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OFFICE OF  
ENFORCEMENT AND  
COMPLIANCE ASSURANCE

**MEMORANDUM**

SUBJECT: Issuance of Clean Water Act National Pollutant Discharge Elimination System Compliance Monitoring Strategy

FROM: Lisa C. Lund   
Director, Office of Compliance

TO: Regional Enforcement Division Directors  
Regional Water Division Directors

The attached Compliance Monitoring Strategy (CMS) provides revised compliance monitoring goals for the National Pollutant Discharge Elimination System (NPDES) program. This revised strategy provides increased flexibility to EPA and state agencies when conducting compliance monitoring activities through an expanded set of tools for determining compliance and to address local water pollution and compliance concerns. The goals in this revised strategy address both the frequency and type of compliance monitoring activities that are appropriate for various categories of NPDES regulated facilities. The strategy also provides additional flexibility to address the most important water quality problems, an expanding universe of regulated entities, and resource limitations.

Compliance monitoring is a cornerstone of EPA's program to protect and restore water quality. The primary goal of the combined EPA and state compliance monitoring efforts, such as on-site inspections and evaluation of self-reported Discharge Monitoring Report (DMR) data, is to ensure and document whether entities regulated under the NPDES and pretreatment programs are complying with their CWA obligations. EPA and state compliance monitoring programs should accurately identify and document noncompliance, support the enforcement process, monitor compliance with enforcement orders and decrees, establish presence in the regulated community, deter noncompliance, support the permitting process and further the broad watershed protection and restoration goals of the NPDES program.

Last year OECA engaged EPA regions and states in a national dialogue about the existing flexibility in the NPDES CMS and how the definition of what constitutes compliance monitoring can be further expanded while maintaining program integrity. The attached revisions to the 2007

CMS are the result of our discussions with the EPA regional and state agencies implementing NPDES compliance and enforcement programs. Collectively, we recognize that our compliance monitoring programs need to evolve and incorporate new technologies and innovative compliance monitoring approaches. These revisions more fully encompass the suite of compliance monitoring tools that are available to EPA and states today and reflect the key concepts of Next Generation Compliance, taking into account opportunities created by increased electronic reporting, increased transparency, and advanced monitoring technologies.

In addition to the CMS revisions to account for an expanded definition of compliance monitoring, the revised NPDES CMS includes, as necessary, other changes to keep the strategy current and to incorporate feedback received since issuance of the 2007 strategy. The key revisions include:

- More specific guidance on alternative CMS plans;
- Additional compliance monitoring tools beyond traditional on-site compliance inspections;
- Updates to several compliance monitoring goals to improve clarity and simplify implementation of the CMS; and
- Addresses compliance monitoring for vessels and pesticide operators.

I want to thank the individuals in the states, the state associations, EPA regions, and Headquarters who worked with us in revising the 2007 NPDES CMS. We, in close coordination with EPA regions and states, will continue to regularly monitor and evaluate implementation of the revised strategy and modify it as appropriate.

Please share this CMS with your counterpart at all affected state agencies and departments in your region. If you have any questions or concerns regarding the revised NPDES CMS, please contact Martha Segall (202-564-0723) or Rebecca Roose (202-566-1387). Thank you in advance for your cooperation as we implement the revised CMS.

#### Attachment

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Clean Water Act  
National Pollutant Discharge Elimination System  
Compliance Monitoring Strategy

2014

U.S. Environmental Protection Agency  
Office of Enforcement and Compliance Assurance  
Office of Compliance

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Any questions concerning this policy may be directed to Martha Segall ([Segall.martha@epa.gov](mailto:Segall.martha@epa.gov)) or Rebecca Roose ([roose.rebecca@epa.gov](mailto:roose.rebecca@epa.gov)).

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## Introduction

This Compliance Monitoring Strategy (CMS) provides compliance monitoring goals for the Clean Water Act (CWA) National Pollutant Discharge Elimination System (NPDES) program. The revised goals and flexibilities described in this CMS will be fully effective in the federal FY2015 planning and reporting cycle.

Regulations found at 40 CFR 123.26 set forth requirements for compliance evaluation programs for states with NPDES program authorization.<sup>1</sup> Analogous regulations for the pretreatment program are set forth in 40 CFR 403.10(f)(2). This CMS provides recommended minimum frequencies for compliance monitoring activities that, from a national perspective, the EPA believes constitute a strong and balanced compliance monitoring program that should be reflected in all approved state NPDES and pretreatment programs, as well as in all EPA's direct implementation activities.

Compliance monitoring is a cornerstone of the EPA's program to achieve clean water. The primary goal of the combined EPA and state compliance monitoring efforts, such as on-site inspections and evaluation of self-reported Discharge Monitoring Report (DMR) data, is to ensure and document whether entities regulated under the NPDES and pretreatment programs are complying with their CWA obligations. EPA and state compliance monitoring programs should accurately identify and document noncompliance, support the enforcement process, monitor compliance with enforcement orders and decrees, establish presence in the regulated community, deter noncompliance, support the permitting process, and further the broad watershed protection and restoration goals of the NPDES program.

Achieving these goals will continue to require EPA and state collaboration, innovative approaches to compliance monitoring and efficient and effective allocation of resources. Compliance monitoring programs are challenged by tightened budgets at all levels of government and the growing concern about environmental and public health effects of wet weather dischargers. The 2007 NPDES CMS made changes to earlier inspection frequency goals

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<sup>1</sup> These regulations include, in part, the requirement that a state maintain:

- (1) A program which is capable of making comprehensive surveys of all facilities and activities subject to the State Director's authority to identify persons subject to regulation who have failed to comply with permit application or other program requirements. Any compilation, index or inventory of such facilities and activities shall be made available to the Regional Administrator upon request.
- (2) A program for periodic inspections of the facilities and activities subject to regulation. These inspections shall be conducted in a manner designed to:
  - a. Determine compliance or non-compliance with issued permit conditions and other permit requirements
  - b. Verify the accuracy of information submitted by permittees and other regulated persons in reporting forms and other forms supplying monitoring data; and
  - c. Verify the accuracy of sampling, monitoring and other methods used by permittees and other regulated persons to develop that information;
- (3) A program for investigating information obtained regarding violations of applicable program and permit requirements; and
- (4) Procedures for receiving and ensuring proper consideration of information submitted by the public about violations.

in order to promote an effective balance across the NPDES compliance monitoring program. Implementation of the 2007 NPDES CMS has provided deterrence to noncompliance in the most significant environmental areas by allowing increased effort in NPDES program areas that impact water quality in priority watersheds and water segments.

The EPA Office of Enforcement and Compliance Assurance (OECA) is revising the 2007 NPDES CMS as a result of an FY2013 internal, informal evaluation of the 2007 policy and the FY2013 national dialogue on expansion of compliance monitoring that OECA conducted with regions and states. The revised CMS draws on these recent activities to better reflect the range of important compliance monitoring activities that are an integral part of our program today and better encompass the planning process needed to ensure consistent national implementation in accordance with EPA goals and priorities. Furthermore, the revised CMS reflects the key concepts of Next Generation Compliance, including electronic reporting, increased transparency and technological advances, and offers additional flexibilities to states in determining the most effective use of limited compliance monitoring resources. For example, we expect implementation of this revised policy to facilitate increased use of next generation targeting tools, such as the Pollutant Loading Tool (available through “Enforcement and Compliance History Online” (ECHO)) and EPA’s GeoPlatform, and further program transparency by utilizing the ECHO state dashboards and e-reporting to better manage NPDES compliance monitoring activities across the country.

Like the 2007 NPDES CMS, this revised CMS addresses inspections for NPDES major and traditional non-major permittees, pretreatment, oversight, biosolids, and wet weather sources (Combined Sewer Systems, Sanitary Sewer Systems, MS4s, Industrial and Construction Stormwater, and Concentrated Animal Feeding Operations). In addition, this revised CMS addresses compliance monitoring of pesticide operators and vessels that are regulated under the NPDES program.

## **Summary of FY2013 CMS Evaluation**

During FY2013, the Office of Compliance (OC) conducted an informal evaluation of the implementation of the 2007 NPDES CMS. As stated in the October 2007 cover memo, EPA and state NPDES inspection programs must address competing challenges of water quality degradation and limited resources through innovative and efficient targeting of resources on the most important noncompliance and environmental problems, particularly those that had not been adequately addressed by earlier NPDES compliance monitoring goals.

OC’s informal evaluation focused on input gathered from each EPA region and CMS implementation data from Federal Fiscal Years 2011-2012, including commitments from CMS plans and inspection activities derived from end-of-year reports and ICIS-NPDES (Integrated Compliance Information System). Key findings included:

- Most regions find the CMS to be an important tool for management of the inspection program. They typically engage in routine, detailed discussions with their states about how best to allocate inspection resources based on state circumstances and the national CMS goals.

- Implementation of the 2007 CMS varies greatly across regions and states. This includes the level of regional involvement in the planning process and the way the flexibilities in the CMS are utilized by states.
  - In many cases deviations from the national goals are not explained or justified in the CMS plan.
  - Several regions have not been receiving end-of-year reports from their states.
  - There are notable differences between implementation by authorized states and implementation by EPA regions in direct implementation areas. This can largely be attributed to the 2007 CMS's emphasis on state inspection planning.
- Many states are not meeting their annual commitments.
- According to data entered into ICIS-NPDES by EPA and states, actual inspection activities for majors and traditional non-majors fall short of national goals.

### **Summary of FY2013 National Dialogue on Expansion of Compliance Monitoring**

OECA recognizes that although historically we have focused on comprehensive on-site inspections to track compliance monitoring activities nationwide, there are additional compliance monitoring activities that can play a vital role in helping EPA and states achieve our broader compliance monitoring goals. OECA held a national dialogue on the flexibility existing in the compliance monitoring strategies for each of the statutory compliance and enforcement programs, including the NPDES CMS. The stated purpose of this dialogue was as follows:

- Achieve compliance monitoring goals through a broader spectrum of activities that allow for a compliance determination at a facility or sub-facility level. The primary goals of compliance monitoring include:
  - Assess and document compliance with permits and regulations;
  - Support the enforcement process through evidence collection and case development;
  - Monitor compliance with enforcement orders and decrees;
  - Deter noncompliance;
  - Provide feedback on development of regulations and permits, as well as implementation challenges to permit and rule writers; and
  - Ensure program integrity.
- As the universe of regulated sources expands and EPA/state/local/tribal resources continue to be constrained, consider how to achieve the goals of environmental compliance and enforcement programs through a broader set of effective and efficient compliance monitoring activities.
- Establish a framework to revise the statutory compliance monitoring strategies to provide EPA/state/local/tribal agencies with increased flexibility to develop alternative approaches using a broader range of compliance monitoring activities to evaluate compliance, in addition and complementary to traditional on-site inspections.

As a result of the dialogue, this revised NPDES CMS provides circumstances where EPA



regions and states may utilize “focused compliance inspections” and “off-site desk audits” in addition and complementary to traditional comprehensive inspections. This change expands upon the flexibilities in the 2007 NPDES CMS, which did not provide for off-site desk audits or focused inspections to count toward any of the national goals. Part 1 of this revised CMS articulates certain conditions that must be met in order for these expanded compliance monitoring activities to count toward CMS coverage, including, for example, that the off-site desk audit or focused inspection must be conducted for the purpose of making a compliance determination. Part 2 of this CMS includes several metrics under which off-site desk audits or focused inspections count toward the national goals when included in a traditional CMS plan. For all other CMS metrics articulated in this policy, the region or state may propose to conduct focused inspections or off-site desk audits as part of an alternative plan, according to the conditions and process set forth in Part 1 below.

Under this CMS, an off-site desk audit encompasses a range of valuable off-site compliance monitoring activities, including, but not limited to, review of facility reports and records, review of agency-gathered testing, sampling and ambient monitoring data, evaluation of responses to CWA section 308 information requests, review of compliance deliverables submitted pursuant to permits or enforcement actions, and analysis of aerial or satellite images. An off-site desk audit conducted pursuant to a CMS plan will include the appropriate combination of the aforementioned activities to allow the region or state to make a facility-level or program-level (for pretreatment and MS4s) compliance determination. Also, in order for an off-site desk audit or focused inspection to count toward CMS implementation, the region or state must report the activity into ICIS-NPDES (either through direct entry or via the CDX National Environmental Information Exchange Network). See Part 3 for more detailed descriptions of the off-site desk audit and focused inspection.

OECA has made these changes to allow agencies greater flexibility to focus and efficiently deploy their resources on their most significant environmental concerns and pollution problems through an alternative CMS plan. After issuance of this revised CMS, OECA will assess with regions and states the need for additional tools and guidance, such as forms or checklists, about what constitutes a focused inspection and an off-site desk audit.

## **Part 1: Implementation of the Revised NPDES Compliance Monitoring Strategy**

### **Planning Process**

We expect that there will be a dialogue between regions and individual states about annual program commitments and potential resource trade-offs. The national goals in this policy, many of which have built-in flexibilities, are a starting point for negotiations. States and regions may utilize the flexibilities set forth in the policy to tailor inspection frequency goals to target compliance monitoring resources on facilities that pose the greatest threat to water quality. Trade-offs should be considered in the context of supporting overall NPDES program integrity.

The purpose of this CMS is to better focus inspection resources overall; it is not intended to reallocate resources away from other NPDES program areas. The suggested planning process to implement the compliance monitoring goals articulated in this CMS strikes an appropriate balance of coverage across NPDES programs by considering factors such as noncompliance trends, water quality considerations within individual states, and state and EPA resources. These compliance monitoring planning expectations are intended to promote joint planning where such processes do not exist or need to be strengthened. The planning process, guided by the criteria and goals articulated in this policy, is also intended to provide an opportunity to identify state-specific circumstances and encourage dialogue on the approaches the state expects to implement, which will then be documented in the CMS plan.

EPA regional NPDES programs should work closely with each of their states and internally to plan compliance monitoring activities for all NPDES sources covered by this policy and to ensure an effective inspection presence in each direct implementation program area. To provide for consistent implementation of the national CMS goals, each EPA region and state should develop an annual written CMS plan.<sup>2</sup> For regions, the plan should cover all direct implementation program areas, including non-authorized states, Indian country and non-authorized program areas (e.g., pretreatment and biosolids) in states with NPDES program authorization.

CMS plans should be developed by regions and states on an annual basis and include universe estimates and annual commitments for every applicable metric (i.e., NPDES sub-program) covered by this national CMS policy.<sup>3</sup> Where a state does not have any sources covered by a particular metric (e.g., a state with no Combined Sewer Systems), no commitment is needed. The majority of national recommended minimum inspection frequencies in this CMS are multi-year goals, e.g., inspect all traditional non-majors at least once every five years. This means that while CMS plans look at one year, EPA and states will be looking across multiple

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<sup>2</sup> While annual CMS planning is recommended, EPA may approve biennial CMS plans on a case-by-case basis.

<sup>3</sup> For purposes of setting inspection commitments to meet the goals in this policy, CMS plans should reflect the number of facilities to be inspected, e.g., if a state plans to inspect the same facility twice in a year, that facility would only be counted one time toward the state's inspection commitment for that metric.

years to evaluate whether the commitments for a given year indicate that the region/state is on track to meet the national goals.

Where a region or state relies on the flexibilities provided by this policy to make commitments for inspection frequencies and compliance monitoring activities, the annual CMS plan should clearly reflect those decisions by including an explanation of why and how the flexibility was applied. Any such explanation must be detailed enough to explain the basis for the flexibility applied in the plan, including any implications on CMS planning in future years. Depending on the circumstances of the agreed upon commitment, the written explanation could be brief (i.e., one or two sentences) or a full paragraph.

EPA and state compliance monitoring planning will rely on compliance data obtained from ICIS-NPDES, compliance monitoring activities in at least the most recent prior year, field reconnaissance, institutional knowledge, and citizen tips and complaints. To support attainment of water quality goals, the compliance monitoring planning process should increasingly be influenced by information on water quality impairments to which facilities may be contributing (pursuant to listings under section 303(d) of the CWA) and other relevant water quality data. As discussed further in Part 2, OECA encourages regions and states to use the Inspection Targeting Model (ITM), including the ITM sorting tool, and/or the DMR Pollutant Loading Tool for preliminary screening, identification of inspection targets, and compliance monitoring plan development. Regions are expected to actively engage with states in development of CMS commitments and take into account end-of-year reports on actual activities.

### **Alternative CMS Plans**

An alternative NPDES CMS plan is a plan that includes one or more compliance monitoring commitments that deviate from the national goals and flexibilities set forth in Part 2 of this policy. As compared to the national goals, an alternative plan could include modified frequency of comprehensive inspections, modified compliance monitoring activities (e.g., off-site desk audit), or a combination of the two.

Scope of review: EPA Regions and OECA will evaluate the appropriateness of any proposed alternative plan to ensure overall program integrity and to facilitate national consistency to the extent appropriate. EPA review will consider source information such as compliance history, facility location, and potential environmental impacts and state program information such as significant program deficiencies identified through prior oversight activities. The proposed alternative plan should include adequate detail for EPA to understand (1) the overall approach proposed, including the rationale for any deviations and tradeoffs; (2) a description of the affected regulated universe(s); and (3) an explanation of how the region or state has determined that the resulting reduced/modified attention at certain facilities will not have negative public health or environmental impacts. In addition, the alternative plan should include the details always expected in a CMS plan (e.g., universe of facilities subject to each CMS metric and number of compliance monitoring activities planned for the year).

Process for review: If a state wishes to develop an alternative CMS plan, regions will

seek OECA consultation and review before finalizing the state's alternative plan. Regions should also submit any alternative CMS plans for direct implementation activities to OECA for consultation and review. Regions should submit draft regional or state alternative plans to OECA for consultation and review as early in the planning process as possible, but no later than August 15 each year. If a Region is unable to meet this timeline, the Region should contact the appropriate staff in the Water Branch of OC's Monitoring, Assistance and Media Programs Division (MAMPD) to discuss a modified schedule. Our goal is to work efficiently and effectively across EPA and the states to provide for CMS plans to be in place at or near the beginning of the year covered by each plan (e.g., the first day of the federal fiscal year, October 1). OECA understands that many Regions utilize the section 106 grant process as a means of documenting a state's annual CMS plan. We will make every effort to integrate the alternative plan review process into existing Regional timetables and processes for approving state CMS plans, grant workplans and performance partnership agreements. OECA may periodically assess alternative plan implementation, as appropriate, including through the State Review Framework process.

Any alternative CMS commitments that include focused inspections and/or off-site desk audits must meet the following conditions, at a minimum, in order to be approved as part of an alternative plan:

1. The activity must be conducted for the purpose of making a compliance determination<sup>4</sup>;
2. The activity must be conducted by appropriate personnel, as specified in the definitions of each alternative activity (see Part 3);
3. The approved alternative CMS plan must document the region/state's evaluation of the five facility-specific questions below; and
4. The activity must be reported to ICIS-NPDES (including through the CDX National Environmental Information Exchange Network) to ensure transparency, accountability and appropriate follow-up. Reporting includes entry of facility-specific information, compliance actions, and results of the activity (e.g., any noted violations, SNC, etc.).

When developing an alternative CMS plan, regions and states should consider the following facility-specific questions before proposing a focused compliance inspection and/or off-site desk audit:

1. Is the facility currently subject to an enforcement action or a compliance schedule resulting from an enforcement action?
2. Has the facility been reported in Significant Noncompliance (SNC) within the previous four quarters?
3. Does the facility have any unresolved single-event violation(s) identified in prior inspection(s)?
4. Does the facility discharge listed pollutants to impaired waters?
5. Does the facility have any known potential to impact drinking water supplies?

If the answer to any of the above questions is "yes", the region or state should further scrutinize whether a focused inspection or off-site desk audit of the facility would be adequate to assess compliance and protect water quality. Each year that an alternative plan is proposed that includes focused inspections and/or off-site desk audits, planners and EPA reviewers should

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<sup>4</sup> When conducting a focused inspection pursuant to the provisions of this policy, the region or state may make a compliance determination at the sub-facility level relative to the scope of the focused inspection.

revisit these questions on a facility-specific basis to address changing circumstances (e.g., impaired waters listings and compliance status). For any facility that is a viable candidate for a focused inspection or off-site desk audit, review of the alternative plan proposal will include consideration of how long it has been since the last comprehensive inspection in order to ensure that all facilities are subject to periodic comprehensive inspections.<sup>5</sup>

Following are several example alternative CMS plan scenarios. This is not an exhaustive list of alternative plan provisions that could be approved. Rather, it is a sample of some of the likely scenarios that states may encounter when implementing this policy. All proposed alternative plans will be approved by EPA regions on a case-by-case basis.

- A. For major facilities that have been evaluated under the five alternative CMS considerations set forth above, a region or state could propose the following alternative approach: every five years conduct at least one comprehensive on-site inspection, one focused compliance inspection, and one off-site desk audit. Regions and states are encouraged to utilize the ITM or comparable method to evaluate facilities against the five alternative CMS considerations.
- B. A region or state may have a situation where their MS4s are not performing well in their role of overseeing active construction sites and industrial stormwater dischargers. In exchange for reduced comprehensive inspection coverage in industrial and construction stormwater sectors, the region or state could increase the number of comprehensive inspections for their MS4s to ensure that the MS4s are conducting critical local oversight of construction and industrial stormwater discharges. Under this scenario, a state could commit to conducting inspections at 5% of industrial stormwater facilities and off-site desk audits at an additional 5% of the universe, for example. In this scenario, the compliance improvement benefit would presumably accrue through higher compliance in the future at the facilities under the MS4's jurisdiction, versus increased compliance at just a few individually inspected facilities.
- C. A region or state may propose fewer inspections in a particular area, such as industrial stormwater, for a limited time (up to two years, for example) in order to utilize those resources to explore or ground-truth innovative compliance monitoring approaches/techniques. Such a trade-off in an alternative CMS plan would require accompanying justification for the innovative approach, including a description of the expected results (i.e., how and when expected results will be documented and how the results could enhance the state, regional and/or national program).

## **Oversight, Reporting and Measurement**

OECA and the EPA regions will use existing procedures, such as mid-year and end-of-year reviews, both for associated grant workplans and Annual Commitment System (ACS) commitments, and periodic State Review Framework and Pretreatment Program evaluations to assess regional and state performance. In addition, OECA may periodically compare regional

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<sup>5</sup> Throughout this document, when used without qualification, "comprehensive inspection" includes any of the following types of inspections: compliance evaluation inspection, compliance sampling inspection, performance audit inspection, compliance biomonitoring inspection, diagnostic inspection, toxics sampling inspection (XSI) and pretreatment program audit.

and state commitments to actual compliance monitoring activities recorded in ICIS-NPDES and/or end-of-year CMS reports. The goals of any performance assessment are to identify strengths and address weaknesses of EPA and state compliance monitoring programs, develop mutual commitments to achieve ongoing program improvement, increase program transparency, and promote national consistency.

The current ACS measure applicable to the NPDES CMS (ACS measure CWA07) requires that each region submit to OECA by the end of the calendar year a CMS plan for each authorized state and for direct implementation. The ACS measure also requires the regions to provide OECA with an end-of-year report corresponding to each plan that was developed for that year. End-of-year reports are due to OECA by the end of the calendar year following completion of the plan year (e.g., end-of-year report for an FY2014 plan will be due December 31, 2014). OECA's expectation is that EPA regions will work with each state to develop an annual EOY report summarizing implementation of the prior year's plan, regardless of whether it was a traditional or alternative plan.

The CMS plans and end-of-year reports should include appropriate data to enable OECA to compare actual compliance monitoring activities against the annual commitments. States are encouraged to enter all of their actual compliance monitoring activities into ICIS-NPDES so that the end-of-year reports can be generated through standard ICIS-NPDES reports that correspond to the CMS metrics. See Part 4 of this CMS for ICIS-NPDES data entry quick reference tool.

There are several data entry activities that are relevant to implementation of this revised CMS. First, regions or states may choose to enter annual compliance monitoring commitments into ICIS-NPDES by using the "planned inspection indicator" to tag facilities the region or state plans to inspect that year. OECA will aggregate commitment information available in ICIS-NPDES and use it on the Enforcement and Compliance History Online (ECHO) dashboards to display state performance in relation to CMS commitments. Facility-specific information about a state's inspection plans would not be made publicly available. Second, state and regional compliance monitoring activities conducted pursuant to this CMS must be reported into ICIS-NPDES (including through the CDX National Environmental Information Exchange Network) in accordance with all applicable data entry requirements, including any future regulations that establish data requirements and reporting timeframes. Third, EPA expects regions and states to update ICIS-NPDES with data about focused inspections or off-site desk audits conducted pursuant to an alternative plan in accordance with expectations set forth in this CMS. For example, before EPA approves an alternative plan that includes focused inspections or off-site desk audits, the state must commit to entering the completed activities into ICIS-NPDES (including through CDX).

## Part 2: Compliance Monitoring Frequency Goals for NPDES Sources

Part 2 describes the national recommended minimum frequency and activity type for NPDES sources. The national recommended minimum frequencies and activity types differ across the metrics to account for the differences among the various NPDES programs including: numbers of regulated entities, complexities in compliance monitoring, regulatory requirements, and the history and status of compliance. Under certain circumstances more frequent compliance monitoring is warranted. For example, sources that are located near sensitive areas (i.e., drinking water intakes) and/or designated high quality waters may need to be monitored more frequently than the recommended minimum goals set forth in the metrics below. A CMS plan that is consistent with the minimum goals and flexibilities set forth in each of the metrics below is considered to be a *traditional CMS plan*, not an *alternative CMS plan*.

All compliance monitoring and evaluation activities should be undertaken in such a manner that will lead to timely, appropriate and effective follow-up response to identified noncompliance (e.g., informal action or formal enforcement action consistent with the applicable enforcement response policies). On-site inspections should be conducted by an authorized inspector. Inspectors conducting evaluations for state/local/tribal agencies should be compliant with the inspection policies and processes of the respective agency. EPA employees and state/local/tribal individuals authorized to conduct evaluations on behalf of EPA using EPA federal inspector credentials should be conducting evaluations consistent with appropriate federal training requirements.<sup>6</sup> An authorized inspector may include an approved third party.<sup>7</sup>

Please refer to Part 4 of this document for a guide to the acceptable ICIS-NPDES compliance monitoring types and their corresponding codes to be used for data entry of activities conducted pursuant to the national recommended frequency goals set forth below.

### 1.A. Major Permittees

Major NPDES permits cover discharges from Publicly Owned Treatment Works (POTW) facilities with designed discharge flows of greater than 1 million gallons per day and active major industrial facilities scoring more than 80 for the six factors on the “[NPDES Permit Rating Work Sheet](http://www.epa.gov/npdes/pubs/owm0116.pdf)”(available at <http://www.epa.gov/npdes/pubs/owm0116.pdf>). As of July 2014, there are 6,579 active major NPDES permits (4,397 active major POTW permits, 2,105 active major industrial permits, and 77 active Federal permits) according to ICIS-NPDES.

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<sup>6</sup> See most current version of EPA Order 3500.1, *Training Requirements for EPA Personnel Who Are Authorized to Conduct Civil Compliance Inspections/Field Investigations and EPA Inspector Supervisors*, and EPA Order 3510, *EPA Federal Credentials for Inspections and Enforcement of Federal Environmental Statutes and Other Compliance Responsibilities*.

<sup>7</sup> See *Guidance for Issuing Federal EPA Inspector Credentials to Employees of Contractors to Conduct Inspections on Behalf of EPA* (May 31, 2013) and *Guidance for Issuing Federal EPA Inspector Credentials to Senior Environmental Employment Program Enrollees to Conduct Inspections on Behalf of EPA* (September 30, 2013).

OECA's goal for state and regional inspection of major permittees is a minimum frequency of at least one comprehensive inspection every two years. Inspections of major POTWs may be conducted in conjunction with inspections of the Sanitary Sewer Systems (SSSs) and their satellites and Combined Sewer Systems (CSSs) that are connected to the POTW. At the end of each federal fiscal year, data will be taken from ICIS-NPDES to report on both a regional and state basis the percentage of majors that have received a comprehensive inspection within the most recent two completed federal fiscal years. Currently, this information is publicly displayed on the ECHO State Performance Dashboards, available at <http://echo.epa.gov/node/19?media=water&state=National&view=activity>.

This revised policy includes the pre-approved alternative approach for inspections of major NPDES permittees that was introduced in the 2007 NPDES CMS and made possible with the July 2008 release of the Inspection Targeting Model (ITM) (which can be accessed after logging into ECHO at <http://echo.epa.gov/>). The purpose of the ITM is to distinguish between facilities that have strong records of compliance and those who have records indicating compliance problems, particularly effluent violations for pollutants that may be contributing to water quality impairments reflected in section 303(d) listings. Under this available alternative, regions and states can use the ITM, or a comparable targeting methodology, to adjust the inspection frequency to one comprehensive inspection every three years for NPDES major facilities that are in compliance, not subject to any credible citizen tips or complaints, and are not contributing to section 303(d) impaired waters listings based on the most current data available when developing the CMS plan. Regions and states should implement this flexible approach in accordance with any future guidance about how to use the ITM and/or revisions to the ITM methodology. Facilities that do not meet these criteria will remain subject to a minimum comprehensive inspection frequency of once every two years. A CMS plan that utilizes this approach for decreasing inspection frequency of some majors is still considered a *traditional CMS plan*.

## **1.B. Traditional Non-Major Permittees**

Traditional non-major NPDES permits cover POTW facilities with designed discharge flows of less than 1 million gallons per day (1 MGD) or serving populations of less than 10,000 persons and active non-major industrial facilities (i.e., facilities scoring less than 80 for the six factors on the *NPDES Permit Rating Work Sheet*, available at <http://www.epa.gov/npdes/pubs/owm0116.pdf>) that have not been designated as a discretionary major by the EPA region. As of July 2014, there are approximately 87,000 active non-major NPDES permittees that are covered by this metric. POTW permits account for approximately 41,700. Out of the total number of non-major permittees subject to this metric, approximately 45,400 have individual permits and 41,600 are covered by general permits (including general permits for various industrial categories, POTWs and other water treatment facilities).<sup>8</sup> The minimum inspection frequency goals recommended in 1.B.1 and 1.B.2 below are intended to apply to traditional non-majors covered by both individual and general permits. Compliance monitoring goals for non-majors in the wet weather program areas are articulated under

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<sup>8</sup> Data sources are the Permit Management Oversight System (PMOS), available at <http://cfpub.epa.gov/npdes/permitissuance/genpermits.cfm>, and ICIS-NPDES.



separate metrics in this CMS.

OECA's minimum compliance monitoring goals for each traditional non-major facility are set forth below. Inspections of traditional non-major POTW's may be conducted in conjunction with inspections of the SSSs (and their satellites) and CSSs that are connected to the POTW. The screening process for selecting non-major facilities to be inspected should be attentive to facilities that do not appear, based on available data, to have been inspected in more than five years or facilities that have histories of noncompliance, are the subject of citizen tips or complaints, and/or may be contributing to violation(s) of water quality standards.

OECA encourages regions and states to utilize the ITM sorting tool (which can be accessed after logging into ECHO at <http://echo.epa.gov/>). for preliminary screening and identification of inspection targets for traditional non-majors under this metric. Users can access the sorting tool by selecting "Values Only" in the ITM output options. The sorting tool does not utilize weightings due to concerns particularly about the current completeness of data for traditional non-majors and how that might affect the results obtained from a weighted model. Use of the sorting tool is optional. Regions and states choosing to use this functionality will likely want to analyze the data in a spreadsheet and include additional state data (beyond what is available in ICIS-NPDES) that would increase the rigor of the analysis. The sorting tool allows regions and states to sort facilities based on factors that include: water quality impairments; associated pollutants that may be discharged by the permittee; SNC within the most recent two years; unresolved Single Event Violations; days since last comprehensive inspection; days since last inspection (all types); and current enforcement actions. In the future, EPA regional offices may determine on a state-by-state basis that ICIS data on non-majors is adequate to allow utilization of the weighting functionality in the ITM for this metric; however, the compliance monitoring goals for traditional non-majors provided below will still apply. Regions and states may also elect to utilize the Discharge Monitoring Report (DMR) Pollutant Loading Tool (available at <http://cfpub.epa.gov/dmr/>) to look at pollutant loadings that exceed permit limits to help focus on the biggest polluters.

- 1. Traditional non-major permittees that are not contributing to CWA section 303(d) listed impairments.** The minimum inspection frequency goal is to inspect each traditional non-major facility that is not contributing to section 303(d) impairments at least once every five years. In addition to the comprehensive inspection types (see footnote 5), the following inspection types will count toward metric 1.B.1: focused, reconnaissance, enforcement follow-up, oversight, and sludge/biosolids. The aforementioned non-comprehensive inspections will be counted under this metric because these facilities are not discharging pollutants that contribute to listed impairments.
- 2. Traditional non-majors that discharge one or more pollutants that are relevant to an impairment on the CWA section 303(d) list.** Traditional non-major facilities that are permitted to discharge pollutants of concern corresponding to the 303(d) listing parameter should be inspected at least once every five years with a comprehensive inspection. Of the traditional non-major permittees that discharge to section 303(d) listed waters, OECA expects there are some that, due to the nature of their discharges,

are not in fact contributing to the water quality conditions that have resulted in the listed impairment. Such facilities on impaired waters that are not contributing to the impairment may be inspected with a less comprehensive inspection (e.g., a reconnaissance inspection) under metric 1.B.1 above.

During the annual planning process, when determining which traditional non-major facilities should be inspected using a comprehensive inspection, regions and states should inform that decision by carefully reviewing available information on the permittees, such as noncompliance information and information that is indicative of the completeness and currency of ambient monitoring information for the receiving waters to which the permittees discharge. Where information indicates patterns of noncompliance or uncertainty about the status of receiving waters, strong consideration should be given to utilizing a comprehensive inspection. In order to ensure a minimum level playing field, states and regions are encouraged to conduct a *comprehensive* inspection of at least 5% of all traditional non-majors each year even if more facilities qualify for non-comprehensive inspection under metric 1.B.1 above.

## **1.C. Pretreatment Program**

Routine compliance monitoring activities for the pretreatment program include audits and inspections of POTWs with approved pretreatment programs, review of all POTW pretreatment program annual reports, inspections of industrial users and oversight of state pretreatment programs that are implemented pursuant to 40 CFR 403.10(e) (i.e., states where the state agency functions as the control authority in lieu of approved local pretreatment programs). In addition to the specific pretreatment program compliance monitoring activities outlined under the metrics below, the approval authority (i.e., the state agency or EPA Region that is responsible for approving local pretreatment programs) should track the submission of POTW annual reports made pursuant to 40 CFR 403.12(i) and review 100% of all submissions to determine if the POTW is properly implementing its approved pretreatment program, including, as appropriate, oversight and enforcement of Significant Industrial Users (SIUs).

### **1.C.1. Pretreatment Audits**

Pretreatment approval authorities should conduct at least one audit every five years of each POTW with an approved pretreatment program, generally corresponding to an annual audit rate of 20% of active approved programs.

A pretreatment audit includes oversight inspections of at least two Industrial Users (IU) discharging to the POTW. For additional information on selecting the appropriate IUs for oversight inspections, see *Guidance for Conducting a Pretreatment Compliance Inspection* (September 1991), available at <http://nepis.epa.gov/Exe/ZyPURL.cgi?Dockey=50000629.txt>. IU oversight inspections are included as part of a pretreatment audit in order for the auditor to: 1) verify that the IU permit/control mechanism correctly reflects the physical and operational conditions of the facility; 2) validate whether the POTW has correctly evaluated compliance (including appropriate sampling methods); and 3) assess the POTW's IU inspection procedures.

In the course of conducting audits of POTWs with approved pretreatment programs, the

approval authority should ensure that the POTW is following its Enforcement Response Plan when the POTW identifies IU noncompliance. For additional information on conducting pretreatment audits, see *Control Authority Pretreatment Audit Checklist and Instructions* (February 2010), available at [http://www.epa.gov/npdes/pubs/final\\_pca\\_checklist\\_and\\_instructions\\_%20feb2010.pdf](http://www.epa.gov/npdes/pubs/final_pca_checklist_and_instructions_%20feb2010.pdf).

### 1.C.2. Pretreatment Compliance Inspections

Pretreatment approval authorities should conduct at least two Pretreatment Compliance Inspections of each POTW with an active approved pretreatment program every five years. These inspections are in addition to the audit that should be conducted every five years, as described under metric 1.C.1 above.

In the course of conducting inspections of POTWs with approved pretreatment programs, the approval authority should ensure that the POTW is following its Enforcement Response Plan when the POTW identifies IU noncompliance. For additional information on conducting pretreatment compliance inspections see [Guidance for Conducting a Pretreatment Compliance Inspection](http://nepis.epa.gov/Exe/ZyPURL.cgi?Dockey=50000629.txt) (September 1991), available at <http://nepis.epa.gov/Exe/ZyPURL.cgi?Dockey=50000629.txt>.

### 1.C.3. Significant Industrial User Inspections

For SIUs discharging to POTWs without approved pretreatment programs, the control authority (i.e., either the EPA Region or state agency) should track and review SIU semi-annual reports submitted pursuant to 40 CFR 403.12(e) and (h). For more information on EPA and state responsibilities associated with overseeing SIUs that discharge into POTWs without an approved pretreatment program, see the EPA memorandum, *Oversight of SIUs Discharging to POTWs without Approved Pretreatment Programs* (May 18, 2007), available at <http://www.epa.gov/npdes/pubs/ciumemo05182007signed.pdf>.

The General Pretreatment Regulations at 40 CFR part 403 include a requirement for approved publicly owned treatment works (POTWs) and states that implement the POTW pretreatment program under 40 CFR 403.10(e) to “inspect and sample the effluent from each significant industrial user at least once a year.” 40 CFR 403.8(f)(2). In accordance with these regulations, for the industrial pretreatment program, 100% of SIUs permitted by approved POTWs or state approval authorities must be inspected and sampled annually. The approved POTW or state approval authority may conduct additional inspections as necessary, for example, when required semi-annual self-monitoring reports from SIUs show noncompliance, or based on reconnaissance, or tips or complaints received by the EPA, the state, or approved POTW. If the appropriate state legal authorities are in place, the annual inspection and sampling requirement may be reduced to once every two years for SIUs designated with a reduction in monitoring and inspection frequency in accordance with provisions under 40 CFR 403.12(e)(3) and 40 CFR 403.8(f)(v)(c).<sup>9</sup> Given the regulatory requirement for annual sampling inspections of all SIUs, a state’s alternative plan cannot include an off-site desk audit in lieu of an annual SIU sampling

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<sup>9</sup> For more information, see the 2005 Pretreatment Program Streamlining Rule, available at [http://water.epa.gov/polwaste/npdes/pretreatment/upload/streamlining\\_fr\\_notice.pdf](http://water.epa.gov/polwaste/npdes/pretreatment/upload/streamlining_fr_notice.pdf).

inspection.

### **1.D. Sludge/Biosolids**

The objective of a sewage sludge/biosolids inspection is to assess facilities engaged in a regulated sludge or biosolids activity to evaluate compliance with applicable regulatory provisions, including sludge monitoring, recordkeeping and reporting, treatment operations, sampling and laboratory quality assurance and use or disposal practices. Sludge/biosolids inspections may be conducted in conjunction with compliance inspections at major and non-major POTWs. Inspections may also be conducted to respond to citizen tips or complaints.

For states with biosolids program authorization, the recommended inspection frequency goal is at least one sludge/biosolids inspection of each major POTW every five years. Biosolids use and disposal operations, including incineration and surface application, should receive at least one sludge/biosolids inspection every five years. However, under this revised CMS, states may substitute an off-site desk audit for sludge/biosolids generation, use, and disposal sites that meet the following criteria: (1) are not currently subject to enforcement actions or compliance schedules that are the result of concluded enforcement actions; (2) have not been reported in Significant Noncompliance (SNC) within the previous four quarters; (3) have no unresolved single event violation(s) identified in prior inspection(s); (4) do not discharge to CWA section 303(d) listed waters for pollutant(s) contributing to the listing; and (5) have no known potential to impact drinking water supplies. A CMS plan that utilizes this approach for conducting off-site desk audits in lieu of sludge/biosolids inspections is still considered a *traditional CMS plan*.

In states where EPA is the permitting authority for biosolids, compliance monitoring activities for biosolids facilities will be conducted in accordance with plans and protocols established by the EPA Biosolids Center for Excellence.

### **1.E. Oversight Inspections**

OECA does not contemplate any changes to its oversight processes as a result of issuance of the revised CMS. Oversight inspections are described in the memorandum *Revised Policy Framework for State/EPA Enforcement Agreements* (August 1986) and an Office of Water memorandum *1987 National Guidance for Oversight of NPDES Programs* (April 1986).

These memoranda establish that oversight inspections should: (1) assess how well the state inspectors are determining compliance; (2) be tailored to fit state performance; and (3) provide incentives to strong state performance by reducing the number, level and/or frequency of some reporting requirements consistent with regulations or reducing the frequency of oversight inspections. In states where criteria for good performance are not met, EPA may suggest changes in procedures and the state use of resources or training, provide technical assistance, and/or increase the number of oversight inspections.

Regions will develop a state-by-state oversight proposal for each year, which should include at least some oversight activity in each state. As provided under the Clean Water Act

Action Plan *Interim Guidance on Strengthening EPA and State Performance and Oversight* (available at <http://www2.epa.gov/sites/production/files/documents/interim-guid-mpdes-062210.pdf>), regions should focus oversight resources to the most pressing performance problems in states. The State Review Framework (SRF) is the major enforcement program oversight activity for the NPDES compliance monitoring program, and the oversight inspections performed in the year prior to the review should inform the SRF review. OECA will work with regions that are interested in developing an approach for oversight of the pretreatment compliance monitoring program. Annual data metrics analyses also can inform an oversight schedule. These oversight activities may include inspections, both joint state/EPA inspections where the state has the lead role in the inspection and independent inspections of facilities by the EPA, or other activities.

Additional factors that the EPA may consider when scheduling oversight inspections include: (1) significant changes in state program structures or personnel are taking place; (2) a new state regulatory structure is being implemented; (3) the state is reporting low violation identification rates; (4) the state is reporting low inspection coverage rates; or (5) patterns in tips/complaints from citizens.

## **2.A. Combined Sewer Systems (CSSs)**

Inspections of CSSs are comprehensive inspections that evaluate compliance with the Clean Water Act and CSO Control Policy (available at <http://www.epa.gov/npdes/pubs/owm0111.pdf>) requirements as written in the NPDES permit, an enforcement order, a consent decree, or another enforceable document. The inspector should verify whether the permittee is preventing CSOs during dry weather, implementing the nine minimum controls, adhering to a schedule for development, submission, and implementation of a long-term CSO control plan, eliminating or relocating overflows to sensitive areas, adhering to effluent limitations, and implementing a post-construction compliance monitoring program.

As of 2014, nationally there are 859 CSO communities that need to develop and implement a long-term CSO control plan. The minimum inspection frequency goal is for all major and non-major CSSs to receive at least one comprehensive inspection every five years. These inspections may be conducted in conjunction with compliance inspections at major and non-major POTWs. More frequent inspections, including CSO inspections, may be necessary for some systems in order to promptly evaluate known or suspected recurring overflows. An inspector conducts a CSO inspection in response to information received regarding a known or suspected overflow event to evaluate compliance with CSO provisions present in the NPDES permit, an enforcement order, a consent decree, or another enforceable document. In many cases, CSO inspections will be scheduled based on information about overflow occurrences received directly by EPA, or from other governmental organizations, citizens groups, or non-governmental organizations.

If regions and states are not able to meet this goal, proposals for modified frequency goals as part of an alternative CMS plan may be considered for particular systems based on

the alternative CMS considerations described in Part 1 above and additional information such as: overall history of good compliance based on information from prior CSO inspections (e.g., permit conditions, nine minimum controls), no dry weather overflows (identified through inspections, record reviews or complaints/community reports), declining CSO activation rates, and status of receiving waters.

## **2.B. Sanitary Sewer Systems (SSSs)**

Inspections of sanitary sewer collection systems are comprehensive inspections that evaluate compliance with NPDES permit terms and conditions for system design, operation and maintenance, permit reporting requirements, an enforcement order, a consent decree, or another enforceable document. The inspector collects information to verify that the permittee is complying with the NPDES permit conditions (duty to mitigate and proper operation and maintenance) and the required notification procedures. The inspector also determines whether there have been any unpermitted discharges, or discharges from a location other than the discharge point specified in the permit, to waters of the United States. When preparing for an inspection of an SSS, the inspector should consider OECA's *Guide for Evaluating Capacity, Management, Operation, and Maintenance (CMOM) Programs at Sanitary Sewer Collection Systems* (2005) (available at [http://www.epa.gov/npdes/pubs/cmom\\_guide\\_for\\_collection\\_systems.pdf](http://www.epa.gov/npdes/pubs/cmom_guide_for_collection_systems.pdf)).

The minimum inspection coverage goal for SSSs is for regions and states to conduct comprehensive inspections of at least 5% of SSSs each year. The universe subject to this coverage goal is the number of POTW permits in the state that include one or more sanitary sewer collection systems. Where a permit covers satellite collection systems, in order to allow the inspector to evaluate overall collection system compliance, the SSS inspection should include review of satellite systems that together comprise a substantial percentage of the total flow to the treatment plant. Inspection priority should be given to SSSs with chronic overflows and/or pump stations.

More frequent inspections, including SSO inspections, may be necessary for some systems in order to promptly evaluate known or suspected recurring overflows. An inspector conducts an SSO inspection in response to information received regarding a known or suspected overflow event. In many cases, SSO inspections will be scheduled based on information about overflow occurrences received directly by EPA, or from other governmental organizations, citizens groups, or non-governmental organizations. SSO inspections, as well as broader inspections of SSSs and their satellites, may be conducted in conjunction with compliance inspections at major and non-major POTWs.

## **2.C. Stormwater**

### **2.C.1. Municipal Separate Storm Sewer Systems (MS4s)**

As of 2014 there are approximately 250 Phase I MS4 permits that cover approximately 855 permittees (the difference being that many MS4 permits include two or more co-

permittees). As of 2014, there are approximately 6,700 Phase II MS4s covered by 150 permits nationally.

There is a strong need for permitting authorities to assess the quality of these MS4 stormwater management programs. On-site MS4 audits (evaluating all aspects of the MS4 stormwater management program), on-site inspections, and off-site desk audits are valuable tools for evaluating whether the MS4s are in compliance with permit requirements. All compliance monitoring of MS4 programs should include review of the stormwater management plan elements to provide a representative picture of overall MS4 performance.

The minimum compliance monitoring goal for MS4s is for regions and states to determine compliance of each MS4 permittee and co-permittee at least once every five years by conducting one or more of the following compliance monitoring activities: on-site audit, MS4 inspection, or off-site desk audit. Off-site desk audits should not be conducted for any MS4 permittee that has not previously been subject to an on-site inspection or audit that has documented a compliance baseline for the MS4. As part of this goal, each MS4 permittee and co-permittee should receive an *on-site* audit or inspection at least once every seven years. Regions and states have the flexibility to extend the seven-year goal for on-site inspections/audits to every 10 years for a co-permittee that contributes a minimal volume of the total flow to the MS4. More frequent on-site audits, inspections or off-site desk audits may be necessary for certain MS4s based on factors such as noncompliance (including noncompliance at underlying construction sites and industrial stormwater facilities), failure to implement a stormwater management plan, citizen tips or complaints, referrals from other governmental organizations, and follow-up on activities mandated by an enforcement order.

This goal provides flexibility to regions and states to determine the most appropriate approach to assess compliance within the MS4 universe without having to develop an alternative CMS pursuant to Part 1 of this policy. Priority should be given to auditing or inspecting MS4s located in priority watersheds that contribute to CWA section 303(d) listings and those located near waters that the state has designated for higher levels of protection. Furthermore, the scope of any inspection should be determined based on the highest priority minimum measures for that MS4, as determined by a review of the MS4's compliance history, water quality concerns, permit revisions, noncompliance at construction sites and industrial facilities within its jurisdiction, and other local factors.

Monitoring activities on the construction oversight programs of MS4s should be closely coordinated with monitoring activities at individual construction sites (see metric 2.C.3 below). Likewise, monitoring activities on industrial oversight elements of Phase I MS4s, and where they exist as part of Phase II MS4s (e.g., Illicit Discharge Detection and Elimination programs), should be closely coordinated with monitoring activities at individual industrial stormwater dischargers (see metric 2.C.2 below).

Please note that while many Phase I MS4s may technically qualify as “major permittees” per the “NPDES Permit Rating Sheet,” the inspection frequency goal for major permittees under metric 1.A does not apply to Phase I MS4s.

## 2.C.2. Industrial Stormwater

Industrial stormwater inspections are designed to ensure that regulated facilities have an NPDES permit for stormwater discharge and a Stormwater Pollution Prevention Plan (SWPPP), and that the facility is in compliance with the permit and is implementing the SWPPP to ensure that the permittee is meeting technology and water quality based requirements. During the inspection the inspector reviews the permit and the SWPPP, reviews self-inspection reports and other records to verify that the facility is complying with its permit and is implementing the SWPPP, and walks the site to verify that the SWPPP is accurate and BMPs are in place and functioning properly.

Current estimates indicate that there are approximately 90,000 industrial stormwater permittees nationwide, contained within 29 industrial categories. The inspection goal for industrial stormwater permittees is to inspect at least 10% of the universe each year. Regions and states should also conduct compliance monitoring activities to locate industrial facilities that have failed to obtain permit coverage or file a “no exposure certification” under 40 CFR 122.26(g). Inspections of unpermitted industrial stormwater facilities, including those with “no exposure certification,” will count toward the annual industrial stormwater coverage goal of 10%.

Priority should be given to inspecting permittees of environmental concern and those located in priority watersheds that may discharge a pollutant(s) that contributes to CWA section 303(d) listings, and permittees located near high quality waters that the state has designated for higher levels of protection to prevent degradation.

To conserve resources, regions and states are encouraged to consider opportunities to conduct a facility’s industrial stormwater inspection in conjunction with the NPDES compliance inspection for permitted major and non-major industrial facilities. Consideration should also be given to coordinating industrial stormwater inspections with oversight of MS4 industrial stormwater programs in Phase I MS4s and where such elements exist as part of Phase II MS4s.

## 2.C.3. Construction Stormwater Sites

Stormwater inspections are designed to ensure that regulated facilities have an NPDES permit for stormwater discharge and a Stormwater Pollution Prevention Plan (SWPPP) and are following the specifications in each. During the inspection, the inspector reviews the permit and the SWPPP and determines whether the SWPPP meets the requirements set forth in the permit. The inspector also reviews records, such as self-inspection reports, to verify that the facility is complying with its permit and the SWPPP and walks the site to verify that the SWPPP is accurate and BMPs are in place and functioning properly.

This compliance monitoring metric applies to construction stormwater sites of equal to or greater than one acre of disturbed area (i.e., all regulated Phase I and Phase II construction sites). EPA’s 2014 estimate is that there are approximately 85,000 construction starts nationwide annually. The minimum recommended inspection frequency for this metric is a joint EPA and state goal to inspect at least 10% of the regulated construction sites annually. To determine the applicable universe at the inspection planning stage, the 10% goal should be



applied to the estimated number of active regulated construction sites in the state in the coming year. As part of this goal, EPA and the states should follow-up on tips and complaints about potentially unpermitted construction sites. Inspections of unpermitted construction sites will count toward the annual construction stormwater coverage goal of 10%.

Priority should be given to sites located near 303(d) listed waters that are impaired for construction-associated pollutants (e.g., sediment), and at sites located near high quality waters that the state has designated for higher levels of protection to prevent degradation.

For estimating joint EPA and state progress relative to the joint annual goal, states include in their annual CMS report aggregate reporting of the total number of NPDES construction stormwater inspections that have been conducted by the state and EPA during the year.

## **2.D. Concentrated Animal Feeding Operations**

The objective of concentrated animal feeding operation (CAFO) inspections is to verify that CAFOs are not illegally discharging to waters of the United States, as well as to verify that permitted CAFOs are in compliance with their NPDES permits.

### **2.D.1. Large and Medium CAFOs with NPDES Permits**

EPA recommends that states and regions conduct a comprehensive inspection of NPDES permitted CAFOs at least once every five years to evaluate compliance with the permit, including terms of the nutrient management plan, reporting and recordkeeping. More frequent inspections may be appropriate for CAFOs that meet certain conditions, including the following:

- Exceptionally large livestock and poultry operation
- History of noncompliance
- Significant site-specific environmental concerns, including operations located on impaired waterbody and subject to Total Maximum Daily Load (TMDL) wasteload allocations
- Permit includes a voluntary alternative performance standard pursuant to the CAFO Effluent Limitations Guideline in 40 CFR part 412
- State requirements apply to specific areas of the operation

### **2.D.2. Large CAFOs without NPDES Permits**

If not inspected to date, inspect all large CAFOs that are not covered by an NPDES permit within five years to determine whether the facility discharges. Thereafter, inspect as needed based on the possibility for an unauthorized discharge. Inspections of unpermitted CAFOs should evaluate all aspects of the CAFO, including practices associated with land application of manure, litter and process wastewater to determine whether all land application discharges are exempt agricultural stormwater. OECA encourages regions and states to utilize available desktop screening tools, such as aerial and satellite images and geographic information systems (GIS) software, in conjunction with known CAFO universe data, to both identify large

CAFOs that do not have NPDES permits and to select inspection targets.

### **2.D.3. Medium AFOs without NPDES Permits**

Assess all medium-sized AFOs one-time initially to determine whether the facility is a medium CAFO, including whether the facility discharges. Assessments evaluate whether the facility meets the definition of a medium CAFO due to the number of animals confined and one of the two following criteria being met: (1) pollutants are discharged to a water of the United States through a manmade ditch, flushing system or other similar manmade device, or (2) pollutants are discharged directly into water of the United States that passes over, across or through the facility or otherwise comes into direct contact with the animals confined in the operation. See 40 CFR 122.23(b)(6). Prioritize on-site assessments based on priority watersheds, nutrient impairments, complaints, or other information. The region or state may be able to make a determination about certain facilities, such as those that are not near a water of the U.S., by conducting a thorough off-site assessment. An off-site assessment of a medium AFO would most likely involve review of maps and aerial images and any agency or public records about the operation.

After the initial assessment, if the facility is not a medium CAFO, States and regions should conduct future on-site inspections as needed based on available information, such as citizen tips or complaints, and designate the AFO as a CAFO if the facility is a significant contributor of pollutants to a water of the United States. If the facility is a medium CAFO, a NPDES permit is required; therefore, the inspector should coordinate with the EPA or state permit writer and thereafter inspect the CAFO in accordance with section 2.D.1 of this policy.

### **2.D.4. Small AFOs**

States and regions should conduct an on-site inspection of small AFOs as needed based on a citizen tip or complaint or other information to determine whether the AFO should be designated as a CAFO. In states with NPDES program authorization, CAFO designations may be made by the State Director. The Regional Administrator may also designate CAFOs in authorized states, but only where the Regional Administrator has determined that one or more pollutants in the AFO's discharge contributes to an impairment in a downstream or adjacent state or Indian country water that is impaired for that pollutant. States or EPA shall consider the following factors in making a designation: (i) the size of the AFO and the amount of wastes reaching waters of the United States; (ii) the location of the AFO relative to waters of the United States; (iii) the means of conveyance of animal wastes and process wastewaters into waters of the United States; (iv) the slope, vegetation, rainfall and other factors affecting the likelihood or frequency of discharge of animal waste manure and process wastewaters into waters of the United States; and (v) other relevant factors. No designation by either the State Director or Regional Administrator may be made unless pollutants are discharged into a water of the United States due to either (1) a manmade ditch, flushing system or other similar manmade device, or (2) a water of the United States that passes over, across or through the facility, or otherwise comes into direct contact with animals confined at the operation. See 40 CFR 122.23(c).

### 3.A Pesticides

As a result of a U.S. Sixth Circuit Court of Appeals decision in *National Cotton Council, et al. v. EPA*, as of October 31, 2011, point source discharges of biological pesticides, and chemical pesticides that leave a residue, into waters of the U.S. are required to comply with NPDES requirements. The EPA finalized a rule on June 21, 2013, to remove the exemption for pesticide discharges from the NPDES regulations. EPA and the states currently regulate pesticide discharges to waters of the United States primarily through NPDES general permits. Visit [www.epa.gov/npdes/pesticides](http://www.epa.gov/npdes/pesticides) for additional information.

There is no set compliance monitoring frequency goal for pesticide operators subject to the NPDES program. Regions and states should conduct compliance monitoring activities in response to tips and complaints and other available information relevant to compliance.

### 3.B Vessels

EPA currently regulates discharges incidental to the normal operation of commercial vessels greater than 79 feet in length and operating as a means of transportation primarily through the Vessel General Permit (VGP). The first VGP was issued in 2008 and effective until December 19, 2013. On March 28, 2013, EPA re-issued the VGP for another five years. A brief overview of the 2013 VGP is available at [http://www.epa.gov/npdes/pubs/vgp\\_overview2013.pdf](http://www.epa.gov/npdes/pubs/vgp_overview2013.pdf).

Recreational vessels as defined in section 502(25) of the Clean Water Act are not subject to the 2013 VGP. Likewise, except for ballast water discharges, NPDES permits are not required for any discharges incidental to normal operation of commercial fishing vessels and other non-recreational vessels less than 79 feet. However, unless Congress takes additional action, the moratorium from the requirement to obtain permit coverage for incidental discharges from these vessels expires December 18, 2014. In anticipation of the end of the moratorium, EPA published a draft small Vessel General Permit (sVGP) in 2013 to provide for permit coverage for these incidental discharges and will finalize the sVGP during the summer of 2014. Visit <http://www.epa.gov/npdes/vessels> for updates.

There is no set compliance monitoring frequency goal for vessels subject to the NPDES program. Regions and states should conduct compliance monitoring activities in response to tips and complaints and other available information relevant to compliance. EPA headquarters and regions will work jointly and cooperatively with the U.S. Coast Guard pursuant to the 2011 Memorandum of Understanding between the two agencies, "For Collaboration on Compliance Assistance, Compliance Monitoring, and Enforcement of Vessel General Permit Requirements on Vessels," available at [http://www.uscg.mil/hq/cgcv/cvcl/general/vgp/CG\\_EPA\\_MOU.pdf](http://www.uscg.mil/hq/cgcv/cvcl/general/vgp/CG_EPA_MOU.pdf).

## Part 3: Activity Type Descriptions

This part provides detailed descriptions of each activity type discussed in the previous sections and performed by NPDES compliance personnel. Compliance personnel should choose the type of compliance monitoring activity to be conducted based on the compliance status and history of the facility, the information needed from the facility, the type of facility involved, data about the quality of receiving waters, etc. The type of inspection selected will inform what activities will be conducted onsite, such as what additional information the inspector will gather or verify during the inspection. Where feasible, compliance personnel should perform background and records reviews prior to going onsite to streamline onsite activities and to utilize resources more efficiently. Note that some types of NPDES inspections may encompass several elements from multiple inspection types (e.g., a stormwater inspection may encompass elements from both a Compliance Sampling Inspection and a Performance Audit Inspection).

### Combined Sewer Overflow Inspection

During a CSO inspection, the inspector conducts an on-site inspection in response to information received regarding a known or suspected overflow event. A CSO inspection evaluates compliance with the CWA and CSO Policy requirements as written in the NPDES permit, an enforcement order, a consent decree, or another enforceable document. The inspector should verify whether the permittee is preventing CSOs during dry weather, implementing the nine minimum controls, adhering to a schedule for development, submission, and implementation of a long-term CSO control plan, eliminating or relocating overflows to sensitive areas, adhering to effluent limitations, and implementing a post-construction compliance monitoring program.

### Compliance Biomonitoring Inspection

This on-site inspection of an NPDES direct discharger includes the same objectives and tasks as a Compliance Sampling Inspection. A Compliance Biomonitoring Inspection reviews a permittee's toxicity bioassay techniques and records maintenance to evaluate compliance with the bio-monitoring terms of the NPDES permit and to determine whether the permittee's effluent is toxic. The Compliance Biomonitoring Inspection also includes the collection of effluent samples by the inspector to conduct acute and chronic toxicity testing to evaluate the biological effect of a permittee's effluent discharge(s) on test organisms. Each state should have the ability to conduct bio-monitoring inspections, have a designated contractor conduct inspections, or have an equivalent program to independently verify a discharger's compliance with Whole Effluent Toxicity permit requirements.

### Compliance Evaluation Inspection

The Compliance Evaluation Inspection is an on-site nonsampling inspection of an NPDES direct discharger designed to verify permittee compliance with applicable permit self-monitoring requirements, effluent limits, and compliance schedules. Inspectors must review records, make visual observations and evaluate treatment facilities, laboratories, effluents and receiving waters. During the Compliance Evaluation Inspection, the inspector must examine both chemical and biological self-monitoring, which form the basis for all other inspection types except the Reconnaissance Inspection.

### Compliance Sampling Inspection

The Compliance Sampling Inspection of an NPDES direct discharger includes the same objectives and tasks as a Compliance Evaluation Inspection. In addition, inspectors must take representative samples. Inspectors then verify the accuracy of the permittee's self-monitoring program and reports through chemical and bacteriological analysis; evaluate compliance with discharge limitations; determine the quantity and quality of effluents; and provide evidence for enforcement proceedings where appropriate.

### Concentrated Animal Feeding Operation Inspection

The objective of this inspection is to evaluate a CAFO's compliance with permit requirements, permit conditions, applicable regulations, and other requirements. To evaluate compliance with requirements and regulations, a CAFO inspection involves review of facility documents and records, such as the facility's permit, nutrient management plan, animal inventory, and all associated records. The on-site inspection also includes assessing the structural integrity, maintenance condition, and storage availability of the facility. For CAFOs that land-apply manure, litter, or process wastewater, the CAFO inspection will include review of in-field and edge-of-field conservation practices, land application protocols and all other factors relevant to determining whether the CAFO has non-agricultural stormwater discharges from land application areas. Where appropriate, CAFO inspections may include sampling of manure, litter, wastewater and/or soil. A CAFO inspection may also require collection of information necessary to establish whether the receiving water of any CAFO discharge is a water of the United States.

### Diagnostic Inspection

The Diagnostic Inspection is an on-site activity that primarily focuses on Publicly Owned Treatment Works (POTWs) that have not achieved permit compliance. POTWs that are having difficulty diagnosing their problems are targeted. The purposes of the Diagnostic Inspection are to identify the causes of noncompliance, suggest immediate remedies that will help the POTW achieve compliance, and support current or future enforcement action. Once the cause of noncompliance is defined, an administrative order is usually issued that requires the permittee to conduct a detailed analysis and develop a composite correction plan.

### Focused Compliance Inspection

In order for a Focused Compliance Inspection (also referred to in the CMS as a Focused Inspection) to count toward implementation of an approved alternative CMS plan, all applicable conditions outlined in Part 1 must be met. A Focused Inspection is an on-site inspection that evaluates compliance for one or more specific portions of a facility (e.g., specific operation or process stream), permit or program (e.g., a pretreatment control authority's oversight of industrial users) in order to make a compliance determination. A fact-driven analysis determines whether a comprehensive inspection (see footnote 5) or a Focused Inspection is appropriate for the particular facility. Some industries that typically require full process-based inspections may not qualify for a Focused Inspection. The scope of a Focused Inspection should be informed by the facility's compliance history, information about recent changes in the facility's operation, and other data that indicates a portion of the program or facility that is more likely to have associated compliance issues. A Focused Inspection is more detailed than a Reconnaissance Inspection, but not as comprehensive as a Compliance Evaluation Inspection, Compliance Sampling Inspection, Diagnostic Inspection, or Pretreatment Compliance Inspection. Although

the scope of a Focused Inspection is narrower than a Compliance Evaluation Inspection, the level of detail required for the portion of the facility, permit or program aspect reviewed should be comparable to the level of detail required for a Compliance Evaluation Inspection. A Reconnaissance Inspection, which only requires a preliminary overview of a permittee's compliance program and brief inspection of the facility, does not qualify as a Focused Inspection.

#### Follow-up Inspection

The Follow-up Inspection is a resource intensive on-site inspection conducted when a compliance problem is identified as a result of a routine inspection or a complaint. For a Follow-up Inspection, the appropriate resources are assembled to deal effectively with a specific enforcement problem.

#### Municipal Separate Storm Sewer System Audit

An MS4 Audit is used to evaluate overall MS4 stormwater management program implementation, and identify problems the local government may have in implementing the program. MS4 Audits involve an on-site visit and comprehensive review of the local government's MS4 stormwater management program including, where applicable: (1) structural and source control measures; (2) detection and removal of illicit discharges and improper disposal into storm sewers; (3) monitoring and controlling pollutants in stormwater discharges; (4) implementing and maintaining structural and nonstructural best management practices (BMPs); (5) implementation schedules and assignment of appropriate individuals; (6) the inspection and enforcement program for covered industrial facilities and construction sites; and (7) the dry weather screening program. The auditor should make a determination of whether controls are in place and in good working order, and whether facilities have schedules for construction of structural control measures.

#### Municipal Separate Storm Sewer System Inspection

An MS4 Inspection is an on-site inspection that involves reviewing some, but not all, elements of the MS4 stormwater management program to evaluate whether the MS4 is implementing an adequate program in the selected program elements. The program elements would be selected by the region or a state after review of the MS4 permit and other relevant information. See MS4 Audit definition for program elements.

#### Off-site Desk Audit

In order for an Off-site Desk Audit to count toward implementation of an approved alternative CMS plan, all applicable conditions outlined in Part 1 must be met. An Off-site Desk Audit is a comprehensive off-site compliance evaluation of information, data, records, and facility reports in order to make a facility-level or program-level (for pretreatment and MS4s) compliance determination. Routine off-site compliance monitoring activities, such as reviewing self-monitoring reports or records of phone calls with the facility, are not enough to be considered an off-site desk audit. An Off-site Desk Audit may include review of agency-gathered testing, sampling and ambient monitoring data, responses to CWA section 308 requests, compliance deliverables submitted pursuant to permits or enforcement orders, remote sensing, aerial or satellite images, DMRs, annual reports, conversations with facilities, and tips and complaints. In conducting an Off-site Desk Audit, regions and states may utilize video conferencing with facility personnel to gather additional information as they conduct their evaluation. For example,

video conferencing could enable the auditor to join facility personnel on a virtual walking tour of all or part of the facility. The Off-site Desk Audit must be performed by an authorized inspector (consistent with appropriate federal, state, or tribal authority) or other credible regulator (i.e., an individual designated by the EPA or state/local/tribal agency with sufficient knowledge, training, or experience to assess compliance). This individual should select the candidate for the Off-site Desk Audit based on personal knowledge of the facility, in conjunction with information from DMRs, other reports, and prior on-site inspections, and have adequate information about the facility's activities to make a compliance determination.

### Performance Audit Inspection

The inspector conducts an on-site performance audit inspection (PAI) of an NPDES direct discharger to evaluate the permittee's self-monitoring program. As with a Compliance Evaluation Inspection, the PAI verifies the permittee's reported data and compliance through a records check. However, the PAI provides a more resource-intensive review of the permittee's self-monitoring program and evaluates the permittee's procedures for sample collection, flow measurement, chain-of-custody, laboratory analyses, data compilation, reporting, and other areas related to the self-monitoring program. In a Compliance Evaluation Inspection, the inspector makes a cursory visual observation of the treatment facility, laboratory, effluents, and receiving waters. In a PAI, the inspector observes the permittee performing the self-monitoring process from sample collection and flow measurement through laboratory analyses, data workup, and reporting. The PAI does not include the collection of samples by the inspector. However, the inspector may require the permittee to analyze performance samples for laboratory evaluation purposes.

### Pretreatment Audit

A Pretreatment Audit involves an on-site visit and a comprehensive evaluation all aspects of the local POTW control authority's program. The primary goals of the audit are to assess the local program's compliance with the regulatory requirements under the NPDES direct discharge permit, note areas of the control authority's program that need to be modified to bring the program into compliance with the regulations, and to identify circumstances that might warrant enforcement actions against the control authority. In the course of conducting a Pretreatment Audit, the region or state should ensure that the POTW is following its Enforcement Response Plan when the POTW identifies industrial user noncompliance. Ultimately, the Pretreatment Audit will help the approval authority (i.e., region or state) identify areas for improvement and make recommendations to increase the effectiveness of the control authority's program. A Pretreatment Audit includes oversight inspections of at least two industrial users that discharge to the POTW and may include sampling.

The Pretreatment Audit is further defined and discussed in the *Control Authority Pretreatment Audit Checklist and Instructions*, which includes sections for evaluating environmental indicators and investigating the control authority's use of pollution prevention techniques (February 2010), available at [http://www.epa.gov/npdes/pubs/final\\_pca\\_checklist\\_and\\_instructions\\_%20feb2010.pdf](http://www.epa.gov/npdes/pubs/final_pca_checklist_and_instructions_%20feb2010.pdf).

### Pretreatment Compliance Inspection

The on-site Pretreatment Compliance Inspection (PCI) is a tool for the approval authority (i.e., region or state) to determine the control authority's compliance with and enforcement of its approved pretreatment program during the years between audits. The PCI evaluates the POTW's implementation of its approved pretreatment program. It includes a review of the POTW's records on monitoring, inspections, and enforcement activities for its industrial users (IUs). In the course of conducting a PCI, the region or state should ensure that the POTW is following its Enforcement Response Plan when the POTW identifies IU noncompliance. The PCI should include an appropriate number of IU inspections or site visits to evaluate the control authority oversight procedures and to assess accurate application of categorical pretreatment standards. The PCI can include IU sampling, depending on the reason for the inspection. For example, samples may be collected and analyzed to verify the industrial user's self-monitoring program. Inspectors may prefer to conduct the PCI concurrently with an NPDES inspection of the POTW. For additional information on the steps involved in conducting a PCI, see EPA's *Guidance for Conducting a Pretreatment Compliance Inspection* (September 1991), available at <http://nepis.epa.gov/Exe/ZyPURL.cgi?Dockkey=50000629.txt>.

### Reconnaissance Inspection

The Reconnaissance Inspection is an on-site inspection that can be conducted with or without sampling (RWS and ROS in ICIS-NPDES, respectively) and is used to obtain a preliminary overview of a permittee's compliance program. The inspector performs a brief visual inspection of the permittee's treatment facility, effluents, and receiving waters. The Reconnaissance Inspection uses the inspector's experience and judgment to quickly summarize any potential compliance problems. One objective of the Reconnaissance Inspection is to expand inspection coverage without increasing inspection resources. The Reconnaissance Inspection is the briefest and least resource intensive of all CWA inspections.

### Sanitary Sewer Overflow Inspection

During an SSO Inspection, the inspector conducts an on-site inspection in response to information received regarding a known or suspected overflow event. An SSO Inspection evaluates compliance with NPDES permit terms and conditions for system design, operation and maintenance, permit reporting requirements, an enforcement order, a consent decree, or another enforceable document. The inspector collects information to verify that the permittee is complying with the NPDES standard permit conditions (duty to mitigate and proper operation and maintenance) and the required notification procedures. The inspector also determines whether there have been any additional unpermitted discharges, or discharges from a location other than the discharge point specified in the permit, to waters of the United States. When preparing for an SSO Inspection, the inspector should consider OECA's *Guide for Evaluating Capacity, Management, Operation, and Maintenance (CMOM) Programs at Sanitary Sewer Collection Systems* (2005), available at [http://www.epa.gov/npdes/pubs/cmom\\_guide\\_for\\_collection\\_systems.pdf](http://www.epa.gov/npdes/pubs/cmom_guide_for_collection_systems.pdf).

### Sewage Sludge/Biosolids Inspection

The objective of a Sewage Sludge/Biosolids Inspection is to assess facilities engaged in a regulated sludge or biosolids activity (see 40 CFR part 503) to evaluate compliance with applicable regulatory provisions, including sludge monitoring, recordkeeping and reporting,



treatment operations, sampling and laboratory quality assurance and use or disposal practices. Sewage Sludge/Biosolids Inspection are on-site activities that may be conducted in conjunction with compliance inspections at major and non-major POTWs. The Pretreatment Compliance Inspection, Compliance Evaluation Inspection, and Performance Audit Inspection are the most likely vehicles for evaluating compliance with sludge/biosolids requirements.

#### Significant Industrial User Inspection

For purposes of this CMS, the SIU Inspection of an indirect discharger is performed where agencies are acting as the pretreatment control authority pursuant to 40 CFR 403.10 in the absence of a local POTW with an approved pretreatment program, or where EPA or the state is otherwise performing oversight. The SIU Inspection is an on-site activity that includes a close review of the indirect discharge permit and the SIU's compliance, recordkeeping and reporting since the last inspection. The pretreatment regulations provide that state and local control authorities must conduct sampling inspections of all SIUs at least annually to evaluate compliance with applicable pretreatment standards independent of the IU's self-monitoring reports. See 40 CFR 403.8(f).

#### Stormwater Inspection

Stormwater Inspections at industrial facilities and construction sites are designed to evaluate compliance with NPDES permits for stormwater discharge. A Stormwater Inspection may also evaluate whether an industrial facility or construction site has obtained NPDES permit coverage if required. A Stormwater Pollution Prevention Plan (SWPPP) documents how the facility intends to comply with the terms and conditions of the permit, including effluent limitations. During the on-site inspection, the inspector reviews the permit and the measures described in the SWPPP to evaluate whether the facility is following its plan for complying with the permit. The inspector also reviews records, such as self-inspection reports, to verify that the facility is complying with its permit and following the SWPPP, and walks the site to verify that the SWPPP is accurate and BMPs are in place and functioning properly.

#### Toxics Sampling Inspection

The Toxic Sampling Inspection of an NPDES direct discharger is an on-site inspection that has the same objectives as a conventional Compliance Sampling Inspection. However, it places increased emphasis on toxic substances regulated by the NPDES permit. The Toxic Sampling Inspection covers priority pollutants other than heavy metals, phenols, and cyanide, which are typically included in a Compliance Sampling Inspection (if regulated by the NPDES permit). A Toxic Sampling Inspection uses more resources than a Compliance Sampling Inspection because sophisticated techniques are required to sample and analyze toxic pollutants. A Toxic Sampling Inspection may also evaluate raw materials, process operations, and treatment facilities to identify toxic substances requiring controls.

### Part 4: ICIS-NPDES Data Entry

OECA is providing this table as a reference tool for EPA and state personnel who enter compliance monitoring activity data into ICIS-NPDES. All of the information in the table corresponds to the goals and flexibilities set forth in Part 2 of this policy and implemented under a traditional CMS plan. For alternative CMS plans, the table below is the starting point for ICIS-NPDES data entry and can be tailored for any metrics in the alternative plan where the compliance monitoring commitments deviate from the national CMS goals summarized in the table. Please contact the Office of Compliance, Monitoring, Assistance and Media Programs Division, Water Branch if you have questions about ICIS-NPDES data entry for activities conducted pursuant to an alternative CMS plan.

Source/Metric	CMS Goal – National Recommended Minimum Frequency	Acceptable ICIS-NPDES Compliance Monitoring Type for Traditional CMS Plan	Corresponding ICIS-NPDES Compliance Monitoring Type Code	Notes
1.A: Major Facilities – National Standard	At least one comprehensive inspection every other year	Evaluation, Sampling, Audit, Diagnostic, Biomonitoring, Toxics	CEI, SA1, AU1, DIA, CBI, TX1	
1.A: Major Facilities – Pre-approved Alternative	At least one comprehensive inspection every three years for facilities designated for modified inspection frequency by Inspection Targeting Model (ITM) or comparable modeling tool	Evaluation, Sampling, Audit, Diagnostic, Biomonitoring, Toxics	CEI, SA1, AU1, DIA, CBI, TX1	See Part 2, Section 1.A for further discussion of the ITM.
1.B.1: Traditional non-major – non-impaired waters	One inspection every five years (comprehensive inspections for at least %5 of universe per year)	Evaluation, Sampling, Audit, Diagnostic, Biomonitoring, Toxics, Reconnaissance with Sampling, Reconnaissance without Sampling, Follow-up, Oversight, Focused, Operation and Maintenance	CEI, SA1, AU1, DIA, CBI, TX1, RWS, ROS, FLP, OVS, FOC, OPM	Inspection type flexibility allowed because facility is not contributing to impaired waters.

Source/Metric	CMS Goal – National Recommended Minimum Frequency	Acceptable ICIS-NPDES Compliance Monitoring Type for Traditional CMS Plan	Corresponding ICIS-NPDES Compliance Monitoring Type Code	Notes
1.B.2: Traditional non-major – impaired waters	Comprehensive inspection once every five years	Evaluation, Sampling, Audit, Diagnostic, Biomonitoring, Toxics	CEI, SA1, AU1, DIA, CBI, TX1	
1.C.1: Pretreatment program audits	At least one audit every five years, including oversight inspection of two Industrial Users (UIs)	Audit  <u>For SIU inspections:</u> Oversight, Audit (IU), Evaluation (IU), Non-sampling (IU), Sampling (IU), Toxics (IU)	AU1  <u>For SIU inspections:</u> OVS, AU2, CE2, PIU, PSI, TX2	Include program code CWAPRTRT.
1.C.2: Pretreatment program inspections	At least two Pretreatment Compliance Inspections every five years	Evaluation, Follow-up, Oversight	CEI, FLP, OVS	Include program code CWAPRTRT.
1.C.3: Pretreatment - SIUs	Annual sampling inspection of all SIUs discharging to POTWs without an approved pretreatment program	Oversight, Audit (IU), Evaluation (IU), Sampling (IU), Toxics (IU)	OVS, AU2, CE2, PSI, TX2	This is a regulatory requirement. See 40 CFR 403.8(f).
1.D: Sewage Sludge/Biosolids	At least one comprehensive inspection or off-site desk audit every five years for major POTWs and all regulated use and disposal facilities	Evaluation, Sampling, Desk Audit	CEI, SA1 or DSA	Include CWAS program code.  May be conducted in conjunction with compliance inspections at major and non-major POTWs.  See Part 2, Section 1.D for off-site desk audit criteria applicable to authorized state programs.

Source/Metric	CMS Goal – National Recommended Minimum Frequency	Acceptable ICIS-NPDES Compliance Monitoring Type for Traditional CMS Plan	Corresponding ICIS-NPDES Compliance Monitoring Type Code	Notes
1.E: Oversight	Regional discretion; should include some activity in each state each year	Oversight	OVS	Include program code (e.g., CWAPRTRT), if applicable.
2.A: Combined sewer systems (CSS)- Major and non-major	At least one CSO inspection every five years	Evaluation, Sampling	CEI, SA1	Include program code CWACSO.  When entering EPA inspections, select the OECA National Priority “WW – CSOs < 50K serv. pop’n.” or “WW – CSOs >= 50K serv. pop’n.,” where applicable.
2.B: Sanitary Sewer Systems	5% of universe of permitted POTWs with SSS annually	Evaluation, Sampling	CEI, SA1	Include program code CWASSO.  When entering EPA inspections, select the OECA National Priority “WW – SSOs >= 10 mg/d and < 100 mg/d,” where applicable.
2.C.1: MS4 – Phase I and Phase II	Audit, MS4 inspection, or off-site desk audit of entire universe every five years.  At least one on-site audit or inspection every seven years.	Audit, Sampling, Evaluation, Desk Audit	AU1, SA1, CEI, and DSA	Include program code CWASTMM.  When entering EPA audits and inspections, select the OECA National Priority “WW – MS4s – Phase I” or “WW – MS4s – Phase II,” where applicable.
2.C.2: Industrial stormwater	10% of universe annually  Inspections of unpermitted sites, including those with “no exposure”	Evaluation, Sampling	CEI, SA1	Include program code CWASTMN.

Source/Metric	CMS Goal – National Recommended Minimum Frequency	Acceptable ICIS-NPDES Compliance Monitoring Type for Traditional CMS Plan	Corresponding ICIS-NPDES Compliance Monitoring Type Code	Notes
	certification, count toward the 10% goal.			
2.C.3: Construction stormwater sites	10% of permitted universe annually  Inspections of unpermitted sites count toward the 10% goal.	Evaluation, Sampling	CEI, SA1	Include program code CWASTMC.
2.D.1: Large and medium permitted CAFOs	Minimum of one comprehensive inspection every five years; more frequent recommended if certain criteria are met	Evaluation, Sampling	CEI, SA1	Include program code CWACAFO.  When entering EPA CAFO inspections, select the OECA National Priority “WW – CAFO” or “WW – CAFO Regional Initiative Area,” where applicable.
2.D.2: Large unpermitted CAFOs	Assess entire universe to determine whether the CAFO discharges; inspect thereafter as needed.	Evaluation, Sampling	CEI, SA1	Include program code CWACAFO.  When entering EPA CAFO inspections, select the OECA National Priority “WW – CAFO” or “WW – CAFO Regional Initiative Area,” where applicable.
2.D.3: Medium AFOs	Onetime assessment of whether AFO is a CAFO, then inspect as needed	Evaluation, Sampling, AFO Designated, AFO Defined, Desk Audit	CEI, SA1, AFN, AFD, DSA	Include program code CWACAFO.

Source/Metric	CMS Goal – National Recommended Minimum Frequency	Acceptable ICIS-NPDES Compliance Monitoring Type for Traditional CMS Plan	Corresponding ICIS-NPDES Compliance Monitoring Type Code	Notes
				<p>When entering EPA CAFO inspections, select the OECA National Priority “WW – CAFO” or “WW – CAFO Regional Initiative Area,” where applicable.</p> <p>On-site inspection is required in order to designate.</p>
2.D.4: Small AFOs	As needed	Evaluation, Sampling, AFO Designated	CEI, SA1, AFN	<p>Include program code CWACAFO.</p> <p>On-site inspection is required in order to designate.</p>
3.A: Pesticides	As needed	Evaluation, Sampling, Audit, Diagnostic, Biomonitoring, Toxics, Reconnaissance with Sampling, Reconnaissance without Sampling, Follow-up, Oversight, Focused, Operation and Maintenance	CEI, SA1, AU1, DIA, CBI, TX1, RWS, ROS, FLP, OVS, FOC, OPM	
3.B: Vessels	As needed	Evaluation, Sampling, Audit, Diagnostic, Biomonitoring, Toxics, Reconnaissance with Sampling, Reconnaissance without Sampling, Follow-up, Oversight, Focused, Operation and Maintenance	CEI, SA1, AU1, DIA, CBI, TX1, RWS, ROS, FLP, OVS, FOC, OPM	