



Permitting for Environmental Results (PER)

NPDES Profile: Alabama and Indian Country

PROGRAM RESPONSIBILITY

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

EPA Region 4: NPDES authority for biosolids

EPA Region 4: NPDES authority for all facilities in Indian Country

Program Integrity Profile

This profile characterizes key components of the National Pollutant Discharge Elimination System (NPDES) program, including program administration and implementation, environmental outcomes, enforcement, and compliance. EPA considers profiles to be an initial screen of NPDES permitting, water quality, enforcement, and compliance programs based on self-evaluations by the States and a review of national data. EPA will use the profiles to identify program strengths and opportunities for enhancements. For more information contact Glenda Dean, Alabama Department of Environmental Management, at (334) 270-5602 or Andrea Zimmer, EPA Region 4, at (404) 562-9306.

Section I. Program Administration

1. Resources and Overall Program Management

The State of Alabama:

The Alabama Department of Environmental Management (ADEM) administers the NPDES program for the State of Alabama. Two divisions within ADEM deal directly with point source controls under the NPDES program.

The Water Division's Industrial Section manages the NPDES permitting and compliance program for non-municipal point sources, including stormwater runoff from industrial activities under the Phase I and Phase II stormwater regulations, as well as the pretreatment program.

Also in the Water Division, the Municipal Branch manages the NPDES permitting and compliance program for municipal and semi-public and private wastewater treatment point sources, including water treatment plants with point source discharges, and stormwater runoff from municipal separate storm sewer systems (MS4s) under the Phase I and Phase II stormwater regulations. The Municipal Branch also manages the sanitary sewer overflow (SSO) program.

The Field Operations Division's Mining and Nonpoint Source Section manages the permitting and compliance program for mining and coal bed methane facilities, the registration and compliance program for animal feeding operations (AFOs) and concentrated animal feeding operations (CAFOs), and the construction stormwater registration program under the Phase I and Phase II stormwater regulations. The Decatur, Birmingham, and Mobile branch offices of the Field Operations Division also process

registrations and conduct inspections and compliance activities along with the Mining and Nonpoint Source Section for ADEM's unified construction stormwater management program.

The State's NPDES program is organized to provide close coordination with the water quality standards and total maximum daily load (TMDL) programs to ensure that NPDES permits accurately include the most recent wasteload allocations (WLAs) and State water quality standards.

The ADEM organizational chart is included as Attachment 1.

Table 1: Alabama Resource and Program Summary

Scope of NPDES Program in Alabama		Approval Date	
NPDES Permit Program ^a		10/19/79	
Federal Facilities		10/19/79	
Pretreatment Program		10/19/79	
General Permits		06/26/91	
Biosolids		Not Applicable	
^a The stormwater and CAFO permitting authority was authorized at the same time as the base NPDES program. ADEM is responsible for all Phase I and Phase II stormwater and CAFO NPDES activity in the State.			
NPDES Universe in Alabama (Based on 7/9/04 Management Report)			
FY2003	Major Facilities	Minor Facilities Covered by Individual Permits	Minor Non-Stormwater Facilities with General Permits
Number of Sources	192	1396	79
% National Universe	2.9	3.3	0.20
Alabama NPDES Program Resources			
Source	Amount for FY2003		
State ^b	\$3,997,178		
Federal Funding	\$6,857,159		
Total Funding	\$10,854,337		
Work years	127		
^b State funding includes permitting fees.			

These resources listed above implement permitting, inspections, compliance, enforcement, technical assistance, fish kill and complaint investigations, data entry, effluent and ambient monitoring, water quality standards and TMDL development, groundwater program support, and legal costs for the NPDES authorized program.

During fiscal year (FY) 2003 ADEM provided the following training classes for the NPDES staff:

Table 2: ADEM NPDES Training in FY2003

Date	Class	Duration	Instructor
October 2003	NPDES Permit Writers' Training Course	4 days	EPA Contractor
February 2004	NPDES Inspector	2 days	EPA Region 4
August 2004	NPDES WWTP Performance	3 days	EPA Region 4

Note: WWTP = wastewater treatment plant.

Additional training for inspectors and permit writers consists of experienced staff training newer staff (mentoring); intensive class training available through EPA, contractors, and ADEM senior staff; and written procedures, manuals, and videos. The Industrial Section conducts weekly 1- to 2-hour technical training sessions for inspectors and permit writers on applicable subjects.

The memorandum of agreement (MOA) between the State and EPA was executed on October 21, 1994.

EPA Region 4:

The NPDES program is administered within EPA Region 4 by the Water Management Division's Permits, Grants, and Technical Assistance Branch (PGTAB) and the Water Programs Enforcement Branch (WPEB). Permitting responsibilities belong to the NPDES and Biosolids Permits Section of the PGTAB, and enforcement responsibilities for the NPDES program are shared among the Central, Gulf, and Eastern Enforcement Sections of the WPEB. The Region has direct implementation responsibilities for 21 minor facilities¹ and 21 industrial facilities² in the State of Alabama.

The permitting and enforcement sections coordinate activities pertaining to Region 4's direct implementation of the NPDES program. For example, the NPDES enforcement sections review all draft permits, and NPDES permitting section identifies potential areas of concern for enforcement highlighted in permit applications. The NPDES enforcement sections enter all permit compliance data into the Permit Compliance System (PCS).

The Region's NPDES program is organized to provide close coordination with the water quality standards and TMDL programs to ensure that NPDES permits accurately include the most recent WLAs and reflect appropriate state water quality standards and federal standards.

¹ Management Report measure #2 (minor facilities covered by individual permits) lists 2 for EPA activities in the National Data Sources column, which is based on a list of EPA-issued permits provided by the Region for use in compiling the backlog report, which was incomplete. The 21 minor facilities in the State of Alabama for which the Region has direct implementation responsibilities mentioned above is based on data from July 2004 provided by Region 4.

² Management Report measure #6 (industrial facilities covered by individual permits) lists 19 for EPA activities in the National Data Sources column, which is based on data as of June 2004. The 21 industrial facilities in the State of Alabama for which the Region has direct implementation responsibilities mentioned above is based on data from July 2004 provided by Region 4.

The Region issued a general permit for Indian lands on March 10, 2004, covering the discharge of stormwater from construction activities and one general permit for Indian lands on October 30, 2000, covering the discharge of stormwater from industrial activities not associated with construction.

The Region issues all permits for oil and gas extraction facilities discharging to federal waters. Off the coast of Alabama, the Region covers facilities with a general permit and individual permits. The general permits covers a total of 290 wells within the Region. Because these facilities do not reside within the borders of a single State, they are not represented in the National Data Sources column of the Management Report for any one State. These facilities are located off the coasts of Mississippi, Florida, and Alabama. The following 21 Alabama oil and gas extraction facilities are covered by individual permits:

AL0071684	Unocal	Minor
AL0071692	Unocal	Minor
AL0075001	Marathon Oil	Minor
AL0075124	Shell Offshore & Production	Minor
AL0075213	Shell Offshore & Production	Minor
AL0075345	Marathon Oil	Minor
AL0075353	Marathon Oil	Minor
AL0075574	Ocean Energy	Minor
AL0075582	Ocean Energy	Minor
AL0075639	Shell Offshore & Production	Minor
AL0075710	Kerr-McGee Oil & Gas	Minor
AL0075728	Kerr-McGee Oil & Gas	Minor
AL0075817	Dominion Exploration & Production	Minor
AL0075981	Newfield Exploration	Minor
AL0076040	Dominion Exploration & Production	Minor
AL0076074	Marathon Oil	Minor
AL0076066	Marathon Oil	Minor
AL0076058	Marathon Oil	Minor
AL0076279	Marathon Oil	Minor
AL0076287	Petrobros America	Minor
AL0076325	Palace Operating	Minor

As of May 26, 2004, 100% of the facilities covered by EPA-issued permits discharging to federal waters have current permits.

Region 4's NPDES and Biosolids Permits Section has dedicated 1.0 full-time equivalent (FTE) staff for implementation of the biosolids permitting program. A draft general permit is in the final stage of preparation and will be issued to cover sludge management facilities in all eight States in Region 4. The resources of the biosolids permitting program are adequate at this time.

The NPDES and Biosolids Permits Section has dedicated approximately 0.25 FTE toward the management of NPDES permit issuance on Indian lands in Alabama. The resources for NPDES permit issuance on Indian lands are sufficient at this time, with 100% of all Indian land permits current as of May 21, 2004.

The NPDES enforcement sections have dedicated approximately 0.3 FTE toward the management of NPDES permit enforcement on Indian lands and 0.2 FTE toward compliance assistance on Indian lands. As the effort for compliance tracking, inspections, and enforcement for these facilities continues, an increase in resources may be needed.

The NPDES and Biosolids Permits Section has dedicated approximately 0.25 FTE for the management of offshore oil and gas extraction facilities. The upcoming issuance in FY2004 of the offshore oil and gas extraction general permit will streamline permitting efforts. The resources for this effort are sufficient at this time.

The NPDES enforcement sections have dedicated approximately 0.3 FTE toward the management of NPDES enforcement of offshore oil and gas extraction facilities. As the effort for compliance tracking, inspections, and enforcement for these facilities continues, an increase in resources may be needed.

The Region prioritizes permit issuance by reissuing permits as they expire, targeting a 0% backlog (it is currently meeting this goal), and processes new applications as they are received. Staff turnover has been very low and has not affected the direct implementation of the NPDES program on Indian lands and in federal waters. The NPDES resources for direct implementation, to date, have not been affected by the needs of other water programs. The NPDES and Biosolids Permits Section has a core group of 13 staff members, each with 10 to 30 years of experience in the NPDES and biosolids programs.

2. State Program Assistance

EPA Region 4:

The Region is responsible for issuing permits on Indian lands and in federal waters. There are no discussions regarding delegation of authority to implement the NPDES program on Indian lands. The issuance of permits for facilities discharging to federal waters cannot be delegated.

The Region serves as the permitting authority for the biosolids program for all eight States in Region 4 because none have an approved biosolids program. The Region will assist States in assuming authority for the biosolids program as requests are received.

3. EPA Activities in Indian Country

EPA Region 4:

The Region has direct implementation responsibilities for the Poarch Indian lands in Alabama. The Region has no responsibilities at this time for issuing individual permits in Alabama on Indian lands.

EPA coordinates with the Tribes through appropriate Tribal staff as needed. At a minimum, EPA staff participate in the annual Tribal Directors' meeting to inform Tribes of new issues and initiatives, to provide updates, and to receive information from the Tribes.

The Region works with the Tribes to ensure timely submission and processing of applications to issue NPDES permits and modifications for Tribal lands. Where private entities discharging on Tribal lands are the applicants, Tribes are kept abreast of permitting issues through public notice efforts, courtesy

copies, and phone calls or emails as appropriate. In either case, the Region issues all NPDES permits on Tribal lands. WPEB has assigned one point of contact for Tribal compliance to build a relationship with the Tribes. WPEB works closely with the Regional Tribal Coordinator and Regional Tribal Attorney to ensure adequate coordination with the Tribes on any noncompliance issues. When noncompliance with permits warrants enforcement action, the Region works closely with the Tribes to resolve the noncompliance consistent with Headquarters and Regional policy.

4. Legal Authorities

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

In February 2002, Region 4 received a petition to withdraw authority for the State to administer all programs under the Clean Water Act (CWA). The petition and supplemental information, submitted by Mr. Richard Vaughan representing WildLaw, was consolidated with a formal petition submitted by Mr. Edward Mudd, attorney for the Biodiversity Legal Foundation. The petition raised issues regarding whether the State NPDES program complies with the requirements of the CWA, including whether it is properly funded; whether the enforcement program is sufficient; whether the State properly responds to public comments and concerns; whether the State properly implements its antidegradation policy; whether the State properly "consults" concerning impacts to species listed under the Endangered Species Act; whether the State has proper numeric criteria for all necessary pollutants; whether the State protects impaired and other waters from nonpoint source pollution; whether the State's NPDES permit appeal procedures are sufficient; and whether the State rule acts to prevent conflicts of interest under the CWA. Region 4 is evaluating the petition.

5. Public Participation

An evaluation of the State's legal authorities regarding public participation will be included in the legal authority review. As noted above, the legal authority review section of this profile is reserved pending completion of the legal authority review.

The State of Alabama:

The Alabama Water Pollution Control Act (AWPCA) and ADEM Administrative Rules ensure public participation in the permitting process that ADEM believes is consistent with the CWA standards as contained in title 40 Code of Federal Regulations (CFR) part 124 requirements. The formal procedures for public participation in permitting activities are listed in ADEM Administrative Rule 335-6-6-.21. The term "public" is not defined by State statute or regulation. However, the AWPCA and ADEM Administrative Rules define "person" as "...any and all persons, natural or artificial, including, but not limited to, any individual, partnership, association, society, joint stock company, firm, company, corporation, institution, trust, other legal entity, business organization or any government entity and any successor, representative, responsible corporate officer, agent or agency of the foregoing."

Notice of permitting actions is given in a major daily newspaper in the area affected by the facility or activity and is posted on ADEM's Web site. In the event that additional public input is required as a

result of the comment period, a public hearing is held as specified by State and federal regulations. Otherwise, a public meeting may be held as appropriate. The duration of the public notice for NPDES permits allows at least 30 days for public comment and for notice of a hearing.

ADEM's Web site at <http://www.adem.state.al.us/> lists NPDES permit applications received and draft NPDES permits on public notice. The NPDES notice section includes the public notice, fact sheet, and draft permit for all facilities. Applications for construction stormwater, mining, CAFO, and coal bed methane permits are also posted. In addition, citizens can contact ADEM in writing or by telephone to request copies of public notice documents.

During the comment period, any interested person may submit written comments on the permit application and draft permit and may request a public hearing if a hearing has not already been scheduled. If a public hearing is scheduled, any person may submit oral or written statements and data during the hearing concerning the permit application or the draft permit. A tape recording or written transcript of the hearing is made available to the public. At the time of any final permit decision, a response to all comments is made available to the public. Any person who has indicated in writing a desire to receive notice of ADEM's final decision on a permit action and/or copies of the response to comments is provided the requested information. In addition, members of the public can ask for an administrative hearing to contest a permit.

As part of the public notice process, ADEM maintains and uses a mailing list of interested parties who have requested copies of the proposed NPDES permits, fact sheets, or public notice documents. The parties that receive direct mailings include municipal, state, and federal agencies; public interest groups; concerned citizens; and any other requestor. The public is notified of the opportunity to be put on the mailing list through periodic publication in the public press and in such publications as Regional and State-funded newsletters, environmental bulletins, or State law journals.

The public can access additional information on ADEM's Web site such as information on persons to contact, permit application forms, general permits, water quality standards, and rules and regulations. ADEM publishes a quarterly newsletter and an annual environmental summary report to inform the public about regulatory issues. Both the newsletter and the summary report are posted on ADEM's Web site and provided to anyone who has requested a copy. In addition, some of the individual NPDES permits and fact sheets issued by the State can also be accessed through EPA's Web site. Instructions for accessing these documents are available at <http://www.epa.gov/npdes/permitdocuments>.

The Alabama Water Pollution Control Act, the Alabama Environmental Management Act, and ADEM's Administrative Rules ensure public participation for enforcement actions involving civil penalties. Before issuing any consent or unilateral order assessing a civil penalty, ADEM publishes a public notice for 1 day in a newspaper of general circulation in the area where the alleged violation occurred and on its Web site for the duration of the comment period. The notice describes the nature and location of the alleged violation and the amount of civil penalty proposed, contains a summary of any proposed corrective measures, provides instructions for obtaining a copy of the proposed order, and indicates that persons may submit comments to ADEM and request a hearing within 30 days of the first date of publication.

In the event that additional public input is required as a result of the comment period, a public hearing may be held. If ADEM grants a request for a hearing, ADEM provides written notice of the time, date, and location of the hearing by regular mail at least 20 days prior to the hearing to all persons who submitted written comments on the proposed order and provided a current address. At any such hearing, ADEM provides a reasonable opportunity for persons subject to the proposed order and persons who submitted written comments on the proposed order to be heard and to submit information. ADEM also accepts additional written comments from any interested party that are received on or before the date of the hearing. Upon issuance of an order, ADEM provides written notice by regular mail to each person who submitted written comments on the proposed order and provided a current return address. The notice of issuance describes the nature and location of the alleged violation and the amount of civil penalty, contains a summary of any required corrective measures, provides instructions for obtaining a copy of the order, and indicates that persons who submitted written comments on the proposed order, within 30 days of the issuance of the order, may request a hearing on the order before the Environmental Management Commission.

For unilateral orders without an assessed civil penalty, Alabama issues a press release for final issuance in the newspaper of general circulation in the area where the alleged violation occurred and posts the press release on ADEM's Web site.

EPA Region 4:

The Region follows all public participation requirements of the CWA and requirements contained in 40 CFR part 124. The Region's public participation procedures include providing public notice in newspapers and procedures for public comments, public meetings, and administrative hearings in accordance with the CWA. Public notices are also published in minority-owned newspapers in coastal cities that may be impacted by offshore activities. Copies of all draft permits, fact sheets or statements of basis, public notices, and any other pertinent information can be viewed at the Region 4 office in Atlanta, Georgia or on the Region's Web site; a hard copy can be requested directly from the Region.

For new or controversial projects, the Region may hold public hearings and meetings to solicit any comments or concerns. This was recently done for the proposed reissuance of the offshore oil and gas extraction general permit.

Region 4's NPDES permitting Web site can be accessed at <http://www.epa.gov/region4/water/permits>. It includes information regarding the Region 4 permit organization, access to permits through a link to EPA's Envirofacts, access to general permits, and overall NPDES information. The Region maintains a hard copy filing system for all permitted facilities. All files are arranged by State and NPDES number.

6. Permit Issuance Management Strategy

The State of Alabama:

The State administers all point source pollution control programs with the exception of point sources in Indian lands. At the end of 2003, Alabama's permit rate for major facilities was 95.3%, meeting the national current permit goal (90%) for major facilities and far exceeding the national average (84.2%). The State's permit rate for minor facilities was 95.4%, which again exceeded the national permit average (81.4%) in 2003 and meets the 2004 national goal of 90%. The permits of two major and two minor

dischargers have been expired for more than 2 years. The permit issuance and trend data for 2000 to 2004 are shown below.

The State's permit issuance trend illustrates that ADEM has successfully implemented a strategy for timely issuance of permits. Components of this successful strategy include expanded use of general permits and registration by NPDES rule as well as the use of templates, spreadsheet programs, and checklists.

**Table 3: Percentage of Facilities Covered by Current Permits in Alabama
(State-Issued Permits)**

	2000	Nat'l Avg.	2001	Nat'l Avg.	2002	Nat'l Avg.	2003	Nat'l Avg.
Major Facilities	94.8%	74%	95.3%	76%	96.9%	83%	95.3%	84%
Minor Facilities Covered by Individual Permits	90.7%	69%	93.8%	73%	94.1%	79%	95.4%	81%
Minor Facilities Covered by Individual or Non-Stormwater General Permits	N/A	N/A	N/A	N/A	93.7%	85%	95.5%	86%

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

EPA Region 4:

The Region's permit rate for minor facilities covered by current individual or general permits for which the Region has direct implementation responsibilities in the State of Alabama is 42.9%.³

The Region prioritizes permit issuance by reissuing permits as they expire, targeting a 0% backlog, and processes new applications from dischargers on Indian lands and for offshore activities as they are received. This strategy is sufficient in light of the limited direct implementation responsibilities of the Region.

The Region has direct implementation responsibilities for four pending permit applications in the State of Alabama.⁴

³ Management Report measure #20 (percentage of minor facilities covered by current individual or general permits) lists 0% for EPA activities in the National Data Sources column. EPA Region 4 data reports indicate that 42.9% of minor facilities in the State of Alabama for which the Region has direct implementation responsibilities are covered by current individual or general permits. These values differ because the 42.9% is based on the universe with an additional 19 minor facilities not accounted for in the National Data Sources column (see Management Report measure #2 and explanation in section I.1).

⁴ No value is shown for Management Report measure #18 (permit applications pending) for EPA activities. EPA Region 4 data reports indicate that there are four permit applications pending in the State of Alabama for which the Region has direct implementation responsibilities. Data for EPA activities in authorized States for this measure are not consistently available from PCS and were therefore not included in the National Data Sources data compilation.

The Region is not considering prioritization of permitting on a watershed basis.

The States within Region 4 are kept well informed on their backlog status through the implementation of the Regional Low Backlog Maintenance Strategy. Since the mid-1980s, EPA Region 4 has provided the State with a monthly NPDES update report that includes current backlog numbers. The Region requests reports from any State that has a major backlog of more than 10%. For each permit that has been expired for more than 2 years, the State must provide the reason for the backlog, the issuance progress, and a tentative date for reissuance. In addition, also on a monthly basis, the State receives from EPA Region 4 the list of NPDES permits that have expired or will expire in the near future whose drafts have not been received by EPA for review. The draft permits in consideration are those for which EPA has permit overview authority under the EPA/State MOA (e.g., major facilities, minor primary facilities). The State in turn informs EPA of any draft permits that it has sent and that appear on the non-receipt list, allowing any misdirected draft permit to be located or remailed quickly.

7. Data Management

The State of Alabama:

Alabama uses the Permit Compliance System (PCS) on a secondary basis. Primary tracking of applications and permits, facility information, discharge information, complaints, compliance, and enforcement actions and industrial pretreatment program elements is handled through Wang mainframe databases. In addition, a Microsoft Access database is used to track discharge monitoring reports (DMRs) and generate enforcement action letters. An Oracle database for AFO/CAFO data management is nearly complete, and an Internet-based application is in development to support online registration for construction stormwater NPDES coverage. There is no automatic interface between these systems and PCS; data are manually entered into PCS from coding sheets and hard copy reports from the primary systems. The most significant discrepancies in PCS are due to data entry and reporting errors. A significant number of permittees print their own DMR forms, and this, along with adapting permit requirements to PCS data elements and requirements, has been identified as a source of data errors. Data quality efforts include comparing PCS reports against other databases and having staff review, validate, or update PCS. Alabama will use the Integrated Compliance Information System (ICIS-NPDES) when it becomes available.

Alabama endeavors to maintain all Water Enforcement National Data Base (WENDB) data elements, as applicable. PCS data are verified after entry in a comparison of hard copy PCS reports with data from primary systems and source documents.

The State collects locational data at the facility level and for outfalls that discharge process waste. These data are collected through the use of Global Positioning System (GPS) units, or submitted in applications and verified using readily available GPS mapping software. The locational data are interfaced with GIS software to sort facility information by watershed.

As of August 2004, DMR data entry rates for major facilities during the January-March 2004 period were 97.9% for municipal facilities and 99.7% for industrial facilities.

The March 2004 PCS clean-up progress report indicates the following:

1. City, State, and ZIP code for minor facilities are 80-85% complete.
2. The latitudes and longitudes of minor facilities are 80% complete.
3. Pipe latitudes and longitudes are 25% complete overall (55% complete for major facilities, 13% complete for minor facilities).

It should be noted that in 2001 the State began to enter data for minor facilities at permit renewal into PCS. Therefore, the entry of minor facility information into PCS should be completed in 2006, considering available resources. Pipe latitude/longitude data are entered into PCS after field GPS verification.

EPA Region 4:

The Region manages basic permit and compliance information in PCS for major and minor facilities, including sanitary sewer overflows (SSOs) and combined sewer overflows (CSOs), stormwater, pretreatment, and biosolids. The Region does not use any supplemental data management systems, other than the notice of intent (NOI) database administered under a contract with Headquarters for stormwater general permits.

The Region enters all WENDB data elements into PCS to the extent that the data are available. This includes latitude/longitude data for facilities and outfalls when these data are available. The Region will use a GPS locator to identify latitude/longitude during inspections of facilities for which the Region has direct implementation responsibilities.

The Region reviews PCS update reports for data entry errors and corrects them as soon as they are discovered.

Section II. Program Implementation

1. Permit Quality

The State of Alabama:

The State routinely assesses whether a given facility discharges to a stream listed as impaired on the State's list of impaired water bodies prepared under CWA section 303(d) and coordinates with its TMDL program to incorporate any WLA requirements into the facility's NPDES permit. If a TMDL has not yet been established, the State ensures that historical permit loadings are maintained for the parameter of concern. The State ensures that technology-based requirements, at a minimum, are incorporated into the NPDES permit. To protect water quality, the State has developed reasonable potential procedures for both chemical-specific parameters and for whole effluent toxicity (WET), and the procedures have been approved by EPA. The State uses standardized language and templates, whenever possible and appropriate, to streamline permit development.

For greater permit quality and efficiency, the State routinely uses general permits. Based on mid-2003 data, the State administers general permits for non-stormwater discharges, covering approximately 79 facilities. The State also administers 17 general permits for stormwater discharges, covering approximately 2,709 facilities. Approximately 4,500 sites are registered under the construction stormwater permit by rule. One MS4 general permit has been issued for small municipalities under Phase II.

Based on the NPDES MOA, the State routinely sends all municipal and industrial major permits and all minor primary industrial permits with process wastewater to Region 4 for concurrent review. Region 4's State Coordinator provides comments or expresses concerns after reviewing the permits. Each year, Region 4 also conducts a mid-year and end-of-year review of the State's NPDES program. The mid-year review consists of reviewing the administrative and technical NPDES permitting processes and auditing a representative sample of permits that did not receive a concurrent review the previous year, using a standardized format. Interviews are conducted with State NPDES management following a pre-determined questionnaire. The mid-year process is completed by a site visit by the Water Division Director or his designee to discuss any identified issues. The State initiates corrective actions, if necessary, and the Region follows up during the end-of-year evaluations conducted over the telephone.

The State has a narrative water quality standard for toxicity, with a numeric interpretation. ADEM has developed and has been implementing a WET program. ADEM has also developed reasonable potential procedures for WET, and EPA had approved the procedures. ADEM requires WET monitoring or testing for all major and all minor facilities with the reasonable potential for toxicity. Where reasonable potential for WET is demonstrated, ADEM requires acute and/or chronic limits. The State routinely incorporates sublethal limits in NPDES permits, as needed. Minimum testing occurs once per year, but more frequent toxicity testing is required for facilities with greater potential for toxic effects.

ADEM reviews DMRs and WET test results pursuant to EPA-approved WET test procedures and compares them against permit requirements for compliance. Noncompliance with WET limits is considered a violation. Violations trigger accelerated monitoring and/or possible toxicity reduction

evaluations, which are to identify and resolve toxicity. ADEM conducts annual compliance biomonitoring inspections at 10% of the major industrial and municipal facilities and at other facilities where toxicity is a concern.

EPA Region 4:

EPA Region 4 routinely assesses whether a given facility discharges to a stream listed as impaired on the CWA section 303(d) list and coordinates with the TMDL program to incorporate any WLA requirements into the NPDES permit. If a TMDL has not yet been established, Region 4 ensures that historical loadings are maintained for any parameter of concern. The Region ensures that technology-based requirements, at a minimum, are incorporated into NPDES permits. To protect water quality, the Region uses “reasonable potential” procedures for both chemical-specific parameters and for WET.

The Region uses standardized language and templates in drafting permits, whenever possible, thus streamlining permit development. In addition, the Region has developed reference guides for reviewing and developing permits to ensure that appropriate fact sheet requirements, standard conditions, monitoring requirements, monitoring frequency, best management practices, consideration of backsliding, compliance schedules, and others, are incorporated into NPDES permits.

For greater permit quality and efficiency, the Region routinely uses general permits. On March 19, 2004, the Region issued a general permit for Indian lands covering the discharge of stormwater from construction activities. On October 30, 2000, the Region, in conjunction with several other Regions, issued a multisector general permit for discharges of stormwater from industrial activities other than construction. The Region also has one general permit for offshore oil and gas extraction facilities covering 290 wells.

The NPDES permit writing staff for permits discharging to federal waters and to Indian lands have 10 to 30 years of permit writing experience. Their training is updated as needed to ensure that all appropriate requirements are incorporated into NPDES permits. Every NPDES permit developed is peer-reviewed for technical accuracy, and any issues identified are addressed during permit development.

The Region has developed and has been implementing a WET program. The Region evaluates data from the permit application or historical information and determines whether, based on reasonable potential, a WET limit is needed. Sublethal limits are included in NPDES permits, as needed. The Region uses a WET checklist to ensure the appropriate application of WET limits. The Region has dedicated NPDES enforcement staff to ensure appropriate compliance with and, if needed, enforcement of WET limits in NPDES permits. The NPDES permitting staff relies on existing staff expertise to provide education within the Region and to States.

2. Pretreatment

The State of Alabama:

Alabama received authorization to administer the pretreatment program on October 19, 1979. The State chose to assume responsibility for implementing the pretreatment program requirements for publicly owned treatment works (POTWs) in lieu of requiring the POTWs to develop pretreatment programs consistent with 40 CFR part 403.10(e). Based on mid-2003 data, the State has issued permits to approximately 300 significant industrial users (SIUs), 154 of which are categorical industrial users

(CIUs).⁵ As of August 2004, 13% of SIU permits were on backlog, 50% of them having been drafted. The State tracks permit issuance internally. New SIUs are identified through a requirement in State NPDES permits that stipulates that POTWs identify and report information about new SIUs. The State is required to inspect and sample 100% of SIUs annually, and ADEM met this requirement in 2003 and 2004.

EPA Region 4:

The Region implements its pretreatment program within the Water Programs Enforcement Branch. The need for a Tribal facility to develop a pretreatment program or for the Region to control a categorical industry is evaluated during inspections and upon permit application review. In addition, language requiring notification to the Region of any new or increased industrial discharge to Tribal POTWs, the specific prohibitions of the General Pretreatment Regulations, and any other changes in the user discharge that would constitute a new source or categorical user is included in the Tribal NPDES permits issued by the Region. At this time the Region is not aware of any categorical users in unauthorized territories.

The Region needs to enhance its method of determining whether categorical industries exist on Tribal lands to ensure that all categorical industries are being regulated. This can be done through better coordination with Tribal utility staff and by becoming more familiar with the industrial activities on Tribal lands.

3. Concentrated Animal Feeding Operations

The State of Alabama:

The new EPA CAFO rule requires that all CAFOs submit applications for NPDES permits by 2006. Alabama and the Region have agreed on a schedule for implementing the new rule to meet the April 2006 deadline. Alabama administers an NPDES general permit-by-rule, which requires a formal registration process similar to the federal NOI process, for all large CAFOs and any AFOs that discharge. AFOs and CAFOs must comply with the NPDES requirements by rule and CAFOs must also formally register with ADEM. AFOs are automatically registered by rule. The current general permit by rule implements the nine minimum control measures or nutrient management plans that meet the requirements of the EPA CAFO regulations. In addition, the State has technical standards in place that conform to the revised EPA CAFO regulations.

Alabama has about 450 potential large CAFOs with 530 formal registrations issued to date. Alabama requires AFOs and CAFOs to have a manure management plan consistent with the nutrient management plan. Alabama will renew the NPDES general permit-by-rule in December 2005.

⁵ No number is shown for Management Report measures #9 (number of Significant Industrial Users (SIUs)) and #24 (percentage of SIUs with control mechanisms) under State Activities in the National Data Sources column. The State's data reports indicate that the State has issued permits to all 300 known SIUs. Alabama issues pretreatment permits directly to users as provided for under 40 CFR 403.10(e); therefore, there are no approved pretreatment programs at POTWs. By definition, the National Data Sources column on the Management Report captures only SIUs discharging to approved pretreatment programs. The number of permits issued to SIUs is reflected in the Additional Data column on the Management Report.

ADEM implemented an AFO and CAFO NPDES registration by rule and compliance program (ADEM Administrative Code, chapter 335-6-7) in April 1999, which prohibits point source and nonpoint source discharges from AFOs and CAFOs. EPA has approved this program. The Alabama AFO/CAFO program is comprehensive in nature, and EPA drew upon ADEM's successful program in finalizing recent updates to the federal CAFO rules.

All AFOs and CAFOs regardless of size are required to comply with the technical requirements and performance standards contained in the ADEM rules. CAFOs must also formally register with ADEM. All AFOs and CAFOs are required to implement and maintain effective management practices that meet or exceed the technical standards and guidelines of the Natural Resources Conservation Service, which can be reviewed at http://efotg.nrcs.usda.gov/efotg_locator.aspx?map=AL. The rules provide that ADEM can, if needed at any time, require implementation of additional measures necessary to ensure the protection of air and water quality. Rule requirements include mandatory buffers for structures and the application of nutrients to agricultural lands to minimize the occurrence of off-site odors, protect water quality, ensure detailed record keeping, regular self-inspection, proper land application of nutrients (including proper timing of application), regular soil testing, and the like.

The Alabama Department of Agriculture and Industries (ADAI), a Certified Animal Waste Vendor Program, has initiated in conjunction with ADEM and other State and federal resource agencies to provide operator training and to certify waste vendors to ensure proper litter transport and management. All AFOs and CAFOs regardless of size are required to follow the requirements of the ADAI State Veterinarian regarding animal disease and mortality management.

ADEM executed an MOA in 1998 with State and federal resource agencies to establish a cooperative, "team" approach framework to promote open communication to work cooperatively on and solve problems, to eliminate duplication of effort and expertise by agencies, and to assist ADEM with implementation of the CAFO program. The cooperating agencies are EPA, NRCS, Alabama Soil and Water Conservation State Committee, Soil and Water Conservation Districts, Alabama Cooperative Extension System, Alabama Department of Public Health, ADAI, and Auburn University's College of Agriculture.

All CAFOs are required to (1) have the entire operation inspected/evaluated annually by a qualified credentialed professional; (2) have all waste conveyance, treatment, and storage structures inspected/evaluated every 5 years by a professional engineer registered in Alabama; (3) complete environmental professional development training annually; (4) have their comprehensive waste management system plan prepared and certified by a qualified credentialed professional; and (5) prepare and implement, when necessary, a facility closure plan.

4. Stormwater

The State of Alabama:

Phase I Municipal Separate Storm Sewer Systems: The State plans to modify five Phase I MS4 permits. It also plans to modify the permit requirements that address construction sites to provide consistency with the construction and post-construction Phase II requirements. As part of this modification effort, the State has drafted permit language to clarify its role to enforce permit requirements on the local level.

Phase II Municipal Separate Storm Sewer Systems: There are 63 permittees covered under 31 MS4 Phase II permits issued by the State. The State previously designated five municipalities; however, only two (Fairhope and Daphne) met the criteria for such designation, and they were covered under Phase I. Phase II communities that were located in the Phase I permitted areas (Jefferson, Shelby, and Mobile Counties) all opted for coverage under the Phase I permits; Bayou La Batre, in Mobile County, opted for coverage under the Phase II permit.

Construction: The construction general permit-by-rule, addressing large and small construction sites, is in effect as of January 21, 2003. Approximately 4,500 sites are registered. The previous general permit, addressed only large construction sites, was terminated. All active projects of 1 acre or more must register for coverage under the NPDES permit rule. Because there is no end date for a rule, in Alabama, the rule is reopened every 5 years for review by EPA and made available for public comment. Alabama makes any appropriate changes to the rule and submits it to EPA Region 4 for review.

Industrial: The State has issued industry-specific general permits to address stormwater discharges. Permits are drafted on a timely basis and submitted in draft form to EPA for review prior to public notice. At present, all general permits associated with stormwater are up-to-date. NOIs are made available to the public upon request.

EPA Region 4:

For Indian lands, EPA Region 4 issued a general permit on March 10, 2004, covering the discharge of storm water from construction activities and a general permit on October 20, 2000, covering the discharge of storm water from industrial activities not associated with construction. By the March 10, 2003, Phase II regulation deadline, Region 4 had concluded that all Indian lands in Alabama were exempt from Phase II MS4 designation. The March 10, 2004, Region 4 general permit for construction general permits on Indian lands provides coverage for eligible Phase II small construction facilities.

There are no Phase I MS4 discharges that Region 4 is responsible for covering under a permit.

5. Combined Sewer Overflows/Sanitary Sewer Overflows

The State of Alabama:

Combined Sewer Overflows: Alabama does not have any communities with combined sewer systems.

Sanitary Sewer Overflows: Alabama is developing a database to track SSOs that are reported to the State. Alabama includes requirements in NPDES permits for municipalities to notify ADEM, the public, the county health department, and any other affected entity (such as public water systems) as soon as possible upon becoming aware of any sanitary sewer overflow that reaches a surface water of the State or could imminently and substantially endanger human health because of a potential for public exposure, including close proximity to public or private water supply wells or in areas where human contact would be likely to occur.

EPA Region 4:

Region 4 does not issue permits for any community with combined sewer systems.

SSO events are rare on Indian lands. The Region manages each SSO event individually with appropriate enforcement or notification of proper authorities. Alabama permits on Indian lands are covered under the general permit issued by EPA Region 4 for Indian lands on March 10, 2004, covering the discharge of stormwater from construction activities and one general permit for Indian lands on October 30, 2000, covering the discharge of stormwater from industrial activities not associated with construction. There are no individual municipal permits in Alabama on Indian lands.

The Region has included the following language in all minor and major NPDES municipal permits in an effort to collect SSO data, analyze the data, and act appropriately, either with enforcement or notification of the proper authorities:

The permittee shall identify all wastewater discharges, at locations not authorized as permitted outfalls, that occur prior to the headworks of the wastewater treatment plant covered by this permit. The permittee shall submit, with the scheduled DMR, the following information for each discharge event at each source that occurs during the reporting period covered by the DMR:

- a.) The cause of the discharge;
- b.) Duration and volume (estimate if unknown);
- c.) Description of the source, e.g., manhole cover, pump station;
- d.) Type of collection system that overflowed, i.e., combined or separate;
- e.) Location by street address, or any other appropriate method;
- f.) Date of event;
- g.) The ultimate destination of the flow, e.g., surface waterbody, land use location, via municipal separate storm sewer system to a surface waterbody, (show location on a USGS map or copy thereof); and
- h.) Corrective actions or plans to eliminate future discharges.

The permittee shall refer to Part II of this permit, paragraph D.8. Twenty-Four Hour Reporting, to report any unpermitted discharge events which may endanger health or the environment. Submittal or reporting of any of this information does not provide relief from any subsequent enforcement actions for unpermitted discharges to waters of the United States.

6. Biosolids

The State of Alabama:

Alabama does not have the authority to administer the federal biosolids (sludge) program under 40 CFR part 503. At this time, the State does not plan to seek authorization because of budget and resource constraints. The State NPDES permits include sludge reporting requirements.

EPA Region 4:

The Region serves as the permitting authority for all eight Regional States because none of them have an approved biosolids program. The Region's NPDES and Biosolids Permits Section and the Clean Water Act Enforcement Section implement the biosolids program. The permits program provides regulatory and permitting guidance on implementation of the 40 CFR part 503 biosolids regulations, which are self-implementing, meaning that compliance with the regulations is required without issuance of an individual or general permit. The NPDES and Biosolids Permits Section serves as the permitting

authority for the biosolids program; as such, the section has several biosolids functions. These include issuing to facilities individual or general permits that are deemed necessary because of potential public health or environmental concerns; reviewing and approving site closure plans; issuing approval letters for the closure of surface disposal sites; reviewing and approving equivalent pathogen reduction processes; providing technical and compliance assistance to facility personnel, consultants, and State and local officials; and providing biosolids training to States and local municipalities. The permits section also works with the compliance and enforcement section to ensure the timely submittal of annual biosolids reports. The compliance and enforcement section implements the program by reviewing and assessing annual biosolids reports, conducting compliance evaluation inspections, drafting inspection reports, developing various types of enforcement actions, providing technical and compliance assistance, and providing training on the biosolids program.

Section III. NPDES Compliance Monitoring and Enforcement Response

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

1. Enforcement Program

The State of Alabama:

The State identifies and addresses all violations using EPA criteria outlined in program authorization documents and the MOA. The State maintains a current Enforcement Management System (EMS), which describes how and when the State will take action on violations. The EMS also addresses the level of formal enforcement that should be taken, includes consideration of several factors related to violations such as the environmental/health impacts. ADEM's EMS is called Memorandum #105 - Enforcement Strategy.

A revised EMS was forwarded to EPA Region 4 in February 2004. A complete and detailed review is pending.

ADEM and the Region are discussing and addressing ways to take timely action against permittees in significant noncompliance (SNC) for effluent violations or a combination of effluent and report or schedule violations.

The Alabama Environmental Management Act (AEMA) addresses criteria to be considered in the assessment of penalties. ADEM does not have a written penalty policy but considers the criteria established by the AEMA, which include factors such as the severity of the violation and the potential for endangerment to human health and the environment.

Once the State has issued a formal enforcement order, the order is entered and tracked in PCS and staff assigned to the enforcement action track the requirements of the action and take or recommend appropriate action using best professional judgement in conjunction with the State's EMS. The schedules, reporting requirements, and interim limits are entered into PCS for all major facilities and some non-major facilities in accordance with WENDB requirements. The attorney general's office tracks penalties received in any civil or criminal judicial case. In addition, files are reviewed by staff at the time of inspection (generally once a year for all major facilities). DMRs and noncompliance notices from permittees are reviewed upon receipt.

The data reported to EPA by the State in 2001 and 2003 indicate that the following enforcement actions were taken:

Table 4: Enforcement Actions by the State of Alabama, 2001-2003

Actions	FY2001	FY2002	FY2003
Warning Letters/Notices of Violation ^a	1,785	2,100	2,324
Administrative and Judicial Actions with Penalties	85	88	66
Penalties Assessed	\$582,550	\$847,225	\$991,800
Administrative Actions without Penalties	12	28	8

^a Includes construction stormwater and AFO/CAFO.

It should be noted that the processing of administrative orders was delayed during June-September 2003, as revised public notice procedures for penalty administrative actions were being implemented.

The reported compliance and enforcement data in PCS is EPA's basis for enforcement trend evaluation. There was a considerable difference between the enforcement action data in PCS and the enforcement numbers ADEM reported in its self-assessment. ADEM is reviewing its procedures for entry of enforcement actions into PCS to ensure that all enforcement-related information is accurately reflected in PCS.

The trend data from PCS indicate that the SNC rate for major facilities between FY2000 and FY2002 was 22-24%, and 33% in FY2003, which was higher than the national average of 21%. In addition, according to PCS, the percentage of SNC cases addressed by formal enforcement action as well as the total number of State formal enforcement actions decreased in FY2003 relative to FY2002.

This decrease in FY2003 is explained by the fact that roughly two-thirds of the instances of SNC were overdue DMRs, which were resolved or are in the process of being resolved by entering DMR data into PCS. The majority of the DMR violations were caused by DMR handling issues and/or permittee-designed DMRs that were deficient and required additional follow-up by the State before the data could be entered into PCS. ADEM is aware of these issues and is addressing them through review of its processes and procedures, and by taking appropriate measures.

Although the trend data from PCS indicates that 33% of major facilities were in SNC during FY2003, the highest quarterly SNC rate was 22.4%, which occurred during the third quarter. Based on SNC rates indicated on the moving base reports, the average quarterly SNC rate during FY2003 was 18.5%. Furthermore, some of the permittees that were in SNC should not be counted as such if they have complied with a formal enforcement action. Those formal enforcement actions addressed underlying violations of the permit limits. Instead, permittees in such cases should be reported as "resolved pending" consistent with 40 CFR section 123.45(a)(2)(B). As a result, the actual percentage of SNC would be below 32% during FY2003. The State is reviewing this information and consulting with EPA Region 4 and Headquarters to address the "resolve pending" issue for applicable facilities.

EPA Region 4:

In addition to EPA's other enforcement responsibilities under the CWA, Region 4's, Water Management Division, Water Programs Enforcement Branch is responsible for compliance tracking, inspections, and enforcement of biosolids facilities in all eight Region 4 States.

WPEB is responsible for compliance tracking, inspections, and enforcement at facilities on Tribal lands and offshore oil and gas facilities. Compliance at these facilities is tracked by enforcement staff members who make recommendations to management on the need for enforcement. During the past year, WPEB has begun to take a closer look at the Tribal facilities and the offshore oil and gas facilities and has assigned senior staff to ensure compliance at these facilities.

Enforcement against Tribal facilities is conducted consistent with EPA guidance and policies and EPA Region 4's "Policy and Practices for Environmental Protection in Indian Country." Enforcement for oil and gas facilities is conducted consistent with the Region's EMS. The Region has not taken any formal enforcement action against oil and gas facilities.

During FY2003, one administrative order, 19 administrative penalty orders, and 19 settlements were issued for biosolids violations. As of mid-year 2004, 2 administrative orders, 8 administrative penalty orders, and 8 settlements have been issued for biosolids violations.

WPEB addresses all noncompliance problems. Those which cause environmental or human health impacts are addressed in accordance with the EMS, which includes escalation of action and a penalty for noncompliance causing environmental or human health impacts.

WPEB uses the EMS along with EPA Headquarters and Regional guidance to address violations that occur at Tribal, oil and gas, and biosolids facilities. Staff members recommend and prepare actions, which are reviewed and approved by management to ensure consistency with EPA Headquarters and Regional guidance and policies.

WPEB has enforcement staff assigned to each enforcement action issued to facilities under direct implementation. The enforcement officer is responsible for ensuring that all provisions of the action are completed consistent with the requirements and the deadlines specified as part of the action. Because the assigned enforcement officer is generally the person who provided input into the action when it was issued, the enforcement officer is very familiar with the requirements and due dates. All enforcement actions are entered into PCS, which allows for the tracking of all schedule items. Follow-up site visits or meetings are held as needed to observe and discuss completion of requirements. These meetings and visits allow WPEB to learn early on of any anticipated problems in meeting deadlines so that alternatives can be discussed and WPEB management briefed.

WPEB escalates enforcement, including penalties, in accordance with the EMS.

2. Record Keeping and Reporting

The State of Alabama:

The State maintains all correspondence, including formal enforcement actions, compliance reports, and responses in the facility file. All records associated with litigation and penalty assessments are

maintained in the case files of ADEM's Office of General Counsel. All formal enforcement actions, including penalty assessment and collections, are entered into PCS. PCS data are periodically reviewed in PCS data reports. Any missing or incorrect data in PCS are entered or corrected.

EPA Region 4:

WPEB maintains compliance and enforcement files in a central location. A formal records policy is being drafted to ensure consistency in record keeping in each of the NPDES programs. Files are maintained for each facility to which the Region has issued a permit or which is covered by a general permit. Files contain DMR data, correspondence, permits, inspection reports, and enforcement actions.

3. Inspections

The State of Alabama:

The State conducts inspections in accordance with the CWA section 106 Water Grant Commitment work plan, which incorporates the Major/Minor/Stormwater Strategy.

Alabama's NPDES compliance and enforcement strategy targets inspections for all major facilities at least once a year, for minor facilities at least once every 4 years, and for at least 10% of general permittees each year. Inspections of registrants and general permittees are complaints, sensitivity of receiving streams, potential for impacts, and other factors.

Alabama's strategy for industrial, municipal, mining, construction stormwater, and AFO/CAFO, inspection targets non-filers (i.e., facilities that have failed to file or register for permit coverage) and permitted or registered sites with best management practices (BMPs) deficiencies or other violations.

The State inspected 100% (192/192) of its major permittees in the inspection year 2003 (starting July 1, 2002, through June 30, 2003), well above the national average of 69%. Also, 87.1% of the inspections the State conducted during the inspection year 2003 were at non-major facilities, compared with the national average of 77%.

The State has participated with EPA in inspection initiatives. These joint inspections include the Anniston foundry and auto salvage initiative and the Birmingham area construction stormwater initiative.

EPA Region 4:

In the past, WPEB has not committed resources to ensure that inspections were conducted at the Alabama Tribal or oil and gas facilities; these facilities were therefore not inspected routinely or in accordance with any strategy.

For Tribal facilities, WPEB does not have an inspection/monitoring strategy for the facilities under direct implementation, because they are few in number. The assigned enforcement officer is responsible for preparing a yearly work plan identifying priorities and inspection targets for each fiscal year. Effluent data for each facility are regularly reviewed to determine noncompliance and appropriate Regional action. WPEB now attempts to conduct inspections at major tribal facilities once a year and inspections at minor Tribal facilities once every 5 years. The Region inspected 100% of the major Tribal facilities during the 2004 inspection year.

For offshore activities, including oil and gas facilities, WPEB cannot readily access facilities for inspections and therefore relies on file reviews to determine compliance. Effluent data for each facility are regularly reviewed to determine noncompliance and appropriate Regional action. Because of the number of facilities and limited access, WPEB does not have the resources to conduct inspections at every oil and gas facility every 5 years. During the 2003 inspection year, WPEB personnel conducted an inspection at one oil and gas facility, and a performance audit inspection at a laboratory used by the oil and gas facilities.

Biosolids inspections are focused on environmental justice areas and impaired watersheds identified by the Water Management Division, as well as States that have rescinded their State biosolids regulations. During the 2003 inspection year, WPEB conducted a total of 7 biosolids inspections at minor facilities and 19 inspections at major facilities throughout the Region. However, EPA Region 4 did no inspections at minor facilities in Alabama during inspection year 2003.⁶ As of midyear 2004, WPEB had conducted biosolids inspections at 2 minor facilities and 17 major facilities throughout the Region.

4. Compliance Assistance

The State of Alabama:

Region 4 States have improved environmental performance through the development and implementation of compliance assistance activities. These activities have been used in work with individual entities, groups of regulated entities, and trade associations. The compliance assistance activities include innovative strategies, pollution prevention, and sustainable management practices.

Alabama's Clean Water State Revolving Fund provides financial assistance to communities to correct wastewater treatment and collection deficiencies, to meet more stringent water quality requirements, or to support environmentally responsible population growth and economic development.

Alabama's Pollution Prevention Program (P2 Program) assists the regulated community in its efforts to achieve source reduction. Annual Director's Awards are given to facilities that have implemented facility-wide, written P2 plans and have demonstrated environmental results. Achievement awards are presented to facilities that demonstrate P2 benefits through individual projects or activities.

Alabama also participates in an industrial workgroup with permitted industries from various sectors, meeting quarterly to discuss regulatory issues affecting industry.

Alabama's construction stormwater and AFO/CAFO programs conduct continuing outreach efforts for the regulated community.

Alabama's Nonpoint Source Education for Municipal Officials (NEMO) is an educational program to address water quality through land use and natural resource planning. NEMO outlines a three-tiered strategy of natural resource-based planning, site design, and the use of stormwater BMPs that municipalities can use to address their land use and nonpoint source pollution.

⁶ Management Report measure #33 (inspections at minors) / (total inspections at majors and minors) lists 30% for EPA Activities in the National Data Sources column. Data downloaded from PCS by Region 4 show that the Region conducted seven inspections during inspection year 2003, all of which were at major facilities, so the correct value for this measure is 0%.

EPA Region 4:

Region 4, along with Region 6, is negotiating a MOA with the Department of Interior's Mines and Minerals Services (MMS) to incorporate NPDES elements into MMS inspections and provide compliance information to the Region. MMS is required to visit each oil and gas facility annually. The MOA would greatly benefit the Region and its compliance monitoring efforts because access to these offshore facilities is difficult.

WPEB began providing compliance assistance to the Tribes during 2003 through on-site visits, telephone calls, and conferences. WPEB will continue to provide compliance assistance to the Tribes in the future.

Biosolids compliance assistance is provided to both facilities and States through presentations at workshops and conferences.

Section IV. Related Water Programs and Environmental Outcomes

1. Monitoring

The State of Alabama:

The State submitted a draft monitoring strategy on April 30, 2004, addressing all 10 elements consistent with the work plan for State grant funding under CWA section 106. EPA provided comments to the State on August 25, 2004; a final monitoring strategy is due ninety days from receipt of EPA's comments. Alabama implements a statewide probability monitoring program and uses a rotating basin approach to water quality monitoring to maximize monitoring results in any given year for targeted water bodies. Monitoring is conducted for major permits to assist in determining water quality-based effluent limits where necessary. The need for information and the permit cycle dictate the extent of monitoring conducted each year for this purpose.

EPA Region 4:

Each Tribe has a monitoring program. The Region considers monitoring information gathered by the Tribe, if available and applicable, when developing NPDES permits. Basin monitoring plans do not exist on Indian lands and therefore are not considered when developing permitting schedules.

The Poarch perform basic monitoring for fecal coliform bacteria, total suspended solids, alkalinity, biochemical oxygen demand, sulfates, phosphorus, nitrogen, and dissolved oxygen. This is done on a small scale in keeping with the size of the reservation and number of water bodies.

2. Environmental Outcomes

The State of Alabama:

The percentage of assessed waters fully supporting their uses, according to the 2002 water quality inventory prepared under CWA section 305(b), is as follows: 89% assessed river/stream miles, 84% assessed lake acres, and 11% assessed estuaries.

A trend analysis for the State's reservoirs and a discussion of the State's long-term ambient monitoring network are included in the 2002 CWA section 305(b) report.

EPA Region 4:

The Tribes are not required to prepare a CWA section 305(b) report, and the Region does not have the resources to fully assess river/stream miles and lake acres on Indian lands. There are no estuaries on Indian lands in Region 4. The Region is working with Tribes to direct their existing monitoring programs toward the assessment of waters. A cornerstone of this effort is the Region's emphasis on the Tribes' adoption and EPA approval of water quality standards, and this effort is under way in the Region.

3. Water Quality Standards

The State of Alabama:

The State conducts a triennial review of water quality standards and uses that time to consider comments from the public and comments and guidance from EPA. According to information received during the triennial review, the State adopts revisions of water quality standard over the course of the subsequent 3 years. As the State adopts or revises water quality standards, a thorough examination of how the standards will be implemented through the NPDES program is conducted. When a standard is made available for public comment, the State explains to NPDES permittees and other interested groups exactly how the water quality standard will be implemented. The State has provisions for compliance schedules, which are used when needed.

Water quality standards can be used to address individual permit issues through use attainability analyses (UAAs). UAAs allow for determining whether a designated use other than “fishable/swimmable” is the highest attainable use in a given situation. UAAs have been prepared to determine appropriate uses in Alabama pursuant to applicable regulations. Alabama has historically used UAAs to address use upgrades.

When TMDLs have been developed, Alabama incorporates WLAs into NPDES permits as they are expressed in the TMDL (as a load or a concentration). The State keeps an updated list of completed and approved TMDLs and uses this list when drafting NPDES permits to ensure that WLAs derived from the TMDL are incorporated into the permits. Permit fact sheets discuss the TMDL and appropriate WLA for the affected permit. Reissued permits involving discharge of a parameter of concern to a stream on the CWA section 303(d) list generally contain a reopener clause to modify the permit when a TMDL is approved.

EPA Region 4 approved Alabama’s enterococci standard⁷ for recreational waters, which is in accordance with the Beaches Environmental Assessment and Coastal Health (BEACH) Act, on June 25, 2004. For certain lakes and reservoirs in Alabama, water body-specific criteria for nutrients, expressed as chlorophyll *a*, have been adopted.

EPA Region 4:

Region 4 writes permits to protect designated uses, in accordance with federal requirements for offshore dischargers.

The permitted facilities on Indian lands in Region 4 discharge to fishable/swimmable streams. Municipal facilities and facilities discharging waste contaminated with fecal material use appropriate disinfection, and in the absence of ultraviolet disinfection, the Region provides appropriate limits, considering the 7Q10 (the lowest flow that occurs in a stream for 7 consecutive days in a 10-year period) of the receiving water for total residual chlorine as needed. The Region reviews DMRs for any violations of NPDES

⁷ Management Report measure #52 (WQS for E. coli or enterococci for coastal recreational waters) indicates “N” for State Activities in the National Data Sources column. The State has an enterococci standard for recreational waters, therefore “Y” is appropriate for this measure. The reason for this discrepancy is that Alabama adopted the enterococci standards in 6/04, while the National Data Sources column reflects activity through 1/1/04.

permits involving discharges on Indian lands and coordinates with appropriate public health agencies as needed.

The Poarch Band of Creek Indians have adopted Tribal environmental regulations. EPA has not made a determination whether they meet federal requirements for standards status.

4. Total Maximum Daily Loads

The State of Alabama:

TMDL development is under way in Alabama. It is expected that Alabama will meet the TMDL development schedule of 13 years from the date of original listing. Until November 2004, TMDL development is dictated by a consent decree. ADEM and EPA Region 4 have worked cooperatively to stay on track to meet the consent decree schedule for TMDL development.

Delays have occurred in TMDL finalization for specific water bodies with scientifically difficult pollutant conditions in Alabama. These TMDLs are undergoing additional review and will either be proposed again with more appropriate allocations or finalized over the course of the next year.

EPA Region 4:

No Tribal waters have been identified as impaired. Therefore, TMDLs have not been developed for Indian lands. In issuing permits on Indian lands, EPA Region 4 considers affected State waters that have TMDLs. All other facilities besides those discharging to Indian lands are ocean discharges and the receiving water is not classified as impaired.

5. Safe Drinking Water Act

The State of Alabama:

The State identifies water bodies used as drinking water sources as having a public water supply designated use. Criteria associated with the protection of the drinking water supply apply to these water bodies. All WLAs and water quality-based effluent limits are written to comply with the criteria associated with the drinking water designated use.

EPA Region 4:

EPA Region 4 considers all designated uses when developing NPDES permits for Indian lands and location of drinking water intakes.

Section V. Other Program Highlights

The State of Alabama:

Alabama has taken a number of steps to improve the quality and efficiency of NPDES permitting. ADEM has made effective use of its general permit authority to manage its workload. The expanded use of general permits includes wastewater from petroleum-contaminated groundwater clean-up and handling operations, noncontact cooling water, hydrostatic test water, and stormwater runoff from 16 industrial sectors. The State also administers two general permit-by-rule programs for construction stormwater runoff and AFO/CAFOs.

In addition, the State has developed spreadsheet programs to calculate limitations based on the federal effluent guidelines for organic chemicals, plastics, and synthetic fibers and pesticides. The program also calculates the water quality-based limitations, compares the result with guideline limitations, and tabulates the more stringent for each parameter.

Another spreadsheet program has been developed to assess reasonable potential. Relevant flow data, concentrations of pollutants, and other information are entered into the program, which calculates and compares the potential in-stream pollutant concentration to the water quality standard.

The State uses templates where appropriate to streamline the development of NPDES permit fact sheets. These templates show all permitting requirements that must be considered. The use of templates helps to ensure consistency in permit development. Checklists are used for tracking the permitting process.

To maintain and enhance program effectiveness, the State has emphasized training for both new and experienced staff. The State has sponsored or will sponsor several training courses provided by an EPA contractor. All permit writers in ADEM attended a 4-day training course for NPDES permit writers. In addition, a 2-day NPDES inspector training course was provided to 36 staff members. A 2-day NPDES wastewater treatment performance training class was provided for 18 staff members.

The State maintains a comprehensive Web site. Information previously requested of staff by the regulated community and general public is available on the Web site. This includes NPDES applications received, lists of facilities about which public notice had been given, draft NPDES permits and fact sheets, public notice of enforcement actions involving civil penalties, forms, regulations, and other information.

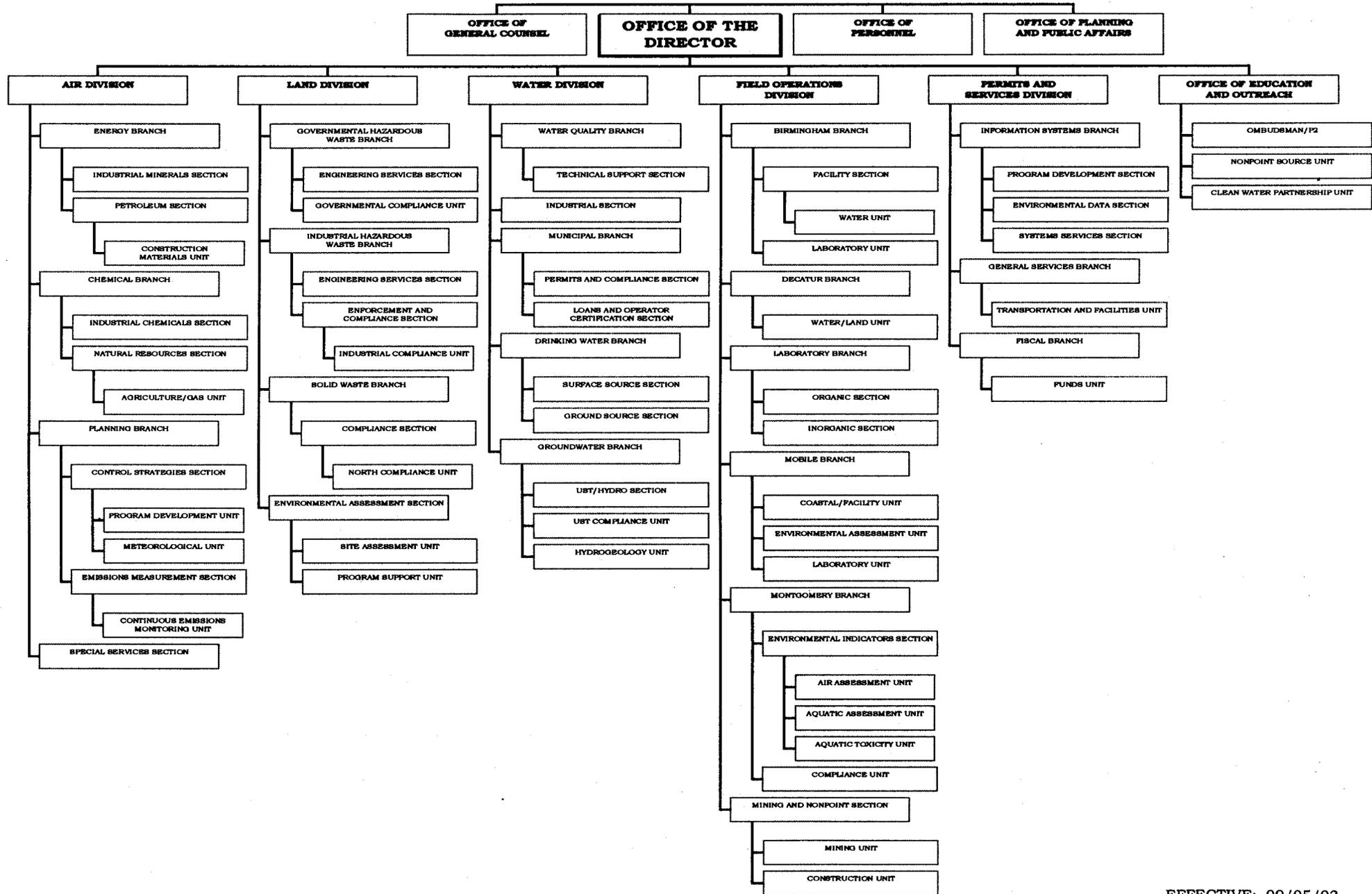
The State is in the process of completing electronic transfer of draft and final NPDES permits to Region 4 for review. The Field Operations Division has implemented a process to electronically transmit the Mining and Nonpoint Section's NPDES permit packages to EPA for review. This process is being expanded to include transmittal of industrial and municipal individual NPDES permits.

EPA Region 4:

The Region has developed a standardized template representing the standard language required under 40 CFR part 122. This permit tool helps to streamline permit issuance.

The general permit for oil and gas extraction facilities has allowed Region 4 to streamline the issuance of permit coverage for 290 wells.

ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT



NPDES Management Report, Fall 2004

Alabama

			Profile Section	GPRA Goal	Nat. Avg.	National Data Sources		Additional Data	
						State Activities	EPA Activities	State Activities	EPA Activities
NPDES Progress									
Universe	1	# major facilities (6,690 total)	I.1		n/a	192	0		
	2	# minor facilities covered by individual permits (42,057 total)	I.1		n/a	1,396	2		21
	3	# minor facilities covered by non-storm water general permits (39,183 total)	I.1		n/a	79	0		
	4	# priority permits (TBD)	I.6			--	--		
	5	# pipes at facilities covered by individual permits (142,761 total)	I.7		n/a	5,611	--		
	6	# industrial facilities covered by individual permits (32,505 total)	I.1		n/a	1,225	19		21
	7	# POTWs covered by individual permits (15,197 total)	I.1		n/a	289	0		
	8	# pretreatment programs (1,482 total)	II.2		n/a	n/a	--		
	9	# Significant Industrial Users (SIUs) discharging to pretreatment programs (22,158 total)	II.2		n/a	--	--	300	
	10	# Combined Sewer Overflow (CSO) permittees (831 total)	II.5		n/a	0	--		
	11	# CAFOs (current and est. future) (17,672 total)	II.3		n/a	450	--		
	12	# biosolids facilities (TBD '05)	II.6			--	--		
NPDES Program Administration	13	State or Region assessment of State NPDES program (none (N)/assessment (A)/profile (P))	I.1	50 states 2004	n/a	A, P	P		
	14	% pipes at facilities covered by individual permits w/ lat/long in PCS	I.7		46.3%	23.2%	--		
	15	State CAFO legal authority expected (mo/yr)	II.3	2005	n/a	NC	n/a		
	16	# Withdrawal petitions/legal challenges (22 total)	I.4		n/a	1	n/a		
	17	DMR data entry rate	I.7		95%	99%	--		
	18	# permit applications pending (1,011 total)	I.6		n/a	7	--		4
NPDES Program Implementation	19	% major facilities covered by current permits	I.6	90%	83.7%	94.8%	n/a		
	20	% minor facilities covered by current individual or non-storm water general permits	I.6	90% 12/04	87.0%	97.3%	0.0%		42.9%
	21	# major facilities w/permits expired >10 yrs. (56 total)	I.6		n/a	0	0		
	22	% priority permits issued as scheduled (TBD '05)	I.6	95% 2005		--	--		
	23	% pretreatment programs inspected/audited during 5 yr. inspection period	II.2		85.3%	n/a	--		
	24	% SIUs w/control mechanisms	II.2		99.2%	--	--	100.0%	
	25	% of CSO permittees with long-term control plans developed or required	II.5	75% 2008	82.2%	n/a	--		
	26	% CAFOs covered by NPDES permits	II.3		35%	100%	--		
	27	% biosolids facilities that have satisfied part 503 requirements (TBD '05)	II.6			--	--		
	28	# Phase I storm water permits issued but not current (76 total)	II.4		n/a	0	n/a		
	29	# Phase I storm water permits not yet issued (5 total)	II.4		n/a	0	0		
	30	Phase II storm water small MS4 permits current (Y/N/D (draft) (35 States)	II.4	100% states 2008	n/a	Y	n/a		
	31	Phase II storm water construction permit current (Y/N/D (draft) (49 States)	II.4	100% states 2008	n/a	Y	Y		
NPDES Compliance Monitoring and Enforcement Response	32	% major facilities inspected	III.3		71%	100%	4%		
	33	(inspections at minors) / (total inspections at majors and minors)	III.3		76%	87%	30%		0%
	34	% major facilities in significant non-compliance (SNC)	III.1		20%	33%	--		
	35	% SNCs addressed by formal enforcement action (FEA)	III.1		14%	9%	--		
	36	% SNCs returned to compliance w/o FEA	III.1		70%	74%	--		
	37	# FEAs at major facilities (666 total)	III.1		n/a	7	1		
	38	# FEAs at minor facilities (1,660 total)	III.1		n/a	20	0		

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

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

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

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

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

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Alabama

		Profile Section	GPRA Goal	Nat. Avg.	National Data Sources		Additional Data		
					State Activities	EPA Activities	State Activities	EPA Activities	
Water Quality Progress									
Universe	39	River/stream miles (3,419,857 total)	IV.2		n/a	77,242	n/a		
	40	Lake acres (27,775,301 total)	IV.2		n/a	490,472	n/a		
	41	Total # TMDLs in docket at end of FY 2003 (52,795 total)	IV.4		n/a	381	--		
	42	# TMDLs committed to in FY 2003 management agreement (2,435 total)	IV.4		n/a	n/a	n/a		
	43	# Watersheds (2,341 total)	IV.2		n/a	--	--		
Water Quality Administration	44	On-time Water Quality Standards (WQS) triennial review completed (42 States)	IV.3		n/a	Y	n/a		
	45	# WQS submissions that have not been fully acted on after 90 days (32 total)	IV.3	<25% submissions	n/a	n/a	1		
Water Quality Implementation	46	State is implementing a comprehensive monitoring strategy (Y/N) (TBD)	IV.1	all states 2005	--	--	--		
	47	% river/stream miles assessed for recreation	IV.2		13.8%	23.0%	n/a		
	48	% river/stream miles assessed for aquatic life	IV.2		22.0%	25.0%	n/a		
	49	% lake acres assessed for recreation	IV.2		49.4%	40.0%	n/a		
	50	% lake acres assessed for aquatic life	IV.2		48.5%	95.0%	n/a		
	51	# outstanding WQS disapprovals (23 total)	IV.3		n/a	0	n/a		
	52	WQS for E. coli or enterococci for coastal recreational waters (12 States)	IV.3	35 states 2008	n/a	N	n/a	Y	
	53	WQS for nutrients or Nutrient Criteria Plan in place (13 States)	IV.3	25 states 2008	n/a	N	n/a		
	54	Cumulative # TMDLs completed through FY 2003 (10,807 total)	IV.4		n/a	79	--		
	55	# TMDLs completed in FY 2003 (2,929 total)	IV.4		n/a	55	66		
Environmental Outcomes	56	# TMDLs completed through FY 2003 that include at least one point source WLA (5,036 total)	IV.4		n/a	46	--		
	57	% Assessed river/stream miles impaired for swimming in 2000	IV.2		--	--	n/a		
	58	% Assessed lake acres impaired for swimming in 2000	IV.2		--	--	0.0%		
	59	# Watersheds in which at least 20% of the water segments have been assessed and, of those assessed, 80% or more are meeting WQS (440 total)	IV.2	600 2008	n/a	--	--		

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