired, and if so, if there was an approved TMDL. The FSSOBs for all individual permits should include a discussion of whether the receiving water is impaired and if so, what it is impaired for and if the permittee discharges the impaired pollutants, and a discussion of the TMDL status.

Prior to approximately 2011, the Program did not conduct WLAs for all permits but instead would prepare a Finding of No Significant Impact (FONSI) if it was determined the discharge would not cause a violation of WQS in downstream receiving waters. However, the FONSIs were insufficient to determine how discharge would ensure compliance with WQS. Since

approximately 2011, FONSIs have been replaced by WLAs which appropriately ensure compliance with WQS and only one permit reviewed by EPA had a FONSI rather than a WLA (Central Davis Sewer District).

In one permit (Central Davis Sewer District) reviewed by EPA, the FFSOB describes that chlorine is used for disinfection purposes; however, there is no information on dechlorination and there is no total residual chlorine (TRC) monitoring or effluent limit in the permit. Based upon the use of chlorine and no chorine removal, there could be RP for chlorine to be present in the effluent at levels that may cause or contribute to the exceedance of a WQS (including the narrative standards). The Central Davis Sewer District discharges to the GSL and therefore, must be protective of Utah's narrative standards (UAC R317-2-7).

EPA reviewed one permit (St. George) that establishes a silver permit limit of 0.14 mg/L that is less stringent than the limit established in the previous permit. The less stringent silver permit limit allows an increase in the silver loading to the receiving water from 4.849 lbs/day to 19.849 lbs/day. However, there was no antidegradation Level II review performed, as Utah's permitting procedures require. Additionally, there was no mention of anti-backsliding and justification for the higher silver limit.

D. Monitoring and Reporting

40 CFR 122.41(j) requires permittees to periodically evaluate compliance with the effluent limitations established in their permits and provide the results to the permitting authority. Monitoring and reporting conditions require the permittee to conduct routine or episodic self-monitoring of permitted discharges and where applicable, internal processes, and report the analytical results to the permitting authority with information necessary to evaluate discharge characteristics and compliance status.

Specifically, 40 CFR 122.44(i) requires NPDES permits to establish, at minimum, annual monitoring for all limited parameters sufficient to assure compliance with permit limitations, including specific requirements for the types of information to be provided and the methods for the collection and analysis of such samples. In addition, 40 CFR 122.48 requires that permits specify the type, intervals, and frequency of monitoring sufficient to yield data which are representative of the monitored activity. The regulations at 40 CFR 122.44(i) also require reporting of monitoring results with a frequency dependent on the nature and effect of the discharge.

The core permits reviewed establish at least annual monitoring for all limited parameters and at frequencies appropriate to determine compliance with effluent limitations. All majors require WET monitoring as required by the regulations. WET monitoring is frequently used to ensure the protection of beneficial uses, and for permits which discharge to the GSL due to the absence of numeric criteria. WET testing monitoring frequencies are determined based on test results, compliance history, and Utah policy.

POTW permits included appropriate monitoring for influent, effluent, and minimum percent removal of BOD_5 and TSS that are compliant with the technology-based standard.

All core permits indicate sample collection and analysis shall be in compliance with procedures pursuant to 40 CFR 136. All permits reviewed have appropriate minimum reporting requirements.

E. Standard and Special Conditions

Federal regulations at 40 CFR 122.41 require that all NPDES permits, including NPDES general permits, contain an enumerated list of "standard" permit conditions. Further, the regulations at 40 CFR 122.42 require that NPDES permits for certain categories of dischargers must contain additional standard conditions. Permitting authorities must include these conditions in NPDES permits and may not alter or omit any standard condition, unless such alteration or omission results in a requirement more stringent than required by the federal regulations.

In addition to standard permit conditions, permits may also contain additional requirements that are unique to a particular permittee or discharger. These case-specific requirements are generally referred to as "special conditions." Special conditions might include requirements such as: additional monitoring or special studies such as pollutant management plan or a mercury minimization plan; best management practices [see 40 CFR 122.44(k)], or permit compliance schedules [see 40 CFR 122.47]. Where a permit contains special conditions, such conditions must be consistent with applicable regulations.

The Program has implemented the standard conditions in found in 40 CFR 122.41 verbatim in all the permits reviewed; however, the State's standard condition for Reporting Requirements - Planned Change is not equivalent to 40 CFR 122.41. Specifically, not included in the State's condition is the requirement that the alternation or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source under 40 CFR 122.29(b).

Additionally, the State's special permit conditions for manufacturing, commercial, and mining dischargers did not include a notification level for discharges, on a non-routine or infrequent basis, of a toxic pollutant which is not limited in the permit and that will exceed the highest of the notification levels, as required in 40 CFR 122.42(a)(2). The notification levels are identified below:

(i) Five hundred micrograms per liter (500 µg/l);
(ii) One milligram per liter (1 mg/l) for antimony;
(iii) Ten (10) times the maximum concentration value reported for that pollutant in the permit application in accordance with §122.21(g)(7).
(iv) The level established by the Director in accordance with §122.44(f).

F. Administrative Process

The administrative process includes documenting the basis of all permit decisions (40 CFR 124.5 and 40 CFR 124.6); coordinating EPA and state review of the draft (or proposed) permit (40 CFR

123.44); providing public notice (40 CFR 124.10); conducting hearings if appropriate (40 CFR 124.11 and 40 CFR 124.12); responding to public comments (40 CFR 124.17); and, modifying a permit (if necessary) after issuance (40 CFR 124.5). EPA discussed each element of the administrative process with the Program, and reviewed materials from the administrative process as they related to the core permit review.

The Program's administrative record does not contain the documentation to verify public notices have been published in the local newspaper. Public notices need to have the verification (such as affidavit from the newspaper agency) in the file. Utah's administrative record does consistently contain a record of the all the comments received during the public notice period and Utah does consistently provide a response to the comments received during the public comment period in the final permit. If Utah does receive comments they are generally significant in nature and would require a response in the final permit.

G. Administrative Record

The administrative record is the foundation that supports the NPDES permit. If EPA issues the permit, 40 CFR 124.9 identifies the required content of the administrative record for a draft permit and 40 CFR 124.18 identifies the requirements for a final permit. Authorized state programs should have equivalent documentation. The record should contain the necessary documentation to justify permit conditions. At a minimum, the administrative record for a permit should contain the permit application and supporting data; draft permit; FSSOB; all items cited in the FSSOB including calculations used to derive the permit limitations; meeting reports; correspondence between the applicant and regulatory personnel; all other items supporting the file; final response to comments; and, for new sources where EPA issues the permit, any environmental assessment, environmental impact statement, or finding of no significant impact.

Current regulations require that FSSOBs include information regarding the type of facility or activity permitted, the type and quantity of pollutants discharged, the technical, statutory, and regulatory basis for permit conditions, the basis and calculations for effluent limits and conditions, the reasons for application of certain specific limits, rationales for variances or alternatives, contact information, and procedures for issuing the final permit. Generally, the administrative record includes the permit application, the draft permit, any FSSOB or statement of basis, documents cited in the FSSOB or statement of basis, and other documents contained in the supporting file for the permit.

FSSOBs for the core permits reviewed are of good quality and include a general discussion explaining the basis for the requirements in permits. FSSOBs address each parameter for which effluent limitations (TBEL or WQBEL) or monitoring requirements are established; in general, FSSOBs provide sufficient information to fully understand the basis of specific effluent limitations. However, neither the FSSOBs nor the permit files contain documentation regarding RP evaluation (discussed below in Documentation of Effluent Limitations).

Permit files reviewed include applications, correspondence between the applicant and UPDES Program, draft permit, FSSOB, and final permit. The UPDES website for permits public notice, draft permits and FSSOBs, and issued permits and FSSOBs is well organized and with easy access. Permit flow charts and checklists are good tools to enable permit writers to write good quality permits. The Permit Development Log Sheet ensures that the permit is appropriately peer and supervisor reviewed and tracks important dates and functions in the permit issuance process.

At the time of the review, the Program was not maintaining draft permits as part of the administrative record. As a way to verify the changes made between the draft and final permits, EPA recommends that the Program maintain draft copies of permits and FSSOBs.

7. Documentation of Effluent Limitations

Permit records for POTWs and industrial facilities should contain comprehensive documentation of the development of all effluent limitations. Technology-based effluent limits should include assessment of applicable effluent guidelines, data used in developing effluent limitations, and actual calculations used to develop effluent limitations.

The procedures implemented for determining the need for water quality-based effluent limitations as well as the procedures explaining the basis for establishing, or for not establishing, water quality-based effluent limitations should be clear and straight forward. The permit writer should adequately document changes from the previous permit, ensure draft and final limitations match (unless the basis for a change is documented), and include all supporting documentation in the permit file.

With regard to the documentation of WQBELs, the core permit FSSOBs reviewed identify the receiving stream. SOBs consistently include discussion of all limited parameters. EPA consistently identified that the Program lacked documentation on how POCs were identified in the permits reviewed. The Program should first identify the POCs (through application information, DMR data, etc.) and then determine if there is RP. EPA found that although the Program determined POCs, there is no documentation to determine how the POCs were identified, and then there was no documentation that an RP analysis was done on those POCs. The purpose of the WLA is to calculate WQBELs for the POCs identified, but the WLA does not determine if there is RP for the POCs or document how the POCs were identified.

For all the permit files reviewed, the RP analysis was not documented in the permit file which is part of the administrative record. The Program first conducts a qualitative RP analysis before a quantitative RP analysis. EPA only found one permit file with a quantitative RP analysis (ATI Titanium) and all files were missing documentation of a qualitative review. A record of the RP analysis must be kept as part of the permit file and a summary of the RP analysis should be included in the FSSOB. The Program has been working on drafting a RP Policy for several years; however, it has not been completed.

For the core permits reviewed, documentation of the basis for TBELs generally has sufficient detail. The FSSOBs for both municipal and non-municipal permits reviewed include a description of facility operations, expected wastestreams, and wastewater treatment processes.

The FSSOBs address antidegradation requirements. Antidegradation reviews have been conducted and verified that the permit conditions, including the effluent limitations established, provide a level of protection to the receiving water consistent with the antidegradation provisions of the Utah surface water quality standards.

H. National Topic Areas

National topic areas are aspects of the NPDES permit program that warrant review based on the specific requirements applicable to the selected topic areas. These topic areas have been determined to be important on a national scale. National topic areas are reviewed for all state PQRs. The national topics areas are: nutrients, pesticides, pretreatment and stormwater.

1. Nutrients

For more than a decade, both nitrogen and phosphorus pollution has consistently ranked as one of the top causes of degradation of surface waters in the U.S. Since 1998, EPA has worked at reducing the levels and impacts of nutrient pollution. A key part in this effort has been the support EPA has provided to States to encourage the development, adoption and implementation of numeric nutrient criteria as part of their water quality standards (see the EPA's *National Strategy for the Development of Regional Nutrient Criteria*). In a 2011 memo to the EPA regions titled *Working in Partnerships with States to Address Nitrogen and Phosphorus Pollution through use of a Framework for State Nutrient Reductions*, the Agency announced a framework for managing nitrogen and phosphorus pollution that, in part, relies on the use of NPDES permits to reduce nutrient loading in targeted or priority watersheds.

EPA Region 8 did not review any permits to evaluate nutrient permitting requirements. Currently, Utah only incorporates ammonia limits into permits on a consistent basis unless there was a TMDL for other nutrients. Utah has numeric and narrative criteria related to ammonia.

However, the Program is currently at work on a Nutrient Reduction Program. One component of this program involves the development of numeric nutrient water quality criteria that will establish nitrogen and phosphorous concentration limits that are protective of the beneficial uses.

In 2012, the Program, in collaboration with a team of stakeholders, developed a draft Nutrient Reduction Plan. The draft plan offers a range of options to address nutrient pollution, including:

- Nutrient management categories to address site-specific concerns (e.g., headwaters, GSL, etc.);

- Numeric standards based on ecological responses in the field, numeric indicators, and narrative criteria, to be phased in based on nutrient management categories;
- Technology based limits for municipal discharges that can be phased in over time;
- Statewide monitoring to identify water bodies with nutrient related problems, including prioritization of impaired sites to ensure remediation efforts and resources focus on areas of greatest need;
- Watershed specific nutrient action plans, including a potential funding mechanism to address non-point sources of nutrient pollution; and
- Watershed-scale nutrient reduction strategies.

In 2015, the Program will discuss the specifics of these programs with its stakeholders. The Program anticipates that it will initially propose statewide criteria for headwaters, with other waterbodies added on a site-specific, as-needed basis. To ensure protection of all waters, the Program has developed several assessment approaches it will use in the interim to identify streams or lakes in need of more-detailed site-specific investigations.

2. *Pesticides*

On October 31, 2011, the EPA issued a final NPDES *Pesticide General Permit (PGP) for Discharges from the Application of Pesticides*. This action was in response to a 2009 decision by the U.S. Sixth Circuit Court of Appeals (National Cotton Council of America v. EPA, 553 F.3d 927 (6th Circuit 2009)) in which the court vacated EPA's 2006 Final Rule on Aquatic Pesticides (71 Fed. Reg. 68483, November 27, 2006) and found that point source discharges of biological pesticides and chemical pesticides that leave a residue into waters of the U.S. were pollutants under the CWA. The federal PGP applies where the EPA is the permitting authority. All 46 NPDES authorized states and the Virgin Islands have issued NPDES pesticide general permits.

Background

On January 7, 2009, the Sixth Circuit vacated the EPA's 2006 NPDES Pesticides Rule under a plain language reading of the CWA. National Cotton Council of America v. EPA, 553 F.3d 927 (6th Circuit 2009). The Court held that the CWA unambiguously includes "biological pesticides" and "chemical pesticides that leave a residue" within its definition of "pollutant." In response to this decision, on April 9, 2009, EPA requested a two-year stay of the mandate to provide the Agency time to develop general permits, to assist NPDES-authorized states to develop their NPDES permits, and to provide outreach and education to the regulated community. On June 8, 2009, the Sixth Circuit granted EPA the two-year stay of the mandate. On March 28, 2011, the U.S. Court of Appeals for the Sixth Circuit granted EPA's request for an extension to allow more time for pesticide operators to obtain permits for pesticide discharges into U.S. waters. The court's decision extended the deadline for when permits would be required from April 9, 2011 to October 31, 2011.

As a result of the Court's decision to vacate the 2006 NPDES Pesticides Rule, NPDES permits are required for discharges of biological pesticides and of chemical pesticides that leave a residue, to waters of the United States. EPA proposed a draft pesticide general permit on June 4, 2010

to cover certain discharges resulting from pesticide applications. EPA Regional offices and state NPDES authorities may issue additional general permits or individual permits if needed.

On October 31, 2011, UT issued a General Permit for Pesticide Discharges (UTG170000) which expires on October 31, 2016. The General Permit for Pesticide Discharges is for discharges that exceed any of the thresholds established in the permit. Eligibility criteria is contained in Part I, Section I.C.

For this PQR, Region 8 reviewed UT's pesticide general permits with a focus on verifying its consistency with NPDES program requirements.

A Notice of Intent (NOI) is only required for coverage under the General Permit for Pesticide Discharges which exceed the annual treatment Area Thresholds (Table 1 of the UTG170000). The Program has approximately 92 NOIs that have been received for coverage under the General Permit for Pesticide Discharges.

1) Background: On October 31, 2011, UT issued a General Permit for Pesticide Discharges (UTG170000) which expires on October 31, 2016.

2) Program Strengths: The Utah General Permit covers the four pesticide use patterns (Mosquito and Other Flying Insect Pest Control, Weed and Algae Control, Nuisance Animal Control, and Forest Canopy Pest Control). The General Permit for Pesticide Discharges requires an NOI for permit coverage and a Pesticide Discharge Management Plan to be developed.

3) Critical findings: None.

3. Pretreatment

The general pretreatment regulations (40 CFR 403) establish responsibilities of federal, state, and local government, industry and the public to implement pretreatment standards to control pollutants from industrial users which may cause pass through or interfere with POTW treatment processes or which may contaminate sewage sludge.

Background

The Pretreatment PQR evaluated the Program's Pretreatment program including the following areas:

- State Pretreatment Authorization and 1987 Memorandum of Agreement (MOA)
- State legal authority found in the Utah Administrative Code-Environmental Quality, Title R317-Water Quality, Rule R317-8-8-Pretreatment
    - Status of implementation of changes to the general Pretreatment regulations at 40 CFR 403 adopted on October 14, 2005 (known as the Pretreatment Streamlining Rule).

- Implementation of Pretreatment boilerplate language into NPDES permits of approved and non-approved programs. With respect to NPDES permits, focus was placed on the following regulatory requirements for pretreatment activities and pretreatment programs:
    - 40 CFR 122.42(b) (POTW requirements to notify Director of new pollutants or change in discharge);
    - 40 CFR 122.44(j) (Pretreatment Programs for POTWs);
    - 40 CFR 403.8 (Pretreatment Program Requirements: Development and Implementation by POTW);
    - 40 CFR 403.9 (POTW Pretreatment Program and/or Authorization to revise Pretreatment Standards: Submission for Approval);
    - 40 CFR 403.12(i) (Annual POTW Reports); and
    - 40 CFR 403.18 (Modification of POTW Pretreatment Program).
- Approval Authority implementation, including,
    - Program Oversight
    - Number of audits and inspections conducted,
    - Number of SIUs in Approved Pretreatment Programs
- Control Authority implementation for categorical industrial users (CIUs)/Significant Industrial Users (SIUs) in non-approved programs.
    - Including, the number of CIUs discharging to municipalities that do not have approved pretreatment programs
- Adherence of the Compliance Monitoring Strategy (CMS) program policy for frequency of State reviews of approved POTW Pretreatment programs and sampling for CIUs/SIUs in non-approved Pretreatment programs.

In order to evaluate the implementation of the Pretreatment regulations by the Program as an Approval and Control Authority, EPA evaluated Pretreatment boilerplate language contained in NPDES permit in POTWs with and without approved Pretreatment programs. In addition, EPA evaluated control mechanism permits for CIUs in non-approved programs and available records for these identified CIUs.

EPA evaluated information provided in the FY 2013 Pretreatment Annual Reports and in the ICIS database to summarize the following Pretreatment data elements related to the Program's authorization to implement the Pretreatment program as an Approval Authority and a Control Authority:

Approval Authority Implementation			
Number of Approved Pretreatment Programs	21		
Number of SIUs in Approved Pretreatment Programs	260		
Number of audits and inspections conducted (note: UT DEQ does not differentiate between Performance Compliance Inspections (PCIs) and Performance Compliance Audits (PCAs)	2011	2012	2013
	10	9	12
Control Authority Implementation			
Number of categorical industrial users (CIUs) discharging to municipalities that do not have approved pretreatment programs	1		

3.1 – State Pretreatment Authorization and MOA

UT was authorized by EPA to administer the NPDES program, including the Pretreatment Program; this authorization was memorialized in a MOA in 1987. Section VI of the MOA memorializes the Pretreatment authorization to the State of Utah, pursuant to Sections 307, 402, and 403 of the Clean Water Act, 33 U.S.C. Section 1251 et seq., and 40 CFR 123.24.

The 1987 MOA establishes the policies, responsibilities, and procedures of the Program in carrying out the implementation and enforcement of the National Pretreatment Program under Section 307 and 402(b) of the Clean Water Act. However, Section VI.A.d of the MOA contains a typo. Under basic responsibilities, the Program is responsible to incorporate the POTW Pretreatment provisions as NPDES permit conditions. The citation for this Pretreatment programs conditions refers to 40 CFR 402.8 and needs to refer 40 CFR 403.8.

3.2 – Approval Authority Responsibilities

3.2.1 – UT DEQ Pretreatment Rules

The Program establishes the State Pretreatment Rules in Utah Administrative Code – Environmental Quality, Title R317 – Water Quality, Rule R317-8-8 – Pretreatment. EPA

evaluated the Pretreatment Rules established by the Program. The Program's Pretreatment Rules incorporate the Pretreatment Streamlining Regulations promulgated by EPA on October 15, 2005 (70 FR 60134). The Pretreatment Streamlining Rule revised several provisions of the General Pretreatment Regulations found in 40 CFR 403 and was designed to reduce the overall regulatory burden on both IUs and Control Authorities without adversely affecting environmental protection. The Pretreatment Streamlining Rule contains required and optional provisions; the Final Rule and FSSOBs can be found at: http://cfpub.epa.gov/npdes/pretreatment/streamlining.cfm.

EPA's evaluation of the Program Pretreatment Rules are contained in the attached State of UT – Legal Authority Review. It appears that the Program's Pretreatment Rules provide a good legal framework to implement the Pretreatment Regulations, with the exception of the Significant Non-Compliance (SNC) definition found in R317-8-8.8(6)(b)(8). The SNC definition in the Program's Pretreatment Rules is not equivalent to 40 CFR 403.8(f)(2)(viii)(c). The SNC criterion limits any other violation to a Pretreatment effluent limit for a permitted facility instead of a Pretreatment Standard or Requirement that applies to all IUs. The Program is required to update its Pretreatment Rules to align with the SNC definition found in the Federal Pretreatment Regulations.

3.2.2 – Permit Quality Review of NPDES Permits

EPA evaluated four (4) NPDES permits and associated FSSOBs issued by the Program to POTWs with and without approved Pretreatment Programs. For the NPDES permits reviewed, the city of Moab is a POTW without an approved Pretreatment program and the cities of St. George, Cedar City, and Brigham City are POTWs with approved Pretreatment programs.

Based on the permit quality review of these NPDES permits, EPA has the following findings:

- The Pretreatment program implementation boilerplate language in NPDES permit for POTWs with approved programs is adequate, with the following comments:
    - The FSSOBs for St. George and Cedar City do not provide a date when the Pretreatment program was approved and if there have been any program modifications since the approval date. This information provides a timeline of modifications to the program approval documents and their effect on the current permit Pretreatment conditions. The Program should provide this information in the FSSOBs.
    - The Pretreatment boilerplate language provided by the Program in the issued NPDES permits should include the following:
        - Requirement to provide a technical evaluation of the POTW's local limits within 12 months of reissuance of the NPDES permit.

- Requirement to provide an industrial waste survey within 60 days of the NPDES permit reissuance to evaluate industrial contributions from the service area.

The Pretreatment program implementation boilerplate language in NPDES permit for POTWs without approved programs is adequate with the following exceptions:

- The Moab NPDES permit did not contain a re-opener provision for development of a Pretreatment Program. The Program should ensure the NDPES permits for POTWs without approved program to contain a reopener clause that the permit can be reopened to require development of a local Pretreatment program, if determined necessary.

3.2.3 – UT DEQ Approval Authority Resources and Implementation Procedures

EPA evaluated the Program's implementation as an Approval Authority for the locally approved Pretreatment programs within the State, including its resources devoted to the Pretreatment program. The Program provides 2 staff members (Pretreatment Coordinator at 0.7 FTE and another at 0.2 FTE) to the Pretreatment program. However, based on EPA's evaluation of the duties for each staff member, it is uncertain if this FTE commitment is practically met.

For example, at the time of the PQR, the Pretreatment Coordinator was responsible for 12 NPDES permits (9 major) and specialty areas such as Emergency Response, Wet Weather Issues, and USMP-assist, in addition to devoting 70% FTE to Pretreatment. The other Pretreatment staff member at 20% FTE was responsible for 21 NPDES permits (11 majors) and the following specialty areas; Emergency Response, Cooling Water Intakes, GP-DWTPS-assist, Indian Lands, Biosolids-assist, and Produced Water-Oil Wells. The Program has decreased its resource commitment to the Pretreatment program since the 2007 EPA-State Pretreatment audit and have increasingly added NPDES Permitting workload responsibilities to the Pretreatment staff. It appears that the NPDES permitting and specialty areas responsibilities affect the Program's ability to implement the Pretreatment Program.

The Program serves as the Approval Authority for twenty two (22) municipalities with approved Pretreatment programs. According to information gathered during the PQR and in 2013 Pretreatment Annual Reports, approximately 260 SIUs are controlled through these approved Pretreatment programs. EPA evaluated the records for the POTWs with approved Pretreatment during the PQR and it appears that the Pretreatment records such as Pretreatment annual reports, correspondence, audit/PCI reports, and applicable enforcement records are in good order.

The Program provides outreach and training to its approved and non-approved Pretreatment programs by attending and providing training at the WEAU, Rural Water, and Region 8 Pretreatment conferences.

Program Modification Review and Approvals—

It appears that the Program has adequate procedures and commitment to provide support and feedback for modification of local limits, ordinances, rules and regulations, Enforcement Response Plans, permit templates, and other non-substantial modifications. However, the Program has the following backlog of local limits and ordinance approvals:

- South Davis Local Limits
- Provo Local Limits
- Timpanogos Local Limits
- Orem Local Limits
- Provo Sewer Use Ordinance
- St. George Sewer Use Ordinance
- Payson Sewer Use Ordinance

Approved Pretreatment Program Audits and Performance Compliance Inspections (PCI)—

Section 1.C of the October 17, 2007 CWA NPDES Compliance Monitoring Strategy (CMS) for the Core Program and Wet Weather Sources Memorandum establishes inspection frequency goals for Pretreatment Audits, Program Compliance Inspections (PCI), and Industrial User inspections. The 2007 CMS memorandum establishes the Pretreatment audit frequency for POTWs with approved Pretreatment programs as 1 audit every five years with oversight IU inspections conducted in at least 2 IUs discharging to the POTW. The 2007 CMS memorandum also establishes a PCI frequency as at least 2 PCIs every 5 years.

The Program has a goal of annually performing audits for 20% of POTWs with approved Pretreatment programs (about 4 or 5) and PCIs for 30% of POTWs with approved Pretreatment programs (about 6 or 7). This meets the CMS goals. However, the PCI and audit reports are not consistently complete and do not consistently provide clarity on the evaluation of the POTW's Pretreatment program. For example, according to information gathered during the PQR, local limits and sewer use ordinances/rules and regulations are evaluated during the audits, however, the reports do not provide documentation of findings or adequate corrective action items. Although it appears that a legal authority checklist is completed during the audit, it was not consistently found in the reports as an attachment. As a result, EPA is unclear if the POTWs with approved Pretreatment programs have adopted a current legal framework aligned with the Federal Pretreatment Regulations. In addition, in many reports there are numerous typos; the audit/PCI reports should be peer reviewed to ensure adequate QA/QC of typos, grammar, and content. As required in Section VII.A.5 of the MOA, the Program provides copies of the audit/PCI reports to EPA.

Annual Pretreatment Reports—

Annual reports are submitted to the Program by the POTWs with approved Pretreatment programs, as required in their NPDES permit conditions. These reports are evaluated by the Program, the evaluation summarized and entered into ICIS. EPA Region 8 is copied on all annual Pretreatment Reports, as required in Section VII.A.11 of the MOA.

Evaluation of industrial Contributions to POTWs without approved Pretreatment Programs—

The Program Pretreatment staff evaluate the service areas of POTWs without approved Pretreatment programs. According to information gathered during the PQR, the NPDES permit requires the POTW without an approved Pretreatment program to submit an updated industrial waste survey within 60 days of the NPDES permit reissuance. It appears that this requirement supplements the requirements in Part F of the EPA NPDES permit application, which requires permittees to provide information regarding industrial contributions from the service area that may impact the POTW by causing pass-through and interference, including the number of SIUs and CIUs.

The Program implements this NPDES permit condition by providing the following to the POTWs:

- Pretreatment brochure that provides a good overview of the Pretreatment Regulations,
- Industrial Wastewater Survey fact sheet that provides information on developing the IWS, and
- Preliminary inspection form

This outreach provided to the POTWs without an approved Pretreatment program informs these POTWs about the program. Outreach also allows the Program to gather information about potential industrial contribution from the service areas of these POTWs and determine if Pretreatment control is necessary. However, although it appears that there is good communication and collaboration between the Pretreatment staff and the NPDES permit writers to provide these documents during permit reissuance and necessary follow up to ensure this permit condition is met, there is a significant backlog of reviewing these documents by the Pretreatment staff. As a result, there is a gap of knowledge as to whether these POTWs without Pretreatment programs are receiving industrial contribution with a potential to cause pass through and interference.

3.3 – Control of CIUs/SIUs in POTWs without Approved Programs

EPA evaluated the Program's direct implementation of the Pretreatment Regulations as the Control Authority for CIUs/SIUs in POTWs without Approved Pretreatment Programs. These control authority requirements are included in 40 CFR 403.8 of the General Pretreatment Regulations and in Section III- Program Implementation Responsibilities of the September 5, 2005 MOA.

The components of the State's Control Authority program evaluated included the following:

- Legal Authority
- Industrial User Characterization and Inventory
- Control of CIUs/SIUs
- Inspections/Sampling
- Compliance Evaluation
- Enforcement

Legal Authority –

The Program has established the appropriate authority to control CIUs/SIUs in POTWs without approved Pretreatment programs in the State Pretreatment Regulations. The State Pretreatment Regulations establish the Control Authority requirements for the Program including right of entry, permitting (applicability and conditions), procedures, reporting, notification, and enforcement. Section R317-8.8(13) of the regulations allows the Program to act as the control authority in lieu of the POTW program. This provision states the following:

"Notwithstanding the provision of R317-8-8.8(1), the State may assume responsibility for implementing the POTW pretreatment program requirements set forth in R317-8-8.8(6) in lieu of requiring the POTW to develop a pretreatment program."

Industrial User Characterization and Inventory –

As mentioned previously, the Program has developed procedures for developing a "state-wide survey" of industrial contributors in POTWs without approved Pretreatment programs. The Permitting Unit provides a Pretreatment brochure, industrial wastewater survey and preliminary inspection forms for every reissued municipal POTW permit. However, the Program needs to ensure this is consistently performed during permit reissuances. The non-approved programs are required to submit the industrial waste survey within 60 days of permit reissuance. This provides the Program information regarding industrial contributions in the service area of these POTWs and determine if additional control of these IUs is necessary.

However, there is a significant backlog in reviewing these surveys. The Program needs to ensure it reviews these surveys to determine if there is a potential for pass through and interference from industrial contributions in these service areas and determine if control is necessary from the State or through an approved Pretreatment program.

Control of CIUs/SIUs –

The Program has identified and is providing control of one SIU in a POTW without an approved Pretreatment program. EPA evaluated the Pretreatment records for Tarter Gate West, located at 3050 North 4800 West, Corrine, UT 84307. Tarter Gate West is a new source metal finisher and was issued a 5-year permit by the Program on June 13, 2011, effective on July 1, 2011 and expiring on June 31, 2016. The facility is classified as a new source metal finisher based on their

process, which includes fabrication of steel coils with alkaline cleaning, phosphate coating and powder coating. According to the Pretreatment records, the CIU discharges about 18,000 to 20,000 gallons per year.

The Pretreatment permit issued by the Program adequately contains the required permit conditions required by 40 CFR 403.8(f)(1)(iii)(B) of the General Pretreatment Regulations. In addition, the FSSOB provides adequately characterizes the facility and provides adequate justification of the permit conditions with the following exception: the Program did not provided the facility's start date of operation in the FSSOB to justify the CIU's new source metal finishing limits.

Inspections/Sampling –

40 CFR 403.8(f)(2)(*v*) of the General Pretreatment Regulations requires that the Control Authority "...Inspect and sample the effluent from each Significant Industrial User at least once per year..." Based on the permit records review, it appears that the Program inspected Tarter Gate West on September 28, 2011, September 26, 2012, and November 23, 2012, however, there was not a 2013 inspection report in the Pretreatment records. In addition, it does not appear that the Program performs control authority monitoring for the permitted CIUs/SIUs.

The Program is required, as the control authority, to meet the inspection and sampling frequency of 1/year as required in 403.8(f)(2)(*v*) of the Pretreatment regulations. EPA understands the logistics with inspecting and sampling the CIUs/SIUs annually because of distance and Program resources.

Compliance Evaluation –

It appears that the DMRs are date stamped and evaluated for compliance by the Pretreatment Coordinator. The proposed electronic reporting rule may help the Program because the Rule will require electronic reporting of DMRs submitted by CIUs/SIUs.

Enforcement –

The Program has developed an enforcement response plan (included in the Program's 2005 Environmental Management System) to address noncompliance in the Pretreatment program. The enforcement response plan was not reviewed as part of this permit quality review.

3.4 – PQR Findings of the UT DEQ Pretreatment Program

3.4.1 - Program Strengths

- It appears that the Program provides good coverage of the State of Utah for the CIUs/SIUs in POTWs without approved Pretreatment programs by requiring the submittal of industrial waste surveys for POTWs without approved Pretreatment programs.

- The Program meets the October 17, 2007 CWA NPDES Compliance Monitoring Strategy (CMS) goals for audits and PCIs of POTWs with approved Pretreatment programs.

- Adequate control mechanism for Tarter Gate West.

- The Program provides outreach and training to POTWs with and without approved Pretreatment programs by attending WEAU, Rural Water and the Region 8 Pretreatment conferences.

3.4.2 – Critical Findings

- The SNC definition in Program's Pretreatment Rules is not equivalent to 40 CFR 403.8(f)(2)(viii)(c). The SNC criterion limits any other violation to a Pretreatment effluent limit for a permitted facility instead of a Pretreatment Standard or Requirement that applies to all IUs. The Program is required to update its Pretreatment Rules to align with the SNC definition found in the Federal Pretreatment Regulations.

- It appears that the additional NPDES responsibilities of the Pretreatment staff affects their ability to implement the Pretreatment regulations as an approval authority and control authority in the state. There is a significant backlog in approvals of program modifications by POTWs with approved Pretreatment programs and review of industrial waste surveys provided by the POTWs without approved Pretreatment programs. The Program should evaluate its commitment to resources provided to its Pretreatment program authorized by EPA.

- The Program is required, as the control authority, to meet the inspection and sampling frequency of 1/year, as required in 403.8(f)(2)(*v*) of the Pretreatment regulations.

3.4.3 – Recommended Actions

- The FSSOBs for St. George and Cedar City do not provide a date when the Pretreatment program was approved and if there have been any program modifications since the approval date. The Program should provide this information in the FSSOBs.

- The Moab NPDES permit did not contain a re-opener provision for development of a Pretreatment Program. The Program should ensure the NDPES permits for POTWs without approved program to contain a reopener clause that the permit can be reopened to require development of a local Pretreatment program, if determined necessary.

- The PCI and audit reports are not complete, and do not provide clarity on the evaluation of the POTW's Pretreatment program. In addition, there are numerous typos in the

reports; the audit/PCI reports should be peer reviewed to ensure adequate QA/QC of typos, grammar, and content.

- EPA recommends the Program evaluate collaboration with the local POTWs to share the inspection and sampling duties of CIUs/SIUs and meet the required inspection and monitoring frequencies of 1/year, as required in the Pretreatment regulations.

4. *Stormwater*

The NPDES program requires stormwater discharges from certain municipal separate storm sewer systems (MS4s), industrial activities, and construction sites to be permitted. Generally, EPA and NPDES-authorized states issue individual permits for medium and large MS4s and general permits for smaller MS4s, industrial activities, and construction activities.

Background

The Utah stormwater permits at the time of the April 2014 PQR were as follows:

- 90 municipalities, 634 industrial sites, and 2469 construction sites are authorized under stormwater general permits.
- Most activities requiring stormwater permits are authorized under general permits. There are four general stormwater permits, each of which were reviewed as part of this assessment:

  1. UTR300000 – Construction general permit
  2. UTR090000 – Small MS4 general permit
  3. UTS000001 – MS4 Permit for Jordan Valley Municipalities
  4. UTR000000 – Industrial general permit/MSGP

UTR300000 - Construction General Permit

Background:

The Utah construction general permit covers construction activities which disturb one acre or greater. At the time of the PQR, this permit was being reissued and was at public notice. The review consisted of a review of the current permit and the draft permit at public notice. The Utah construction general permit in effect at the time of the review was issued on July 1, 2008 and expired on June 30, 2013.

Program Strengths:
The statewide stormwater construction permit currently proposed for public comment is a significant improvement. It is much more specific and enforceable, and it contains all of the requirements from the Effluent Guidelines for the Construction and Development Point Source Category. It is modeled closely after the EPA-issued 2012 Construction General Permit.

Critical findings:

None

Recommendations:
The proposed permit reissuance does contain stream buffer requirements based on EPA's buffer zone guidance in the EPA Construction General Permit. These requirements should be streamlined to provide operators in Utah with the most logical buffer zone requirements. This is especially true since, based on EPA's guidance, there are no Utah-based reference sites, so operators in Utah are required to choose from reference sites in either Idaho or New Mexico.

The state of Utah can be divided into two distinct physiographic provinces based on rainfall intensity and annual precipitation factors. Utah could develop permitting manuals and stormwater permitting requirements which are specific to these two unique climates. This has been incorporated successfully in other states such as Washington, which defines separate management protocols for Eastern and Western Washington.

Parts 1.2.3 and 3.3.2 of the draft permit define additional requirements for new sources which discharge to impaired waters. These focus on increased inspection and more rapid site stabilization. Other areas could be addressed to minimize impacts to impaired waters and to outstanding resource waters. These requirements could include enhanced erosion and sediment control requirements such as additional layers of erosion and sediment control consistent with the permit buffer zone guidance and requirements which minimize the amount of exposed area through site phasing in environmentally sensitive areas.

Given the difficulty in re-establishing vegetative cover in semi-arid and arid areas, the Program could consider other mechanisms to enhance vegetative re-growth including topsoil retention, soil analysis and amendment, and retention of mature vegetative borrow for re-use upon excavation.

UTR090000 – Small Municipal Separate Storm Sewer (MS4) General Permit

Background:
This permit regulates discharges from six small municipal separate storm sewer systems in the state of Utah. The general permit was issued on August 1, 2010 and expired on July 31, 2015.

Program Strengths:
It was evident that a significant effort was made to improve this permit from the previous issuance. Many of the changes reflect EPA's MS4 Improvement Guide. Part 4.2.1. (Public Education and Outreach) requirements are much more specific in this permit issuance. One additional group which could be included in public outreach targeting for the 2015 reissuance could be elected officials such as city council.

Critical findings:
None

Recommendations:
The definition of "priority sites" for biweekly inspection seems like a logical compromise for MS4s. This concept could be further defined to include municipally owned and/or operated construction projects.

Restricting general permit eligibility to MS4s located fully or partially within an urbanized are as defined by the latest U.S. Census is of concern. The census does not adequately capture seasonal population bases and growth areas. By the time these areas are designated as urbanized areas, much of the growth and stormwater will have been designed and constructed with little to no consideration of the associated environmental impacts to receiving waterbodies.

Several municipalities have significant seasonal populations (e.g., resort areas such as Moab and Park City). Given the pace of development in these areas and the proximity of these areas with seasonal populations to high quality water bodies, the Program should maintain an aggressive schedule to develop criteria and designate seasonally impacted municipalities for inclusion in this permit.

The MS4 permit for Jordan Valley municipalities has a specific section devoted to industrial activities with logical and effective permit requirements. These requirements or a subset of the requirements such as the commercial sites inventory would help small MS4s better evaluate these sources and their potential to impact water quality.

Upon reissuance, the post-construction stormwater requirements need to include a specific design standard. This is a critical baseline consistent with EPA's current expectations of what is the Maximum Extent Practicable (MEP) for small municipal separate storm sewer systems.

Integration of watershed and transportation planning into planning future growth planning scenarios is critical. Any efforts to encourage or support these types of efforts into small municipal storm sewer program could be very beneficial to environmental quality and fiscal health.

UTS000001 – MS4 Combined Permit for Jordan Valley Municipalities

Background:
This permit regulates discharges from 14 municipalities located in a specific watershed (Jordan Valley). The permit was issued on September 5, 2013 and expires on September 4, 2018.

Program Strengths:
The inclusion of sanitary sewer overflow reporting and follow-up is a logical and progressive requirement. Improved integration of stormwater and wastewater treatment system resources should improve water quality and allow for better systems planning and recognition of system failures.

The designation and enhanced regulation of "high priority" municipal operations areas based on their proximity to receiving waters and pollutant generating potential seems like a very logical and beneficial idea. This permit requirement guides MS4s to focus on the most important areas and focus resources toward environmental results.

The commercial site inventories required in the permit are very logical and comprehensive, going beyond what is specifically required in federal regulations to focus on the most logical sources of commercial and industrial pollution in the MS4.

Critical findings:
The post-construction stormwater management requirements (Part 4.2.5.) are insufficient to meet current expectations of the Maximum Extent Practicable (MEP) standard for MS4s. The post-construction standard requires that MS4s develop and adopt a post-construction ordinance. Development of ordinances should have been completed in previous permit terms, such that this permit could include a specific numeric design standard for all newly developed and re-developed areas (e.g., all new developments must be designed and maintained to retain, detain, or infiltrate the 2-year, 24-hour storm event). This is especially true for municipalities in the densely populated and rapidly growing Jordan Valley.

Recommendations:
General language for compliance with TMDL wasteload allocations and water quality standards is inappropriate. The Program has the resources and knowhow to specifically define water quality impairments, TMDL allocations, and the additional control measures necessary to either comply with TMDL allocations or further prevent degradation to impaired waters. This permit should include those specifics.

Part 4.2.5.1 sets stringency requirements for post-construction stormwater discharges such that they must be as stringent as those set forth in the general permit for construction activities. This is not adequate as the general construction permit contains no post-construction design specifications or programmatic expectations.

Part 4.2.5 should include more specifics related to the transfer, filing, and ownership of as-built specifications and maintenance requirements for newly constructed features designed to meet the post-construction management goals.

There is an opportunity to better integrate inter-jurisdictional stormwater planning in the Jordan Valley through integration with existing transportation and watershed planning initiatives. Any efforts that encourage inter-jurisdictional planning or education of municipal decision makers could provide significant water quality benefits.

This permit could focus more on stream monitoring and evaluation. In lieu of traditional in-stream wet-weather monitoring, other indicators such as evaluations of streambank stability and sedimentation could be beneficial.

UTR000000 – Industrial Stormwater Permit (Sector P)

Background:
The Utah Industrial Stormwater permit covers a wide variety of industrial activities similar to EPA's Multi-Sector-General-Permit. This permit was issued on January 1, 2014 and expires on December 31, 2018. Coverage is based on the facility's Standard Industrial Classification (SIC) code. The general permit cycle is for 5 years.

Program Strengths:
The Utah industrial permit addresses stormwater discharges in accordance with state and federal regulations. Numeric effluent limits for certain categories of stormwater discharges with effluent guidelines are included in the permit, which is helpful. This permit is very comprehensive in incorporating Emergency Planning and Community Right-to-Know Act (EPCRA) requirements listed under Section 311 of the Clean Water Act.

Critical findings: None

Recommendations:
The system of segregating the industrial permit into five unique sectors appears to be very effective. This should allow the Program to more effectively tailor the permit requirements for each sector group and will reduce the number of inapplicable requirements in the general permit.

Corrective action reporting and notification could be improved in the baseline industrial permit language when the next sector-specific permit is issued to more specifically detail timelines and documentation requirements when stormwater control measures fail or when pollutant generating activities are recognized. This approach was incorporated into EPA's 2008 Multi Sector General Permit (MSGP).

There are several instances in the permit where the operator is expected to "consider" installation of control measures or "consider" certain types of environmental impacts during inspections. This language is not enforceable. It can be phased out through a combination of specific stormwater control design guidelines and by using more enforceable permit language which still allows permittee flexibility such as "unless infeasible" or "unless impracticable."

IV. REGIONAL TOPIC AREA FINDINGS

A. Permit Application

Prior to February 2014, Utah permit applications were inadequate to comply with the requirements in 40 CFR 122.21. However since February 2014, all permittees are required to complete EPA Form 1 and the appropriate Form 2 that is specifically applicable to the facility for all new and renewal permits (except new and existing POTW/Treatment Works completing 2A and 2S which are not required to complete an EPA Form 1).

B. Whole Effluent Toxicity

Whole Effluent Toxicity (WET) is a term used to describe the aggregate toxic effect of an aqueous sample (i.e., whole effluent wastewater discharge) as measured by an organism's response (e.g., lethality, impaired growth or reproduction) upon exposure to the effluent sample. WET tests replicate the effect of an effluent without requiring the identification of the specific pollutants. WET testing is a vital component of the water quality standards implementation through the NPDES permitting process and supports meeting the goals of the Clean Water Act (Sections 301(b)(1) and402), "...maintain the chemical, physical and biological integrity of the nation's waters."

WET tests are designed to predict the impact and toxicity of effluents discharged from point sources. WET limits developed by permitting authorities are included in NPDES permits to ensure that the state or tribal water quality criteria for aquatic life protection are met. Discharge monitoring requirements (40 CFR 122.44(d)(1)(ii)) are included in NPDES permits to generate WET data used to determine whether RP for WET has been demonstrated, including for both acute and chronic effects. If RP has been demonstrated, then a WET limit must be included in the permit (122.44(d)(1)(iv) and (v)). Test results are also used in determining compliance with NPDES WET permit limits.

Four core permits were reviewed for required WET monitoring and/or limits; Central Davis Sewer District (UT0020974), ATI Titanium (UT0025755), Canyon Fuel Company, LLC. – Sufco Mine (UT0022918), and Tremonton Wastewater Treatment Plant.

Program Strengths:

The UPDES program has had a noted increase in WET implementation in their permits. UPDES has also implemented chronic WET testing requirements in several recently issued permits that discharge to the GSL. In the past, only acute WET testing was required for some of the discharges to the GSL.

Critical Findings and Recommendations:

Where FSSOBs were available, they did not provide adequate descriptions about the permit writer's decision making process for WET determinations. For example, it was unclear how acute vs. chronic determinations were made. It was unclear if permit requirements base the selection of acute or chronic testing on dilution. The use of dilution factors and instream waste concentrations were not clear, and decisions regarding the type of test selected for a facility were not clearly documented.

Additionally, it was unclear how WET RP was determined, how species modifications were approved, and how testing reductions were determined and approved. Reference to the updated Utah WET policy in process were made in permit FSSOBs, but permit specific decisions were not well documented.

Where acute or chronic monitoring or limits were put in place for a facility, the instream waste concentration (IWC) or end-of-pipe limitation was not well documented or discussed.

Permit requirements did not specify test acceptability criteria (TAC) for WET sample analysis. It was unclear what WET test parameters were required for laboratory analysis of the WET sample where the WET test manuals provide options (e.g. dilution series for testing requirements, hardness, dilution water utilized, etc.). FSSOBs did not specify clearly the sampling requirements on grab and composite sampling or the permit writer's selection criteria for sampling.

Reductions in WET sampling frequency did not provide a clear justification as to why facilities were allowed to be moved to a lower or less frequent sampling regimen or alternating species, and whether or not laboratory bench data was utilized and reviewed to make determinations.

Specific Examples

The **Central Davis Water and Sewer** permit currently requires acute and chronic quarterly WET monitoring. The acute quarterly testing allows the facility to utilize alternating species and it is unclear as to why the facility was reduced in monitoring. No historical DMR data was provided on acute test results and it is not clear if WET test data was reviewed to make this initial reduction decision. The permit and FSSOB do not provide any basis for the selection of acute versus chronic testing utilizing information on the instream waste concentration of the facility. The FSSOB provides no historical WET data analysis. There is no information provided on the number of samples reviewed or received the permit does not include any information on the test acceptability criteria for the facility.

The Central Davis Water and Sewer 2010 permit does provide additional information on the approval of chlorine removal (e.g. dechlorination) prior to analysis using the WET test; however, the permit fails to limit chlorine or provide chlorine monitoring to ensure that effects on the receiving stream are protected, as required by 40 CFR 122.44(d)(1)(v). Where the Program has allowed for the removal of chlorine prior to WET testing, it must be limited by a chemical specific limitation as required by regulation.

ATI Titanium requires monitoring for chronic on a single grab sample utilizing the sheepshead minnow. The FSSOB does not provide justification for the use of a marine species where naturally occurring waters of the State are freshwater. The use of a marine species is not justified in any documentation and there is no information to support saltwater effluent limitations solely because the discharge ultimately reaches the GSL and the facility contributes a high TDS effluent.

There is no dilution series for the chronic test or IWC % based on flows of the receiving stream and effluent. There are no test acceptability criteria listed in the permit requirements. There is no explanation or specification of chronic sampling requirements for the three grab samples as specified in the Chronic WET Manual. The permit lists

conflicting requirements having both grab and composite as the required sampling, and with a two day progression listed in the sampling requirement.

Canyon Fuel Company is required to test acute and chronic WET on one species each quarter as static replacement tests. There is no TAC for acute or chronic testing requirements. The FSSOB does not explain why the selection of alternating chronic and acute WET testing is specified or why alternating species use was selected.

For the chronic test, Utah requires only the 98% dilution and a control as the test parameters, which is not acceptable and does not meet the five dilutions plus a zero control requirement listed in the WET test manuals. The EPA WET test methods are incorporated by regulation (40 CFR Part 136) and require five effluent test concentrations plus a control for the dilution series when conducting EPA WET tests. While the EPA Test of Significant Toxicity (TST) document provides another option for statistical analysis of valid WET tests using two data points taken from two WET test dilution series (the control plus one other effluent test concentration usually the in-stream waste concentration or IWC), the EPA TST document still requires that the EPA WET tests be conducted using five effluent test concentrations plus a control. There is no explanation or specification of chronic sampling requirements for three grab samples as specified by the chronic WET manual, and the basis for WET decisions is not explained in the FSSOB for WET permitting decisions.

Tremonton is a major facility and acute testing is required with alternating species based on previous permit limitations; however, no current review of data was provided to support current WET determinations on the WET test type or frequency. The WLA uses an LC50 at 90.9% for acute and IC25 at 12%. It is unclear based on the WLA why chronic is not being required in the permit with an IWC at 12%. There is no basis for acute testing based on flow at 48% or the 7Q10 at 19.2%. It is unclear in the FSSOB what the facility contribution to the stream flow is and what basis of calculations was used.

Additionally, the chronic definition for this permit is incorrect and infers that chronic toxicity occurs only when organisms show issues at beneath the 25% dilution.

There is no TAC criteria for the permit or specifications on how the laboratory is to run the acute test parameters.

C. Reasonable Potential

For all the permit files reviewed, the RP analysis was not documented in the permit file which is part of the administrative record. The Program first conducts a qualitative RP analysis before a quantitative RP analysis. EPA only found one permit file with a quantitative RP analysis (ATI Titanium) and all files were missing documentation of a qualitative review. A record of the RP analysis must be kept as part of the permit file and a summary of the RP analysis should be included in the FSSOB. This finding has been identified as an action item in previous PQR reviews by EPA. The Program has been working on drafting a RP Policy for several years; however, it has not been completed.

D. Great Salt Lake

The GSL is of critical ecological importance to the millions of birds who depend on the GSL's resources. The GSL is also of vital economic importance, contributing over $1 billion to Utah's economy each year from industry and recreation. The Program has worked to ensure that water quality remains sufficient to maintain the GSL's many important benefits.

In the past several years, the program has been developing and implementing the Program's Strategy. The Strategy is designed to develop numeric water quality criteria for the protection of the aquatic life and recreational designated uses, improve water quality monitoring and prioritize research, implement a plan to monitor and assess the GSL's wetland water quality, and to implement a plan to assess nutrients. The GSL currently lacks numeric standards for all pollutants (except a numeric tissue-based water quality criterion in bird eggs for selenium in Gilbert Bay). As a result, permits are difficult to develop and are often appealed. Over the past decade, both new permits to the GSL and permit renewals have been repeatedly appealed. For instance, in 2007 the permit renewal for Kennecott Utah Copper's discharge was appealed and resolution of the appeal is still ongoing. Numeric criteria would eliminate much of the controversy regarding effluent limits, or at least would streamline the appeals process. In addition, numeric criteria would avoid the potential for permit limits being under- or overprotective when they are based on technology-based standards that may or may not be appropriate for the GSL.

EPA recognizes the challenges with this unique ecosystem and NPDES permitting in the absence of numeric water quality standards (except a numeric tissue-based water quality criterion in bird eggs for selenium in Gilbert Bay). In the absence of numeric standards, the designated uses of the GSL have instead been protected by the Narrative Standards (UAC R317-2-7). The recent implementation of chronic WET testing in several GSL permits is been used as an indicator for chronic toxicity. However, the data from chronic WET testing is not used as a basis for RP. Therefore, it is unclear how permits to the GSL will comply with 40 Part 122.44 (d)(1)(iv) and/or 40 Part 122.44 (d)(1)(v) when a discharge has shown there is reasonable potential to cause or contribute to the exceedance of the numeric and/or narrative standards for chronic toxicity.

EPA reviewed three permits that discharge to the GSL (Central Davis Sewer District, Jordan Valley Water Conservation District, and ATI Titanium). In the absence of numeric criteria for the GSL (except a numeric tissue-based water quality criterion in bird eggs for selenium in Gilbert Bay), the Program issued these permits with numeric effluent limitations based upon:

- UT Administrative Code R317-1-3.2. Utah's Secondary Treatment Standards - Central Davis Sewer District, Jordan Valley Water Conservation District, and ATI Titanium
- UT Administrative Code R317-2-14. WQS for GSL (selenium in Gilbert Bay) - Jordan Valley Water Conservation District
- BPJ (oil and grease) - Central Davis Sewer District, Jordan Valley Water Conservation District, and ATI Titanium)

- BPJ (metals) - Jordan Valley Water Conservation District and ATI Titanium

WET monitoring was also required for all three permits.

Program Strengths: Utah continues to work on the development of numeric criteria for the GSL. The Program has developed and is implementing the Strategy in the interim until numeric criteria are promulgated.

Critical Findings: When there is RP to cause or contribute to an exceedance of the numeric and/or narrative standards for chronic toxicity (through chronic WET testing) in the GSL, Utah needs to include WET limits or chemical-specific limitations that attain and maintain the numeric or narrative standards in the permit.

V. ACTION ITEMS

This section provides a summary of the main findings of the review and provides proposed action items to improve Utah's NPDES permit program. This list of proposed action items will serve as the basis for ongoing discussions between EPA Region 8 and Utah as well as between EPA Region 8 and EPA HQ. These discussions should focus on eliminating program deficiencies to improve performance by enabling good quality, defensible permits issued in a timely fashion.

The proposed action items are divided into three categories to identify the priority that should be placed on each Item and facilitate discussions between Regions and states.

- **Critical Findings** (Category One) - Most Significant: Proposed action items will address a current deficiency or noncompliance with respect to a federal regulation.
- **Recommended Actions** (Category Two) - Recommended: Proposed action items will address a current deficiency with respect to EPA guidance or policy.
- **Suggested Practices** (Category Three) - Suggested: Proposed action items are listed as recommendations to increase the effectiveness of the State's or Region's NPDES permit program.

The critical findings and recommended actions proposed should be used to augment the existing list of "follow up actions" currently established as an indicator performance measure and tracked under EPA's Strategic Plan Water Quality Goals or may serve as a roadmap for modifications to the Region's program management.

A. Basic Facility Information and Permit Application

UPDES Program used a simple letter application for all renewal permits that did not comply with 40 CFR 122.21, however; since February 2014 Utah requires all permittees to complete EPA Form 1 and the appropriate EPA Form 2 that is specifically applicable to the facility for all new and renewal permits (except new and existing POTW/Treatment Works completing 2A and 2S which are not required to complete an EPA Form 1). EPA Forms are required for all new and renewals permits.

The following is an action item to help Utah strengthen its NPDES permit program:

- None. Utah has corrected this deficiency.

B. Technology-based Effluent Limitations

UPDES POTWs permits establish effluent limitations for BOD_5 and TSS in appropriate units and forms. Utah applies effluent limitations based on National Secondary Treatment Standards for TSS and BOD_5 in municipal permits. EPA did not review any lagoon systems as part of the PQR and only evaluated permits that had an ability to meet the National Secondary Treatment Standards. In general, the National Secondary Treatment Standards were appropriately applied to the seven POTW permits reviewed.

In general, the Program appropriately applied technology-based effluent limitations in the non-POTW permits reviewed.

The following is an action item to help Utah strengthen its NPDES permit program:

Category 1 – The Program needs to indicate how permittees with limitations that are less than the National Secondary Treatment Standards met the regulatory requirements for less stringent limitations (Central Davis).

Category 2 – Permits (or FSSOBs) need to include an explanation on what the authorized wastestream is and if that wastestream was subject to an ELG (Nucor steel-Plymouth Division). Additionally, permits need to provide an explanation or justification for the use of BPJ and include information to determine how an ELG limit was derived, as required in 40 CFR 125.3(d). (Miller-E A).

C. Water Quality-Based Effluent Limitations

The cover page of the permits and the FSSOBs reviewed identify the receiving stream and applicable classification. The FSSOBs identify applicable numeric and narrative water quality standards through reference to their location in the UT administrative code R317-2. Permit files provide good explanation of effluent limitation development. UPDES Program FSSOBs contain a general statement that the FSSOB demonstrates the existing and designated uses of the receiving water will be protected under the conditions of the proposed permit.

The following are action items to help Utah strengthen its NPDES permit program:

Category 1 – Permits must include if the receiving water was impaired, and if so, if there was an approved TMDL and how the discharge will comply with the TMDL.

Category 1 – Permits must contain effluent limitations for pollutants that have a reasonable potential to cause or contribute to an excursion of WQS including narrative standards per 40 CFR Part 122.44(d)(1) (Central Davis Sewer District).

Category 1 – Permits that have an increased loading from previous permits shall include documentation for how it will comply with the anti-backsliding requirements 40 CFR 122.44(l) (St. George).

D. Monitoring and Reporting

The monitoring and reporting provisions reviewed in the core permits appear to be consistent with federal requirements.

E. Standard and Special Conditions

The following are action items to help Utah strengthen its NPDES permit program:

Category 1 – The State's standard and special conditions need to be at least equivalent to 40 CFR 122.41 and 122.42. Specifically, not included in the State's condition is the requirement that the alternation or addition to a permitted facility may meet one of the criteria for determination whether a facility is a new source 40 CFR 122.29(b).

Category 1 – The State's special permit conditions for manufacturing, commercial, and mining dischargers did not include a notification level for discharges, on a non-routine or infrequent basis, of a toxic pollutant which is not limited in the permit and that will exceed the highest of the notification levels, as required in 40 CFR 122.42(a)(2). The notification levels are identified below:

(i) Five hundred micrograms per liter (500 µg/l);
(ii) One milligram per liter (1 mg/l) for antimony;
(iii) Ten (10) times the maximum concentration value reported for that pollutant in the permit application in accordance with §122.21(g)(7).
(iv) The level established by the Director in accordance with §122.44(f).

F. Administrative Process (including public notice)

The following are action items to help Utah strengthen its NPDES permit program:

Category 1 – Utah's administrative record must contain the documentation to verify public notices have been published in the local newspaper. Public notices need to have the verification (such as affidavit from the newspaper agency) in the file.

G. Documentation (including fact sheet)

The following are action items to help Utah strengthen its NPDES permit program include the following:

Category 1 – UPDES Program must ensure permit files include complete documentation of RP analyses.

Category 3 – EPA recommends that the Program maintain draft permits as part of the administrative record.

H. National Topic Areas

Proposed actions items for core topic areas are provided below.

1. *Nutrients*

EPA Region 8 did not review any permits to evaluate nutrient permitting requirements. Currently, Utah only incorporates ammonia limits into permits. They have numeric and narrative criteria related to ammonia. EPA did review one permit (JBS Swift) that had a total phosphorus limit based upon the ELG that applied to the facility.

2. *Pesticides*

The Pesticide General Permit (UTG170000) appears to be consistent with federal requirements.

3. *Pretreatment*

Proposed action items for Pretreatment to help Utah strengthen its NPDES permit program include the following:

Category 1 – The SNC definition in Program's Pretreatment Rules is not equivalent to 40 CFR 403.8(f)(2)(viii)(c). The SNC criterion limits any other violation to a Pretreatment effluent limit for a permitted facility instead of a Pretreatment Standard or Requirement that applies to all IUs. The Program is required to update its Pretreatment Rules to align with the SNC definition found in the Federal Pretreatment Regulations.

Category 1 – The Program is required, as the control authority, to meet the inspection and sampling frequency of 1/year, as required in 403.8(f)(2)(*v*) of the Pretreatment regulations.

Category 1 – It appears that the additional NPDES responsibilities of the Pretreatment staff affects their ability to implement the Pretreatment regulations as an approval authority and control authority in the state. There is a significant backlog in approvals of program modifications by POTWs with approved Pretreatment programs and review of industrial waste surveys provided by the POTWs without approved Pretreatment programs. The Program should evaluate its commitment to resources provided to its Pretreatment program authorized by EPA.

Category 3 – The FSSOBs for St. George and Cedar City do not provide a date when the Pretreatment program was approved and if there have been any program modifications since the approval date. Program should provide this information in the FSSOBs.

Category 3 – The PCI and audit reports are not complete, and do not provide clarity on the evaluation of the POTW's Pretreatment program. In addition, there are numerous typos in the reports; the audit/PCI reports should be peer reviewed to ensure adequate QA/QC of typos, grammar, and content.

Category 3 – The Moab NPDES permit did not contain a re-opener provision for development of a Pretreatment Program. The Program should ensure the NDPES permits for POTWs without

approved program to contain a reopener clause that the permit can be reopened to require development of a local Pretreatment program, if determined necessary.

Category 3 – EPA recommends the Program evaluate collaboration with the local POTWs to share the inspection and sampling duties of CIUs/SIUs and meet the required inspection and monitoring frequencies of 1/year, as required in the Pretreatment regulations.

4. Stormwater

One action items are proposed herein to help Utah strengthen its NPDES permit program:

Category 1 - The post-construction stormwater management requirements (Part 4.2.5.) are insufficient to meet current expectations of the Maximum Extent Practicable (MEP) standard for MS4s. The post-construction standard requires that MS4s develop and adopt a post-construction ordinance. Development of ordinances should have been completed in previous permit terms, such that this permit could include a standard (UTS000001).

1. Regional Topic Areas

Proposed action item for special focus area is provided below.

1. Permit Application

See Section IV.A. above for a brief overview of findings. Utah has addressed permit application issues and the process is now consistent with federal requirements.

2. Whole Effluent Toxicity

Proposed action items for WET to help Utah strengthen its NPDES permit program include the following:

Category 1 and 2 - FSSOBs must provide adequate descriptions about the permit writer's decision making process for WET determinations. Specifically, the following should be documented in permits/FSSOBs:

-IWC or end-of-pipe limitations should be documented in permits (Category 2)

-Test acceptability criteria (TAC) for sampling requirements or analysis (Category 1)

-Sampling requirements on grab and composite sampling (Category 2)

-Dilution factors/series to include five effluent test concentrations plus a control as required under EPA WET test methods (40 CFR Part 136) (Category 1)

-Reductions in sampling frequent sampling regimen (Category 2)

Category 1 – Utah should develop a policy for how WET RP will be determined.

Category 3– The Program should review laboratory bench data, not DMR pass/fail data alone, to look for anomalies in sampling prior to reduction to less frequent monitoring or alternating species.

3. *Reasonable Potential*

Proposed action items for RP to help Utah strengthen its NPDES permit program include the following:

Category 1 - Utah's RP Policy should be completed and submitted to EPA Region 8 for review. Region 8 has noted this as a critical finding in previous PQR reviews.

4. *Great Salt Lake*

The Program is making strides in the permits issued to the GSL. EPA encourages the Program to continue its implementation of the Strategy and is supportive of the use of chronic WET as an indicator of chronic toxicity.

Proposed action items for GSL to help Utah strengthen its NPDES permit program include the following:

Category 1 – Utah shall ensure that when it has shown there is reasonable potential to cause, or contribute to an exceedance of the numeric and/or narrative standards for chronic toxicity (through chronic WET testing), that it complies with the requirements in 40 CFR 122.44(d)(1)(iv) and/or 40 CFR 122.44(d)(1)(v) by including WET limitations in the permit or chemical-specific limitations that attain and maintain the numeric or narrative standards.

State of Utah

GARY R. HERBERT
Governor

SPENCER J. COX
Lieutenant Governor

Department of
Environmental Quality

Alan Matheson
Executive Director

DIVISION OF WATER QUALITY
Walter L. Baker, P.E.
Director

SEP 29 2015

Sarah Bahrman, Acting Wastewater Unit Chief
U.S. EPA, Region 8
8OC-EISC
1595 Wynkoop Street
Denver, CO 80202-1129

Dear ~~Ms. Bahrman,~~ Sarah

Subject: Utah Comments on Region 8 Permit Quality Review

The Utah Division of Water Quality (UDWQ) appreciates the opportunity to provide comments on the Draft Report resulting from the Permit Quality Review of the Utah Pollutant Discharge Elimination System Permitting Program conducted in Salt Lake City, April 21 – April 25, 2014. UDWQ would like to further clarify our program's process. Below are our comments.

1. Section III.C, paragraph 6: We agree with the comment that the FSSOBs for all individual permits should include a discussion of whether the receiving water is impaired, if the permittee discharges a pollutant of concern, and a discussion of the TMDL status. UDWQ will implement this in future UPDES Permit renewals.
2. Section III.C, paragraph 7: The permit for Central Davis Sewer District was renewed on April 1, 2015 with a Wasteload Analysis, and not a FONSI, as per UDWQ's draft policy, *Interim Approach to Great Salt Lake Permitting*.
3. Section III.E, paragraph 4: The notification levels identified are listed in our rules, UAC R317-8-4.1(15)(a) and the citation is referenced in our permits. We believe that this is sufficient and including the language in all applicable permits is unnecessary.
4. Section III.F, paragraph 2: We agree that the administrative record needs to contain verification that public notices have been published in the local newspaper. Since April 2014, UDWQ has strived to include all newspaper affidavits in UPDES Permit files.
5. Section III.G, paragraph 3: We agree with the finding that neither the FSSOBs nor the permit files contained documentation regarding RP evaluation. UDWQ has since developed a RP Policy and sent to EPA Region 8 for review on June 19, 2015. UDWQ is committed to implementing the RP Policy for all UPDES Permit renewals after January 1, 2016.
6. Section III.G, paragraph 5: Regarding the recommendation that UDWQ maintain draft copies of permits and FSSOBs, UDWQ utilizes an electronic document management system which catalogs and maintains all of the versions made to a document electronically. We believe that maintaining this record electronically is sufficient.

7. Section III.G, Part 1, paragraph 3: UDWQ agrees that at the time of the PQR, we lacked documentation on how pollutants of concern were identified. A process to identify the POCs, is addressed in the draft RP Policy sent to EPA for review on June 19, 2015.
8. Section III.G, Part 1, paragraph 4: We agree that at the time of the PQR, UDWQ did not consistently document the RP analysis. Documentation protocols for RP analysis are addressed in the draft RP Policy sent to EPA on June 19, 2015.
9. Section III.G, Part 1, paragraph 4: UDWQ provided a copy of our draft RP Policy on June 19, 2015 for EPA Region 8's review.
10. Section III.H, Part 1, paragraph 1: This paragraph includes a statement that UDWQ only incorporates ammonia limits into permits. At the time of the PQR that was true, unless there was a nutrient TMDL on the receiving water body. UDWQ includes nutrient loading or concentration limits in permits consistent with the TMDL. An example is for the JBS Swift facility which has a total phosphorus effluent limit and was a file that EPA reviewed during the PQR.
11. Section III.H, Part 1, paragraph 4: As a clarifying statement, in December 2014, UDWQ adopted the TBPEL rule which requires facilities with UPDES Permits to begin monitoring their influent and effluent for nutrients beginning July 1, 2015 and states that non-lagoon systems must comply with a total phosphorus limit of 1 mg/L in 2020.
12. Section III.H, Part 3.2.2, paragraph 2: UDWQ does not see the merit of including the original date when the Pretreatment Program was approved, and if there have been any program modifications since the approval date. Also, collecting this information will be cumbersome to our already limited staff resources. We respectfully disagree with the statement.
13. Section III.H, Part 3.2.2, paragraph 5: UDWQ requests that the requirement to include a Pretreatment reopener clause in the Moab UPDES Permit be changed to a recommendation. As we have discussed with EPA, by rule UAC R317-8-8.8, we have the authority to require a POTW to develop a Pretreatment program at any time if the Director deems it appropriate.
14. Section III.H, Part 3.2.3, paragraph 4: UDWQ would like to clarify that the Timpanogos Local Limits were approved May 2015 and the Payson Sewer Use Ordinance was completed April 2015.
15. Section III.H, Part 3.2.3, paragraph 7: As of December 1, 2014, UDWQ has implemented a manager review of all pretreatment reports to identify and correct typos, grammar, and content.
16. Section III.H, Part 3.2.3, paragraph 8: UDWQ agrees with the statement that there is a significant backlog of reviewing documents by Pretreatment staff due to limited staff resources. As a result, we only approach facilities when there is an issue, and not proactively, to address the knowledge gap that may result in pass through and interference.
17. Section II.H, Part 3.2.3, paragraph 16: UDWQ has developed an enforcement response plan for Pretreatment and it is included in the EMS dated February 2005. This document is currently being updated.

18. Section III.H, Part 3.3.2, paragraph 3: UDWQ agrees with the statement that there is a significant backlog in approvals of program modifications and review of industrial waste surveys provided by POTWs without approved Pretreatment programs. Going forward, we will evaluate our resources committed to Pretreatment to identify additional staff resources to devote to Pretreatment.
19. Section IV.B, Critical Findings, paragraph 2: The process for determining WET RP will be addressed in the updated WET policy that UDWQ will send to EPA Region 8 by December 31, 2015.
20. Section IV.B, Critical Findings, paragraph 4: UDWQ agrees with the statement that permit requirements did not specify test acceptability criteria (TAC) for WET sample analysis. UDWQ's updated WET policy will require the permit writer to specify TAC for WET sample analysis and document the sampling selection criteria.
21. Section IV.B, Critical Findings, Specific Examples, paragraph 3: The renewal permit for ATI Titanium will include a justification of the species selection.
22. Section IV.B, Critical Findings, Specific Examples, paragraph 6: We appreciate EPA bringing to our attention the oversite of allowing for 98% dilution on a chronic test for the Canyon Fuel Company UPDES Permit. This will be rectified in the 2016 renewal permit to be 5 dilutions plus a zero control as listed in WET test manuals.
23. Section IV.D., Great Salt Lake, paragraph 3: As EPA noted, GSL does not currently have numeric water quality standards, other than a tissue based standard for Se. In addition, the high salinity and unique ecosystem pose other permitting challenges. UDWQ is currently finalizing a guidance document titled *Interim Approach for UPDES Permitting for Discharges to GSL* which will, in part, address how permits will comply with 40CFRPart 122.44(d)(1)(iv) and/or 40CFRPart 122.44 (d)(1)(v) when a discharge has shown that there is reasonable potential to cause or contribute to the exceedance of the numeric and/or narrative standards for chronic toxicity.
24. Section V.B, Category 1: UDWQ agrees with the finding that we need to indicate how permittees with limitations that are less than the National Secondary Treatment Standards met the regulatory requirements for less stringent limitations (i.e., Central Davis). We believe that adequate justification was provided in the FSSOB for Central Davis.
25. Section V.B, Category 2: UDWQ agrees with the finding that permits/FSSOBs should include an explanation on what the authorized waste stream is and if that waste stream was subject to ELG (i.e., Nucor Steel-Plymouth Division). However, we believe that this was adequately addressed in the permit/FSSOB for Nucor Steel.
26. Section V.B, Category 2: UDWQ agrees with the finding that permits/FSSOBs should provide an explanation of justification for the use of BPJ and include information to determine how an ELG limit was derived (i.e., EA Miller). We believe that an adequate justification was provided in the permit/FSSOB.
27. Section V.C, Category 1: UDWQ agree with the finding and will strive to implement a discussion of if the receiving water was impaired, if there was an approved TMDL, and how the discharge will comply with the TMDL across all permits.
28. Section V.C, Category 1: UDWQ agrees that all permits should contain effluent limitations for pollutants that have RP to cause or contribute to an excursion of WQS. We believe that the effluent limits for Central Davis Sewer District are adequately justified in the permit/FSSOB.

29. Section V.C, Category 1: UDWQ agrees that permits that have increased loading from previous permits shall include documentation for how it will comply with the anti-backsliding requirements. We believe that the documentation for St. George is adequate.
30. Section V.E, Category 1: UDWQ agrees with this finding. Even though the language equivalent to 40CFR 122.41 and 122.42 is in our rule and is sufficient, we will strive to include the full language in future permit language.
31. Section V.H.3, Category 1: UDWQ agrees with this finding, and is working to update our Pretreatment Rules to align with the SNC definition found in the Federal Pretreatment Regulations.
32. Section V.H.3, Category 1: As mentioned previously, UDWQ will include the reopener language in Moab's renewal permit. We request that this finding be moved to a Category 3 finding from a Category 1 finding as the language is in our rules, and our Director maintains the authority to reopen a permit for cause whether or not the language is explicitly stated in the permit.
33. Section V.H.3, Category 1: As mentioned previously, UDWQ will evaluate our Pretreatment Resources.
34. Section V.H.3, Category 3: UDWQ will begin tracking the public notice date and approval date of approved program modifications.
35. Section V.H.3, Category 3: UDWQ believes that PCI and audit reports are complete with the addition of the checklist.
36. Section V.H.3, Category 3: UDWQ agrees to collaborate with local POTWs to share inspection and sampling duties of CIUs/SIUs and to meet the required inspection and monitoring frequencies for non-approved areas.
37. Section I.2, Category 1 and 2: UDWQ agrees with the findings and will include all items listed in the updated WET policy. As mentioned previously, the draft WET policy will be sent to EPA for review by December 31, 2015.
38. Section I.3, Category 1: UDWQ submitted the final draft RP Policy to EPA for review on 6/19/15.

The UDWQ appreciates EPA's review team providing a comprehensive review of our UPDES program. If you have any questions regarding our comments or our program, please contact Kim Shelley at 801-536-4385 or Jeff Studenka at 801-536-4295.

Sincerely,

Walter L. Baker, P.E.
Director

WLB:KS:ph

cc: Amy Clark, EPA Region 8, via email at clark.amy@epa.gov

DWQ-2015-010824