



Permitting for Environmental Results (PER)

NPDES Profile: Florida and Indian Country

PROGRAM RESPONSIBILITY

State of Florida: NPDES authority for base program, general permitting, federal facilities, and 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, please contact Elsa Potts, Florida Department of Environmental Protection, at (850) 245-8665, or Virginia Buff, EPA Region 4, at (404) 562-9262.

Section I. Program Administration

1. Resources and Overall Program Management

The State of Florida:

The NPDES program is administered within the Florida Department of Environmental Protection (FDEP), which is headed by a Secretary who oversees all the environmental programs in the State. There are three deputy secretaries, one of whom is responsible for the Regulatory Programs. There are three divisions in the Regulatory Programs, including the Water Resource Management Division. Under this division there are five bureaus. Under the Bureau of Water Facilities Regulation is the Office of Wastewater Management, where the traditional NPDES Wastewater Program (including the Pretreatment Program) is located. There are also six FDEP Regulatory District offices located throughout the State. Many of the NPDES permitting and enforcement activities are handled by staff in the Regulatory District offices. Staff at the Tallahassee office perform steam electric power plant permitting. The NPDES Storm Water Section is within the Bureau of Watershed Management, with no permitting and enforcement activities conducted by the district offices.

The 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 water quality standards.

Table 1: Florida Resource and Program Summary

Scope of NPDES Program in Florida		Approval Date	
NPDES Permit Program		5/01/95	
Federal Facilities and Storm Water		5/01/00	
Pretreatment Program		5/01/95	
General Permits		5/01/95	
Biosolids		Not authorized	
The Concentrated Animal Feeding Operation (CAFO) permitting authority was authorized at the same time as the base NPDES program.			
NPDES Universe in Florida (based on the 7/9/04 Management Report)			
FY2003	Major Facilities	Minor Facilities	Minor Non-Storm Water Facilities w/General Permits
No. of Sources	241	277	958
% National Universe	3.6%	0.66%	2.4%
Florida's NPDES Program Resources			
Source		Amount for FY2003	
State ^a		\$15,186,394	
Federal Funding		\$ 3,093,075	
Total Funding		\$18,279,469	

^aState law requires that the NPDES program pay for itself; thus, annual surveillance fees are used directly for Florida's NPDES program positions.

The State/EPA Memorandum of Agreement (MOA) was executed in 1995. On May 1, 2000, the State assumed authority to implement the NPDES program for federal facilities and stormwater dischargers.

The State provides a basic inspector training course to its new inspectors annually. The course, taught by the Department's more experienced inspectors, includes "hands-on" field work as well as classroom setting course work.

The State conducts annual Compliance and Enforcement (C/E) workshops, which are specific to Department C/E staff, as well as an annual Wastewater Program workshop specific to wastewater issues, including NPDES topics. EPA Region 4 staff are invited to participate in these workshops.

FDEP has developed a "Florida Department of Environmental Protection Wastewater Program Permit Writer's Manual" to assist staff in reviewing permit applications and drafting wastewater facility permits. The manual covers all areas of the permitting process. In addition, the State sends new permit writers to the EPA NPDES permit writer's course.

Florida's pretreatment program staff members receive on-the-job training and attend training workshops, as available. Also, Florida has developed the "Florida Guidance Manual for Pretreatment Programs," which is used to train new pretreatment program staff.

The NPDES Storm Water Section has developed standard operating procedures for permit writing and for stormwater inspections related to construction, industrial, and municipal stormwater facilities. Inspectors are rigorously trained prior to unescorted field inspections, and all construction inspectors are certified under Florida's Stormwater and Sedimentation Control Inspectors Program. Municipal inspections follow detailed protocols, which are initiated by receipt of annual reports. Detailed annual report review and inspection checklists are developed to track each "compliance" evaluation case until closure of each annual compliance event.

For the last 3 years, FDEP has experienced continuity of NPDES staff.

EPA Region 4:

The NPDES program is administered within EPA Region 4 in the Water Management Division, Permits, Grants and Technical Assistance Branch (PGTAB) and the Water Programs Enforcement Branch (WPEB). Permitting responsibilities are located in the NPDES and Biosolids Permits Section of the PGTAB, and enforcement responsibilities for the NPDES program are shared between the Central, Gulf, and Eastern Enforcement Sections of the WPEB.

The permitting and enforcement sections coordinate activities pertaining to Region 4's direct implementation of the NPDES program. For example, NPDES enforcement reviews all draft permits written by the Region and NPDES permitting 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 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 and federal water quality standards.

The Region has direct implementation responsibilities for issuing permits on Indian lands in Alabama, Florida, Mississippi, and North Carolina; offshore oil and gas extraction facilities; other offshore activities in the Gulf of Mexico and the Atlantic Ocean in Alabama, Florida, Georgia, Mississippi, North Carolina, and South Carolina; and federal facilities in Florida.^{1,2} The Region has direct implementation

¹ Management Report Item #2 (minor facilities covered by individual permits) lists a 0 for Florida Environmental Protection Agency (FLEPA) activity in the National Data Sources columns, which is based on data as of June 12, 2004. EPA Region 4 data reports indicate that the Region has direct implementation responsibilities for one minor federal facility in the State of Florida. This facility was not included in the national data counts because it was not on a list of EPA-issued permits provided by the Region for the development of the backlog report, which is the national data source for this measure.

² Management Report Item #6 (industrial facilities covered by individual permits) lists 0 for FLEPA activity in the National Data Sources columns, which is based on data as of June 12, 2004. EPA Region 4 data reports indicate that the Region has direct implementation responsibilities for one industrial federal facility in the State of Florida. As of June 12, this facility had not been entered into PCS. The PCS data have since been corrected.

responsibilities for biosolids in Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee.

The Region is also responsible for issuing one major publicly owned treatment works (POTW), off the coast of Florida in Miami and discharging to federal waters. This is for the 140 million gallons per day (MGD) Central District at Virginia Key facility issued to the Miami-Dade Water and Sewer Department, NPDES Permit #FL0024805.

The Region issues all permits for oil and gas extraction facilities discharging in federal waters. Off the coast of Florida, the Region covers facilities with a general permit. A total of 290 facilities are covered by a general permit in the Region. Because these facilities do not reside within the borders of a single State, they are not represented in the National Data columns of the management report for any one State. These facilities are located off the coasts of Mississippi, Florida, and Alabama.

As of May 26, 2004, 100% of the facilities covered by EPA-issued permits on Indian lands are current. As of June 30, 2004, the Miami-Dade permit has been administratively continued as EPA Region 4 and the permittee continue to work toward the resolution of outstanding issues.

The NPDES and Biosolids Permits Section has dedicated 1.0 full-time equivalent (FTE) 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 Regional States. The resources for 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. 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 12, 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 of the offshore oil and gas extraction general permit in FY2004 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 NPDES permitting and enforcement for the Miami-Dade Water and Sewer Department, Central District at Virginia Key facility is handled by the existing Regional Florida permit coordinator and enforcement officer. Resources are adequate at this time.

The Region prioritizes permit issuance by reissuing permits as they expire, targeting a 0% backlog, 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 Permitting 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

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

3. EPA Activities in Indian Country

The Region has direct implementation responsibilities for the Seminole and Miccosukee lands in Florida. There are no individual NPDES permits in Indian Country within the boundaries of the State of Florida at this time. The Region issued one general permit for Indian lands on March 20, 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.

EPA coordinates with the Tribes via the appropriate Tribal staff, as needed. At a minimum, EPA staff members participate in the annual Tribal Director's meeting to inform the Tribes of new issues and initiatives, provide updates, and receive the same from the Tribes.

The Region works with the Tribes to ensure timely application for, and issuance of, NPDES permits and modifications on Tribal lands. Where private entities discharging on Tribal lands are the applicants, the Tribes are kept abreast of permitting issues through public notice efforts, courtesy copies, and phone calls or email 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 these 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.

On March 19, 2004, the Sierra Club, the Natural Resources Defense Council, and Linda Young, a private citizen, filed a petition to withdraw Florida's NPDES authority based on concerns with the State's authority to implement dioxin limits in NPDES permits, length of compliance schedules, concentrated animal feeding operations (CAFOs), administratively continued permits, and Florida's administrative appeal and public participation procedures.

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 Florida:

The State provides for public participation in its NPDES program under Florida Administrative Code 62-620. The term public for noticing persons is defined as the universe of the "persons" described as follows. Section 120.52(13) Florida Statutes defines a "person" as "any person described in 1.01 F.S., and unit of government in or outside the State, and any agency described in subsection (1)." The referenced 1.01 F.S. states "the word 'person' includes individuals, children, firms, associations, joint ventures, partnerships, estate, trusts, business trusts, syndicates, fiduciaries, corporations, and all other groups or combinations."

Florida public participation procedures for NPDES permits include the use of public notice in newspapers, procedures for public comments, public meetings, and administrative hearings. In addition, members of the public can ask for an administrative hearing to contest a permit. The formal procedures for public participation in permitting activities are listed in 62-110.106(6), 62-620.550, and 62-620.555 of the Florida Administrative Code. For all major facilities and facilities of local interest, each applicant is required to publish, at its own expense, a notice regarding the availability of the draft permit in the local weekly or daily newspaper. A number of persons receive copies of the notice by mail including the following:

- The applicant
- Any other interested agency; federal and State agencies with jurisdiction over fish, shellfish, and wildlife; historical and archaeological sites; and over coastal zone management plans
- Any local government having jurisdiction over the area
- Persons on FDEP's mailing list
- Any industrial user contributing to the POTW
- Any affected State or Indian Tribe

The public is able to access Florida's information on the State's Web site at <http://www.dep.state.fl.us>. The Web site provides information on persons to contact, permit application forms, water quality standards, rules and regulations, and other related information. Many NPDES permits and fact sheets

issued by the State can be accessed online at EPA's Web site. Instructions for accessing these documents are at <http://www.epa.gov/npdes/permitdocuments>.

During the NPDES public review period, permits are available for review at the FDEP District office where the permit is issued. All permit records including the application, the draft permit, the fact sheet or statement of basis, and other correspondence are available to the public. The public has 30 days to comment from the time the public notice is given.

With respect to public participation involving enforcement actions, the State uses its discretion in providing notice to known third parties that have expressed an interest in a particular facility. In some cases where the State is aware of public interest, public meetings are held and executed orders are published in local newspapers. In cases where little public interest has been demonstrated, the State may opt not to issue any public notice to third parties, other than that contained in the order boilerplate language.

EPA Region 4:

The Region follows all public participation requirements of the Clean Water Act (CWA) and requirements contained in 40 Code of Federal Regulations (CFR) part 124. The Region's public participation procedures include the use of public notice in newspapers, 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 affected by offshore activities. Copies of all draft permits, fact sheets or statements of basis, public notice, 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 request can also be made directly to the Region.

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

The Region 4 NPDES permitting Web site can be accessed at <http://www.epa.gov/region4/water/permits>. It includes information regarding the Region's organization, permit access through a link to 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 Florida:

The State of Florida administers all point source pollution control programs with the exception of point sources in Indian lands. At the end of calendar year 2003, Florida's permit issuance rate for major facilities was 83%, which is in line with the national average (84.4%) but short of meeting the national current permit goal (90%) for major facilities. The State's permit rate for minor facilities was 92.7%, which exceeded the national permit average (81.4%) in 2003 and meets the 2004 national goal of 90%. There are six major dischargers and five minor dischargers with permits expired for more than 2 years. The permit issuance and trends data for 2000 to 2004 are shown below.

The State of Florida's strategy for increasing the rate of timely issuance of permits includes preparation of monthly backlog reports and conduct of monthly teleconferences with the State District offices to discuss issues relating to the backlog. The Tallahassee office provides assistance to the Districts where controversial or complicated issues have to be resolved. This strategy will help the State in meeting the national permit goal of 90% by the end of 2004.

The States in Region 4 are kept well informed on their backlog status through the implementation of the Regional Low Backlog Maintenance Strategy. On a monthly basis since the mid-1980s, EPA Region 4 has provided the State with an NPDES update report that includes current backlog numbers. Reports are requested from any State having major backlogs greater than 10%. For each permit that is expired for more than 2 years, the State must provide the reason for the backlog, issuance progress, and a tentative date for reissuance. 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, per the EPA/State MOA. The State in turn informs EPA if any draft permits on the nonreceipt list have been sent, allowing any misdirected draft permit to be located or resent quickly.

To efficiently issue permits and achieve consistency throughout the State, permit writers use a computer application called Wastewater Permit Builder. This tool assimilates permit application information entered by the permit writer and automatically generates the draft permit, the fact sheet or statement of basis, discharge monitoring report (DMR) forms, and notices.

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

	2000	Nat'l Avg.	2001	Nat'l Avg.	2002	Nat'l Avg.	2003	Nat'l Avg.
Major Facilities	93.2%	74%	85.9%	76%	84.8%	83%	83.0%	84%
Minor Facilities Covered by Individual Permits	84.5%	69%	86.0%	73%	91.3%	79%	92.7%	81%
General Permits Covered by Individual or Non-stormwater General Permits	N/A	N/A	N/A	N/A	97.6%	85%	98.1%	86%

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

EPA Region 4:

The Region prioritizes permit issuance by reissuing permits as they expire, targeting a 0% backlog, and processes new applications as they are received for dischargers on Indian lands and for offshore activities. This strategy is sufficient in light of the limited direct implementation responsibilities of the Region. The Region is not considering permitting prioritization on a watershed basis.

7. Data Management

The State of Florida:

Florida uses a local database called the Wastewater Facility Regulation (WAFR) system to track most NPDES data and uses PCS to directly track DMR data. WAFR currently updates PCS through a batch upload process but may switch this process to a different computer-aided method in the near future.

Florida enters all Water Enforcement National Database (WENDB) data elements for which data are available. Locational data are collected and entered at the facility level and where available for outfalls. Monthly retrievals from PCS and WAFR are compared for validation of both systems. When discrepancies are found, they are researched against source documents and the appropriate corrections are made.

The State was recently able to update 489 latitude/longitude pipe level data fields from data contained in the State databases, which will increase the data entry rate in PCS to approximately 34%. The State will continue to research other State databases that may contain accurate latitude/longitude information and metadata for entry into PCS. The State will also begin determining (through mapping techniques) or collecting through global positioning system (GPS) information accurate geographical information system (GIS) for missing elements in the near future.

In addition, the State has populated the flow data element in PCS for all facilities that have a design capacity. The flow data element entry rate for major facilities will now be 77% complete and will be 73% complete for minor facilities. All facilities that do not have the flow data element completed in PCS are nonmunicipal facilities that have primarily intermittent (or wet-weather) types of discharges and do not have an associated flow capacity.

EPA Region 4:

The Region manages basic permit and compliance information in PCS for major and minor facilities, including sanitary sewer overflows (SSOs), stormwater, pretreatment, and biosolids using PCS. The Region does not use any supplemental data management systems, other than the notice of intent (NOI) database administered by the EPA Headquarters contract 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 it has direct implementation responsibilities.

PCS update reports are reviewed for error detections. If errors are discovered after entry, corrections are made as soon as the discovery is made.

Section II. Program Implementation

1. Permit Quality

The State of Florida:

The State of Florida routinely assesses whether a given facility discharges to a section 303(d) listed stream (list of impaired water bodies prepared under CWA section 303(d)) and coordinates with its TMDL program to incorporate any WLA requirements into the NPDES permit. If a TMDL has not yet been established, the State ensures that historical permit loadings are maintained for nutrients and for other pollutants that do have numeric criteria. In these cases, the TMDL is needed to establish the allowable stream load for the pollutant of concern. Where there are numeric criteria for the pollutants of concern, the State writes permits to impaired waters to limit discharges of those pollutants, so that the discharge does not cause or contribute to the existing impairment, whether the TMDL has been established or not. In addition, the State ensures that technology-based requirements, at a minimum, are incorporated into the NPDES permit.

To further protect water quality, the State has developed reasonable assurance procedures for both chemical-specific parameters and whole effluent toxicity (WET), which have been approved by EPA. The State's reasonable assurance procedures use a statistical evaluation of effluent data to determine the theoretical maximum value that could be discharged. This maximum value is then compared with the water quality standards, and an effluent limit is assigned if there are possible exceedances of the standard. The State uses standardized language and templates, whenever possible, to streamline permit development.

To improve permit quality and efficiency, the State routinely uses general permits. The State administers three general permits for non-stormwater discharges, with a total of 958 facilities under coverage. The State also administers three general permits for stormwater discharges, covering a total of 7,181 facilities.

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 a rigorous real-time review. The Region 4 State Coordinator provides comments or concerns based on his or her review. Fact sheets and statements of basis have been found to be clear and concise, providing a regulatory citation for each limitation or permit requirement. Each year Region 4 also conducts a midyear and end-of-year review of the State's NPDES program. The midyear review is to review the administrative and technical NPDES permitting processes and to audit a representative sample of permits that do not receive real-time review during the previous year, using a standardized format. Interviews are conducted with State NPDES management based on a predetermined questionnaire. The midyear process is completed by a site visit by the Water Division Director, or designee, to discuss any identified issues. The State works on corrective actions, if necessary, and the Region conducts follow-up during the end-of-year phone evaluations.

The State of Florida has developed and has been implementing a WET program. Effluent limits for WET are based on numeric criteria for acute toxicity. Permit writers use the State's Permit Writer's

Manual, which includes a section on developing WET limits for NPDES permits. The State has also adopted WET Test Methods at 40 CFR part 136. The State of Florida routinely incorporates sublethal limits in NPDES permits, as needed.

EPA Region 4:

EPA Region 4 routinely assesses whether a given facility discharges to a section 303(d) listed stream and coordinates with its 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 WET.

The Region uses standardized language and templates, 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 provisions are incorporated in permits.

To improve permit quality and efficiency, the Region routinely uses general permits. On March 10, 2004, the Region issued a general permit for Indian lands covering the discharge of stormwater from construction activities. The Region, in conjunction with several other Regions, issued on October 20, 2000, 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 facilities.

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, with any issue identified being addressed during permit development.

The Region has developed and has been implementing a WET program. The Region evaluates data from the application or historical information and determines whether, based on reasonable potential, a WET limit is needed. Sublethal limits would be 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 and enforcement, if needed, for WET limits in NPDES permits. The NPDES permitting staff rely on existing staff expertise to provide education within the Region and to States.

2. Pretreatment

The State of Florida:

Florida received authorization to administer the pretreatment program on May 1, 1995. Currently, there are 48 approved pretreatment control authorities in the State. These approved programs act as control authorities for 360 significant industrial users (SIUs), of which 273 are categorical industrial users

(CIUs).^{3,4} An additional 19 programs discharge under reclamation and reuse permits. While these 19 programs are not included in national counts because they do not discharge to surface waters and therefore do not have NPDES permits, the State includes them in its count of approved pretreatment programs, treating them the same as its surface discharging programs.

One hundred percent of SIUs have control mechanisms, and the State has authority to directly regulate industrial users in the absence of an approved pretreatment program. The State acts as the control authority for two CIUs at this time, and both of them have permits. The State receives monitoring data and reports in accordance with 40 CFR 403.12 and tracks compliance with the permit and appropriate categorical standard.

The State has a 10-year inspection plan that reflects the schedule for inspections, audits, and technical assistance visits (TAVs). The State audits approximately 20% of the approved programs annually, typically during the NPDES permit renewal year, and inspects approximately 80% of the approved programs annually. This arrangement means that all programs should be audited within a 5-year period. The State typically completes reports within 45 days of the inspection or audit and uses its pretreatment enforcement management system (EMS), called the "Enforcement Manual" to investigate and respond to violations related to pretreatment program development and implementation. The State maintains a database in Microsoft Access called the Pretreatment Tracking System (PTS) to track compliance with pretreatment-related enforcement orders, compliance with pretreatment program reporting requirements, and in-house work flow from staff.

The State has been instrumental in working with the POTWs to form the Florida Industrial Pretreatment Association (FIPA) and organizing workshops. The FIPA publishes the "Pretreatment Communicator" quarterly for distribution to POTWs. This newsletter provides timely information for POTWs on the implementation of the pretreatment program in Florida. The State has also developed the "Florida Guidance Manual for Pretreatment Programs," which is used to train new pretreatment program staff. This manual contains a written protocol for conducting pretreatment compliance inspections and audits that follows EPA guidance.

The State typically completes audit reports within 45 days of the inspection/audit. The State uses its pretreatment EMS, the Enforcement Manual, to investigate and respond to violations related to pretreatment program development and implementation.

The State recently added a TAV to its compliance monitoring repertoire.

³ The National Data Sources column of the Management Report shows all numbers related to pretreatment, measures #8, 9, 23, and 24, under State activity because the data for the national PCS pull for these measures were not broken down by State and EPA activity. The Miami-Dade pretreatment program (FL0024805), including 119 SIUs, is under the authority of EPA Region 4. Data correctly broken out by State and EPA activity are shown in the Additional Data column.

⁴ The National Data Sources column of the Management Report, measure #9, shows 569 SIUs discharging to pretreatment programs, based on a June 12, 2004, data pull from PCS. The value of 360 SIUs is from a March/April 2004 midyear report that Florida provided to Region 4. The Region believes the data provided in the midyear report are more accurate than the data in PCS.

EPA Region 4:

The Region implements its pretreatment program within the Water Programs Enforcement Branch. The Region is the approval authority for one program, Miami-Dade County, Florida. The Region incorporates language to implement the approved pretreatment program into the Miami-Dade County NPDES permit. There are 119 SIUs in this approved program. 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. The Region is not aware of any categorical users in unauthorized territories.

The Region conducts a pretreatment audit at the approved program once every 5 years and a pretreatment compliance inspection once a year as resources allow. The last audit was conducted during 2003 and an inspection is scheduled for 2004. The Region uses the standard audit and inspection checklists contained in EPA Headquarters guidance manuals. During the 2003 audit the Region expanded its scope to include a thorough review of the approved program's industrial user inspection and sampling program. This was conducted by field inspectors from the Athens laboratory in conjunction with a review of the typical audit elements. The pretreatment coordinator develops and is maintaining standard operating procedures for conducting audits and inspections, which include the completion of a narrative report within 15 days of the audit or inspection. The Region reviews the annual report from the approved program each year and reviews and approves program modifications as submitted. The last program modification for the approved program occurred in 2003, for revision of local limits and changes to the sewer use ordinance. The Region works closely with the State of Florida in overseeing the approved program to ensure consistency among approved programs in Florida.

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 Florida:

The new CAFO rule requires that all CAFOs be permitted by 2006. Florida revised its rule, which became effective in December 2003. Florida requires CAFOs to have manure management plans consistent with the nutrient management plan (NMP) outlined in the new rule.

As of July 2004, seven individual NPDES permits and about 45 State operational permits have been issued to CAFOs.⁵ Florida has approximately 150 potential Large CAFOs in the State. The State anticipates issuing an NPDES general permit for CAFOs that meets the requirements of the new rule in the fourth quarter of 2004.

⁵ Management Report, Item #26, indicates that 1% of 150 CAFO permits, or 2 individual permits, had been issued as of March 31, 2004. The State data show that there were seven individual permits issued as of July 12, 2004. Therefore, the correct percentage of CAFOs covered by NPDES permits is 5%, based on the data as of July 12, 2004.

As Region 4 States revise their CAFO programs, issue revised or new general permits, and provide NPDES coverage to CAFOs that meet the new requirements, it is expected that most State operational permits will convert to NPDES coverage. This will help to ensure 100% permitting of Large CAFOs in the Region, thereby resulting in successful implementation of the new rule by the end of 2006.

EPA Region 4:

The Region does not have direct implementation for any CAFO facility in Florida at this time.

4. Stormwater

The State of Florida:

Phase I Municipal Separate Storm Sewer Systems (MS4s): Phase I MS4s are covered by 27 permits. The State has incorporated mandatory structural control inspection and maintenance requirements into Phase I MS4 permits. (Previous permits contained only recommended inspection and maintenance practices.) Staff shortages and competing priorities were some of the primary causes for the delays in reissuing the expired permits. Phase I permits are tracked in PCS and several internal databases.

Phase II MS4s: The Phase II general permit was issued in December of 2002, with coverage obtained by all required 97 municipalities to date. The State is developing an annual report template for permittees through the initiation of three workshops with the regulated community. Notices went out on August 19, 2003, to additional communities required to submit NOIs in 2004. The State is reviewing the designated Phase II MS4 applications for communities existing within 2000 urbanized area boundaries for the next round of Phase II permits. The State has developed a format for reviewing Phase II MS4 evaluation reports and has initiated inspections of Phase II MS4s.

The State maintains several databases to track the MS4s. NOIs can be made available upon request.

Construction: The construction general permit covering large and small construction activities became effective on May 1, 2003. The State maintains a database of sites covered under the construction permit and has initiated development of an online electronic NOI system for construction and industrial facilities. The State is continuing to expand outreach efforts to the industrial, construction, and MS4 communities. NOIs can be made available to the public upon request.

Industrial: The State has a multisector general permit (issued in October 2000) to cover stormwater-related industrial dischargers. The State has initiated development of an online electronic NOI system for construction and industrial facilities. The State is continuing to expand its outreach efforts to the industrial, construction, and MS4 communities. NOIs can be made available to the public upon request.

Table 3: Stormwater Permit Coverage in Florida

Number	Category	Date Issued	Number of Facilities Covered
FLR100000	Large and Small Construction	5/1/03	5,562
FLR050000	MSGP	10/22/00	1,814
FLR040000	Phase II MS4s	5/1/03	97

EPA Region 4:

EPA Region 4 issued a general permit covering the discharge of stormwater from construction activities on Indian lands on March 10, 2004, and a general permit covering the discharge of stormwater from industrial activities not associated with construction on October 30, 2000.

Region 4, by the March 10, 2003, Phase II regulation deadline, had concluded that all Indian lands in Florida are 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.

Region 4 is not responsible for permitting any Phase I MS4s.

5. Combined Sewer Overflows/Sanitary Sewer Overflows

The State of Florida:

Combined Sewer Overflows (CSOs): Florida does not have any communities with combined sewer systems.

Sanitary Sewer Overflows (SSOs): Florida has requirements in permits for all permittees to report unauthorized releases or spills such as SSOs by calling the State Warning Point (SWP) toll-free number 800-320-0519 when an overflow greater than or equal to 1,000 gallons has occurred or where information indicates that an unauthorized release or spill will endanger public health or the environment. Smaller spills are reported directly to the Department's District office. The SWP system is a 24-hour toll-free hotline managed by the Department of Community Affairs. FDEP emergency response personnel, along with any existing local environmental emergency response units, are promptly notified of an incident by the SWP operator who received the call. Larger spill events or those spills that may reach surface water or groundwater are also dispatched to the Department of Health (DOH) for assessment of potential threat to human health. FDEP and DOH personnel may collect appropriate water samples of affected areas to assess the impact and determine the public health risk. Where appropriate, DOH may issue public health or swimming advisories.

As part of this reporting system, a log of incidents is also maintained. The log includes all emergent incidents reported to the SWP including SSOs. During calendar year 2003, the SWP received 919 wastewater incident reports. The information is reported on a weekly basis to Tallahassee and the District offices where spill and overflow data such as date, time, estimated volume of the discharge, cause, and any other information are then recorded in a database. More than 75% of these incidents were caused by storm event power outages, line breaks, or equipment malfunctions.

EPA Region 4:

The Region has included the following language in all minor and major NPDES municipal permits in an effort to collect SSO data, analyze those 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 [U.S. Geological Survey] 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.”

SSO events on Indian lands are rare. The Region manages each SSO event individually with appropriate enforcement or notification of proper authorities. Miami-Dade is operating under a consent decree that addresses this issue. There are no individual municipal permits in Florida on Indian lands.

6. Biosolids

The State of Florida:

Florida does not have authority to administer the biosolids (sludge) program and has no plans to seek authorization. The State implements its own sewage sludge program under State laws and regulations.

EPA Region 4:

The Region is the permitting authority for biosolids in all eight States in Region 4 because none has an approved biosolids program. The Region implements the biosolids program in both the NPDES and Biosolids Permits Section and the CWA Enforcement Section. The permits program provides regulatory and permitting guidance on implementation of the 40 CFR part 503 biosolids regulations. The part 503 regulations are self-implementing, which means that compliance with the regulations is required without issuance of an individual or general permit. The NPDES and Biosolids Permits Section is the permitting authority for the biosolids program and has several functions. These include issuing individual or general permits to facilities that are deemed necessary due to 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 program also works with the compliance and enforcement program to ensure the timely submission of annual biosolids reports. The compliance and enforcement program 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 Florida:

FDEP's organizational structure consists of six district offices delineated by geography. Some of the district offices also have satellite office(s). All the compliance determinations and most of the enforcement work are performed in the district offices. Each district office is autonomous and thus has unique priorities beyond the baseline. Field presence is maximized given this organizational structure and one or more inspections of the NPDES permittee are conducted each year. However, the pretreatment program activities are administered from the main FDEP office in Tallahassee.

The FDEP headquarters in Tallahassee performs periodic audits of the NPDES programs in the six district offices annually. Part of this evaluation includes an analysis of the NPDES enforcement programs in the districts. An integral part of the evaluation is a review of the district's enforcement activities to ensure the district follows the FDEP Enforcement Manual, which sets policy regarding timeliness and appropriateness, including adequate penalties, for the enforcement program.

FDEP annually negotiates a work plan under CWA section 106 and has generally agreed to and conducted 100% inspection of major permittees and up to 100% inspection of individual minor permittees during an "inspection year," which runs from July 1 through June 30. FDEP also conducts inspections of general permittees at a rate of approximately 10 to 20 percent per year. In addition, once every 5 years all individual NPDES permittees receive comprehensive inspections that include a performance audit inspection, compliance evaluation inspection, compliance sampling inspection, biological inspection, and toxics inspection. FDEP has also targeted specific sector(s) such as concrete batch plants and CAFOs for inspection.

File reviews are conducted routinely on an ongoing basis. At least 12 months of data (DMRs and monthly operating reports) are reviewed prior to conducting a compliance evaluation inspection (CEI). Industries are inspected during pretreatment audits for each file reviewed. A minimum of 10% of files are reviewed during pretreatment compliance inspection (PCIs) and audits. If the POTW has only a few industrial users, the State will attempt to review all files during inspection or audit.

FDEP and the Region have historically reviewed the quarterly noncompliance reports (QNCRs) and the list of facilities in significant noncompliance each quarter to monitor the overall effectiveness of the FDEP compliance assistance activities. Recently, FDEP and the Region began using the national "Watch List" system to monitor the overall effectiveness of the compliance assistance program.

FDEP has an EMS called the Enforcement Manual. A copy of the manual is available on the FDEP Web site at <http://www.dep.state.fl.us/legal/Enforcement/enforcement.htm>. The manual addresses multiple environmental statutes and regulations. Several chapters address the NPDES program. No inconsistencies with the EPA's national EMS have been identified. FDEP may initially issue an informal "warning letter" for appropriate cases, but FDEP initiates formal administrative enforcement with a notice of violation, which is concluded with an enforcement order, typically including a penalty. Continued noncompliance at a facility that has already received formal enforcement would trigger escalation to a more severe enforcement, such as judicial action on a case-by-case basis.

The State uses the Enforcement Manual to investigate and respond to violations related to pretreatment program development and implementation. The Enforcement Manual was written in 1995 and remains current. The State uses the federal definition of significant noncompliance (SNC) for industrial users and EPA guidance for determining SNC for POTWs. Information reported and gathered from inspections, audits, and annual report reviews is used for determining SNC. The State submits QNCRs in a timely manner and addresses violations determined to be SNC in a timely and appropriate manner, according to the QNCR data. In general, almost all formal actions by FDEP contain penalty assessments. The main staple of FDEP's enforcement actions is the consent order, although penalty only orders are issued as well. A proposed order is issued for public notice, and the public has the opportunity to contest the allegations, provide comments, and provide relevant facts in the matter. The public notice period lasts for 30 days. Given this process, the appeal to enforcement action is kept to a minimum. FDEP has a written penalty policy, which is described in the Enforcement Manual referenced previously. In general, the penalty assessment process considers environmental harm and uses a two-dimensional matrix that accounts for environmental harm and deviation from requirements. Economic benefit is required to be calculated either by using BEN, an EPA-designed program, or other equivalent means.

General Counsel for FDEP has the authority to take actions directly to court without involving the office of the State Attorney General. In FY2001, FDEP took three judicial actions against NPDES facilities. There were no judicial actions taken against NPDES facilities in 2002 or 2003.

In general, the policy for non-major facilities is no different from that for major facilities; however, compliance assistance is used more frequently before escalating to formal enforcement action. The decision on the course of action to follow is case specific.

The program establishes enforceable requirements through consent orders, which is FDEP's enforcement tool of choice. Enforcement officers track each case. When requirements are not met or the respondent has approached FDEP on specific requirements that would not be met, FDEP's follow-up action in most cases is an amendment to the consent order. All actions are monitored to determine the need for follow-up.

By conducting frequent inspections of permitted facilities, FDEP is able to identify corrective action measures that need to be taken to address compliance problems. All compliance problems are addressed with appropriate corrective measures without the need for a prioritization scheme. The case enforcement officer is responsible for ensuring that the prescribed corrective measures are completed in accordance with an enforcement order.

Provisions contained in enforcement actions are tracked in PCS and monitored by the FDEP headquarters in Tallahassee to ensure that the provisions are met or appropriate enforcement action is taken to get compliance.

FDEP uses the Compliance and Enforcement Tracking System (COMET) to track compliance and enforcement activities. FDEP also enters relevant milestones and schedule information into PCS and tracks compliance with consent order requirements.

For the pretreatment program, the State maintains a database in Microsoft Access called the Pretreatment Tracking System (PTS) to track compliance with pretreatment-related enforcement orders, compliance with pretreatment program reporting requirements, and in-house work flow from staff.

Over the last 4 years FDEP's SNC rate has been consistently lower than the national average. This is an indication of a high level of effort to provide compliance assistance for facilities that prevents violations from occurring.

EPA Region 4:

The Region 4, Water Management Division, WPEB, has many enforcement activities under the CWA, including compliance tracking, inspections, and enforcement of biosolids facilities in all eight Region 4 States.

WPEB is also responsible for compliance tracking, inspections and enforcement of facilities on Tribal lands, offshore oil and gas facilities, and the Miami-Dade County Central District wastewater treatment facility.⁶ Compliance tracking of these facilities is conducted by individual enforcement staff who make recommendations to management for the need for enforcement. During the past year, the 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.

The Region has a consent decree with Miami-Dade County. Enforcement against Tribal facilities is conducted consistent with Agency 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 in accordance 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 throughout the Region. As of midyear 2004, two administrative orders, eight administrative penalty orders, and eight settlements have been issued for biosolids violations throughout the Region.

⁶ The National Data Sources column of the Management Report, measure #34, shows no data (-) for EPA activity because the PCS pull for this measure was not separated into State and EPA activity. EPA has direct implementation responsibility for one major permit in Florida (Miami-Dade), which was not in SNC during any quarter of FY2003, so the percentage of major facilities in SNC for EPA activity is 0%.

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

WPEB uses the EMS along with national and Regional guidance to address violations at Tribal, oil and gas, and biosolids facilities. Staff members recommend and prepare actions and management reviews and signs off on them to ensure consistency with national 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 in accordance with the requirements and deadlines set within 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. Followup site visits or meetings are held as needed to observe and discuss the completion of requirements. For example, with the Miami-Dade consent decree, routine meetings were held to discuss with Miami-Dade progress toward compliance with the terms of the consent decree, and site visits were made for direct observation of results. These meetings and visits allow WPEB to learn of any anticipated problems in meeting deadlines early on so that alternatives can be discussed and WPEB management briefed.

WPEB escalates enforcement, including penalties, based on the EMS.

2. Record Keeping and Reporting

The State of Florida:

The State maintains accurate and up-to-date files and records on the performance of facilities and related FDEP correspondence. The records kept include the documented rationale for penalties sought. The data are largely accurate, reliable, and complete. The State maintains its pretreatment program records in one file room but in three separate areas. Annual performance reports and the approved program are kept separate from the facility file, which contains correspondence, enforcement documents, inspection reports, permit language, and industrial information. The pretreatment program records are also well organized.

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 among each of the NPDES programs. Files are maintained for each facility for which the Region has issued a permit or granted coverage under a general permit. Files contain DMR data, correspondence, permits, inspection reports, and enforcement actions.

3. Inspections

The State of Florida:

The State conducts pretreatment audits and inspections in accordance with the requirements of the CWA section 106 work plan (80% of approved programs are inspected and 20% of approved programs are

audited each inspection year). The State has a written protocol for conducting pretreatment compliance inspections and audits that follows EPA guidance. The State recently added a TAV to its compliance monitoring repertoire. TAVs are conducted informally in lieu of an inspection every other year if the last PCI shows that the facility is in compliance. Pretreatment program audits are performed every 5th year during the NPDES permit renewal year. The State is trying to move all POTWs to this schedule; therefore, some POTWs have not had an audit during the last 5 years or will go longer than 5 years between audits during the next few years. However, the State is ensuring that all POTWs are audited prior to NPDES permit renewal. The State has a 10-year inspection plan that reflects the schedule for inspections, TAVs, and audits since delegation. The pretreatment coordinator accompanies staff on all audits. Industries are inspected during audits for each file reviewed. At least 10% of the files are reviewed during PCIs and audits. If the POTW has only a few indirect users, the State will attempt to review all files during inspection and audit.

The NPDES Storm Water Section at FDEP has traditionally negotiated the inspection strategy during the CWA section 106 work plan process. In general, inspections are targeted to geographical regions of the State where generic permit filing rates are considered to be below expectations. Also, each year one or more sectors are selected based on the potential harm to the environment. All facilities that discharge to impaired waters are given higher priority for inspection than those that discharge to other waters. All MS4s are inspected each year. Since major NPDES facilities may pose a risk to health and the environment, all such facilities are inspected annually. In addition, nearly all minor conventional POTW and industrial facilities are inspected annually because of the risk they may pose to the environment.

The State prepares a report, on a quarterly basis, that summarizes SNC rates based on monitoring and physical inspection activities. This report also summarizes the return to compliance rates through nonformal and formal enforcement actions. Based on this quarterly report, the State has prioritized certain sectors of the wastewater program in which to conduct additional compliance outreach activities.

The State has participated with EPA in inspection initiatives. Over the last few years the State has partnered with EPA in stormwater initiatives at auto salvage facilities and large retailer facilities.

The State of Florida inspected 96% of its major facilities in FY2003, which far exceeds the national average of 69%. In addition, during FY2003, 64% of the inspections conducted by the State were at minor facilities. This compares to a national average of 77% of State inspections in FY2003 being conducted at minor facilities. EPA assisted the State of Florida by conducting 32 inspections during FY2003.

EPA Region 4:

For Tribal facilities, WPEB does not have an inspection/monitoring strategy for the facilities under direct implementation because of the low number of facilities. 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 reviewed on a regular basis to determine noncompliance and appropriate Regional action.

For offshore activities, including oil and gas facilities, WPEB cannot readily access facilities for inspections and therefore must rely on file reviews to determine compliance. Effluent data for each facility are reviewed on a regular basis to determine noncompliance and appropriate Regional action.

For biosolids facilities, assigned enforcement officers focus their compliance tracking efforts in environmental justice areas and within impaired watersheds identified by the Water Management Division. Inspections are also focused within these areas, as well as in States that have rescinded their State biosolids regulations. Biosolids inspections are focused within environmental justice areas and within impaired watersheds identified by the Water Management Division, as well as in States that have rescinded their State biosolids regulations. During the 2003 inspection year, WPEB conducted 7 biosolids inspections at minor facilities and 19 inspections at major facilities throughout the Region. As of midyear 2004, WPEB had conducted biosolids inspections at 2 minor and 17 major facilities throughout the Region.

In the past, WPEB did not commit resources to ensuring that inspections were conducted at the Tribal and oil and gas facilities; therefore, these facilities were not inspected on a routine basis or in accordance with any strategy. WPEB now attempts to conduct inspections at major Tribal facilities once a year and inspections at minor Tribal facilities once every 5 years. WPEB inspects Miami-Dade annually.

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. A performance audit inspection was conducted at a laboratory used by the oil and gas facilities.

4. Compliance Assistance

The State of Florida:

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. Specific examples are as follows:

- Each Florida district office has at least one staff person designated for pollution prevention. Many consent orders include supplemental environmental projects for pollution prevention.
- The State has been active in providing compliance assistance information to its POTWs and industries. Entities are referred to the State pollution prevention program for assistance, and the State provides brochures to the POTWs and industries during inspections and audits. The State has been instrumental in working with the POTWs to form the FIPA and organizing workshops. The FIPA publishes the "Pretreatment Communicator" quarterly for distribution to POTWs. This newsletter provides timely information for POTWs on the implementation of the pretreatment program in Florida.
- The State has a technical assistance and outreach program with the Florida Rural Water Association (FRWA). Circuit riders from the FRWA provide technical assistance to small domestic wastewater facilities and animal feeding operations.

EPA Region 4:

Region 4, along with Region 6, is negotiating an MOA with the Department of the Interior's Minerals Management Service (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 as access to these offshore facilities is difficult.

WPEB began providing compliance assistance to the Tribes during 2003. This assistance included on-site visits and assistance during 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 Florida:

The State submitted a draft monitoring strategy encompassing all 10 elements of EPA's guidance on May 11, 2004. Region comments were sent to the State on August 19, 2004. A final strategy is expected in the fall of 2004.

The State implements a statewide probability monitoring program. It 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 with water quality-based effluent limit determinations. The need for information and the permit cycle dictate the extent of monitoring conducted each year.

Based on the Management Report, the percentage of lake acres assessed by the State for aquatic life is well above the national average. According to the Management Report, the percentage of lake acres assessed for recreation is below the national average. The State will continue to improve the number of waters assessed to enhance the understanding and characterization of surface water quality throughout the State.

The State's comprehensive monitoring strategy will address the manner in which it will improve the number of State waters assessed to enhance the understanding and characterization of surface water quality throughout the State.

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 Miccosukee and Seminole Tribes focus on nutrient monitoring, with an emphasis on total phosphorus and total nitrogen. The Region has encouraged the Tribes to delineate the forms of nitrogen, phosphorus, and dissolved oxygen. This is done on a small scale because of the size of the reservation and the number of water bodies.

2. Environmental Outcomes

The State of Florida:

The percentage of assessed waters fully supporting uses is based on the 2002 Water Quality Inventory submitted to EPA under section 305(b) of the CWA. In Florida, 15 percent of assessed river/stream

miles, 14 percent of assessed lake acres, and 50 percent of assessed estuaries fully support designated uses.

An accurate trend analysis cannot be conducted at this time because of changes in State sampling protocols, reporting methods, and limited funding for complete, long-term monitoring coverage.

EPA Region 4:

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

3. Water Quality Standards

The State of Florida:

The State of Florida has integrated the water quality standards and NPDES programs in part by a timely review of its water quality standards and having no outstanding EPA disapprovals of these standards. Triennial reviews and updates to water quality standards are conducted when determined appropriate by the State. Permit fact sheets explain the basis for each water quality-based effluent limit and identify designated uses of the receiving body and applicable standards. Additional information is maintained in facility-specific files that are available for public review.

The State of Florida has provisions for compliance schedules, which are used when needed. The State has established a technical advisory committee to address nutrient standards for Florida. Public workshops have been held to discuss the development of water quality standards for E. coli and enterococci.

As the State adopts or revises water quality standards, a thorough examination of how the standards will be implemented through NPDES permits is conducted. As the water quality standards are noticed to public, the State explains to interested NPDES permit holders and other concerned groups exactly how that water quality standard will be implemented, especially in relation to dischargers.

Certain water quality standards are difficult to implement, but these are realized on a permit-by-permit-basis. To address this situation, the State has adopted a variance procedure that implements EPA's use attainability analysis regulations on a permit-specific basis.

EPA Region 4:

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

The permits 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 consecutive 7-day stream flow that is likely to occur in a 10-year period) of the receiving water,

for total residual chlorine, as needed. The Region monitors DMRs for any violations of NPDES permits discharging on Indian lands and coordinates with appropriate public health agencies, as needed.

Both the Seminole and Miccosukee Tribes in Florida have EPA-approved water quality standards.

4. Total Maximum Daily Loads

The State of Florida:

Florida incorporates WLAs into NPDES permits as they are expressed in the TMDL (as a load or concentration). The State keeps an updated list of completed and approved TMDLs. This list is used when drafting NPDES permits to ensure that WLAs derived from the TMDL are incorporated into the NPDES permits. Permit fact sheets discuss the TMDL and appropriate WLA for the affected permit. All permits on impaired streams (as listed under CWA section 303(d)) discharging a parameter of concern contain a reopener clause to modify the permit when a TMDL is approved. For dischargers to impaired water bodies without a TMDL, the State follows its 303(d) permitting strategy, which is explained in chapter 13, section 4 of the State's Wastewater Permit Writer's Manual. Basically, this strategy states that there will be no increase in loading for dischargers to impaired water bodies. For concentration-based limits, water quality standards will be maintained so that the discharge does not cause or contribute to an existing impairment.

All TMDLs on the 1998 303(d) list are to be developed in accordance with a schedule outlined by a consent decree agreed to by EPA. This calls for the State or EPA to address approximately 150 impairments per listing either through development of a TMDL or through reassessment of impairment. As a result, more than 150 TMDLs were proposed in 2003. As of September 30, 2004, EPA had approved or established 166 TMDLs in the State of Florida, representing about 10% of the 1998 303(d) listed impairments.⁷ Currently, Florida is 100% on schedule for meeting its commitment to develop TMDLs.

The process for developing water quality-based effluent limitations (WQBELs) is defined and described in Rule 62-650, Florida Administrative Code, and applies to both industrial and domestic facilities that have discharges to State surface waters. All procedures are in keeping with EPA's "Technical Support Document for Water Quality Based Effluent Limits" and are a part of the State's Permit Writer's Manual.

EPA Region 4:

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

⁷ The National Data Sources column of the Management Report, measure #54, shows 34 TMDLs completed through FY2003. There were, in fact, 81 TMDLs completed through FY2003, but at the time the data were pulled in July 2004, many of Florida's TMDLs had not been entered into the National TMDL Tracking System (NTTS). EPA made a commitment from July to September to enter all TMDLs for the State of Florida into NTTS. The 166 TMDLs mentioned in the text include an additional 85 TMDLs completed during FY2004.

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

5. Safe Drinking Water Act

The State of Florida:

Florida has implemented comprehensive procedures for notification of wastewater noncompliance that may endanger public health and the environment, such as spills and unauthorized discharges. FDEP's procedures, which were adopted by rule, require that wastewater facilities provide oral reports to the Department by calling the SWP toll-free number. The SWP system is a 24-hour toll-free hotline managed by the Department of Community Affairs.

Other planning tools involve identification of drinking water intakes by GIS and application of appropriate drinking water standards where drinking water uses are established.

EPA Region 4:

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

Section V. Other Program Highlights

The State of Florida:

The State has issued generic permits (equivalent to federal NPDES general permits) for the following wastewater sources:

- Dischargers from petroleum-contaminated sites
- Discharge from produced groundwater from any noncontaminated site activity
- Discharge from concrete batch plants
- Discharge of stormwater-associated with industrial activity
- Discharge of stormwater-associated construction activities
- Phase II MS4s

The State is also pursuing development of a generic permit for certain categories of small non-NPDES domestic wastewater treatment facilities. These are facilities that do not have discharges to surface waters. Approximately 1,600 non-NPDES facilities could be permitted using this permitting mechanism. Utilization of this type of permit would reduce the overall permit workload.

Other innovations include the development and use of a computer application, Permit Builder, which assimilates permit information entered by the permit writer and automatically generates draft permits, fact sheets and/or statements of basis, DMRs and public notices. Data are stored in a database for easy retrieval. In addition, the State's Wastewater Permit Writer's Manual is used when drafting permits.

Another innovation is electronic reporting of DMR information. The State has developed electronic DMR transfer of information as an option to permittees to submit discharge reporting information. The State's Web-enabled Electronic Environmental (E2) system offers the advantage of less process for the regulated community.

Highlights of data and information maintained on the State's Web site include the following:

- All domestic, industrial, and other wastewater-related rules
- 47 various wastewater forms
- Wastewater permitting information showing the status of all permits in the permitting process
- Wastewater treatment facility reports from the WAFR database, which are updated monthly.

A significant development is the State 24-hour toll-free number for reporting not only spills and overflows but also bomb threats, severe weather reports, and other emergency situations. This emergency point of contact, called the SWP, serves as a clearinghouse for any potential emergencies and dispatches emergency personnel, as needed.

In addition, each district office has at least one staff person designated for pollution prevention. Many consent orders include pollution prevention supplemental environmental projects. The State has been active in providing compliance assistance information to its POTWs and industries. Entities are referred to the State pollution prevention program for assistance, and the State provides brochures to the POTWs and industries during inspections and audits. The State has been instrumental in working with the POTWs to form the FIPA and organizing workshops. The FIPA publishes the Pretreatment Communicator quarterly for distribution to POTWs. This newsletter provides timely information for POTWs on the implementation of the pretreatment program in Florida.

The State has a technical assistance and outreach program with FRWA. Circuit riders from the FRWA provide technical assistance to small domestic wastewater facilities and animal feeding operations.

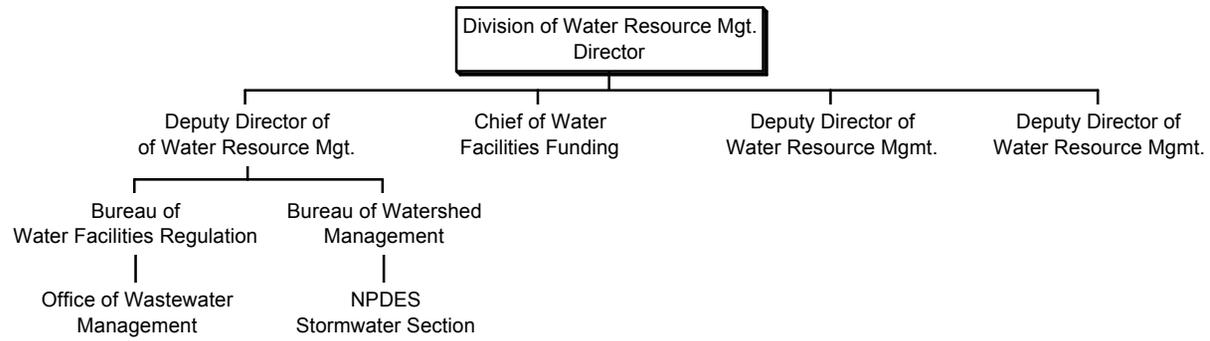
EPA Region 4:

The Region has developed a standardized template representing the standard language required in 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 facilities.

The Region's general permit for construction discharges on Indian lands is unique in that in addition to standard stormwater requirements, it also specifically targets dischargers to 303(d) listed waters for sediments or siltation.

Approved By: _____
Effective Date: 12-01-03
Number of Positions: 11
Number of FTE: 11.00



NPDES Management Report, Fall 2004

Florida

			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	241	1		
	2	# minor facilities covered by individual permits (42,057 total)	I.1		n/a	277	0		1
	3	# minor facilities covered by non-storm water general permits (39,183 total)	I.1		n/a	958	0		
	4	# priority permits (TBD)	I.6			--	--		
	5	# pipes at facilities covered by individual permits (142,761 total)	I.7		n/a	2,463	--		
	6	# industrial facilities covered by individual permits (32,505 total)	I.1		n/a	346	0		1
	7	# POTWs covered by individual permits (15,197 total)	I.1		n/a	147	1		
	8	# pretreatment programs (1,482 total)	II.2		n/a	49	--	48	1
	9	# Significant Industrial Users (SIUs) discharging to pretreatment programs (22,158 total)	II.2		n/a	569	--	360	119
	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	150	--		
	12	# biosolids facilities (TBD '05)	II.6			--	--		
NPDES Program Administration	13	State or Region assessment of State NPDES program (none (N)/assessment (A)/profile (P))	I.1	50 states 2004	n/a	A, P	P		
	14	% pipes at facilities covered by individual permits w/ lat/long in PCS	I.7		46.3%	15.5%	--		
	15	State CAFO legal authority expected (mo/yr)	II.3	2005	n/a	12/03	n/a		
	16	# Withdrawal petitions/legal challenges (22 total)	I.4		n/a	1	n/a		
	17	DMR data entry rate	I.7		95%	100%	--		
	18	# permit applications pending (1,011 total)	I.6		n/a	4	--		
NPDES Program Implementation	19	% major facilities covered by current permits	I.6	90%	83.7%	87.6%	100.0%		
	20	% minor facilities covered by current individual or non-storm water general permits	I.6	90% 12/04	87.0%	98.6%	0.0%		
	21	# major facilities w/permits expired >10 yrs. (56 total)	I.6		n/a	0	0		
	22	% priority permits issued as scheduled (TBD '05)	I.6	95% 2005		--	--		
	23	% pretreatment programs inspected/audited during 5 yr. inspection period	II.2		85.3%	95.9%	--	100.0%	
	24	% SIUs w/control mechanisms	II.2		99.2%	100.0%	--	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%	1%	--	5%	
	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	10	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%	96%	0%		
	33	(inspections at minors) / (total inspections at majors and minors)	III.3		76%	64%	100%		
	34	% major facilities in significant non-compliance (SNC)	III.1		20%	17%	--	0%	
	35	% SNCs addressed by formal enforcement action (FEA)	III.1		14%	24%	--		
	36	% SNCs returned to compliance w/o FEA	III.1		70%	65%	--		
	37	# FEAs at major facilities (666 total)	III.1		n/a	20	5		
	38	# FEAs at minor facilities (1,660 total)	III.1		n/a	2	18		

Explanation of Column Headers:

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

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

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

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

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

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NPDES Management Report, Fall 2004

Florida

		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	51,858	n/a	
	40	Lake acres (27,775,301 total)	IV.2		n/a	1,618,368	n/a	
	41	Total # TMDLs in docket at end of FY 2003 (52,795 total)	IV.4		n/a	1,975	--	
	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%	26.0%	n/a	
	48	% river/stream miles assessed for aquatic life	IV.2		22.0%	55.0%	n/a	
	49	% lake acres assessed for recreation	IV.2		49.4%	30.0%	n/a	
	50	% lake acres assessed for aquatic life	IV.2		48.5%	87.0%	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	
	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	34	--	81
	55	# TMDLs completed in FY 2003 (2,929 total)	IV.4		n/a	46	0	
Environmental Outcomes	56	# TMDLs completed through FY 2003 that include at least one point source WLA (5,036 total)	IV.4		n/a	17	--	
	57	% Assessed river/stream miles impaired for swimming in 2000	IV.2		--	31.0%	n/a	
	58	% Assessed lake acres impaired for swimming in 2000	IV.2		--	31.0%	n/a	
	59	# Watersheds in which at least 20% of the water segments have been assessed and, of those assessed, 80% or more are meeting WQS (440 total)	IV.2	600 2008	n/a	--	--	

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