COMPLIANCE & ENFORCEMENT IN THE ALABAMA NPDES (WATER POLLUTION CONTROL) PROGRAM

Disturbing Negative Trends

ADEM REFORM COALITION
August 21, 2009

LAW OFFICE OF
DAVID A. LUDDER
A Professional Limited Liability Company
Define Mission:
Assure for all citizens of the State a safe, healthful and productive environment

Commission:
Promulgate rules and develop policies that will fulfill the mission

Department:
Ensure compliance with rules and implement policies that will fulfill the mission

Achieve Mission
Source Data Reliability

EPA Permit Compliance System (PCS or ECHO)
- Majors – High Reliability
- Non-majors – 44% DMRs Entered (FY2008)
  - 79% Limits Accurate (FY2008)

EPA Annual Noncompliance Report (ANCR)
- Majors – High Reliability
- Non-majors – High Reliability, Partial Data
  - 35% Facilities Reviewed (CY2004)
  - 42% Facilities Reviewed (CY2005)
  - 50% Facilities Reviewed (CY2006)
  - 51% Facilities Reviewed (CY2007)

ADEM Enforcement Actions
- Orders – High Reliability
- Penalties – High Reliability
- NOVs – Not Available
## Significant transitional events

<table>
<thead>
<tr>
<th>Event</th>
<th>Date</th>
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</thead>
<tbody>
<tr>
<td>New ADEM Director</td>
<td>February 2, 2005</td>
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<tr>
<td>Revised Compliance &amp; Enforcement Strategy</td>
<td>January 1, 2008</td>
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<tr>
<td>ADEM Reorganization</td>
<td>April 1, 2008</td>
</tr>
</tbody>
</table>
Percent of NPDES Major Facilities Inspected

Percent of NPDES Major Facilities in Significant Non-compliance

ECHO Multi-Year Chart
SNC rate: percent majors in SNC (1 FY)

<table>
<thead>
<tr>
<th>Review Year</th>
<th>SNC Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>FY2004</td>
<td>27.0</td>
</tr>
<tr>
<td>FY2005</td>
<td>19.6</td>
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<tr>
<td>FY2006</td>
<td>23.8</td>
</tr>
<tr>
<td>FY2007</td>
<td>30.2</td>
</tr>
<tr>
<td>FY2008</td>
<td>47.1</td>
</tr>
</tbody>
</table>

Percent of NPDES Major Facilities with Discharge Monitoring Report Violations

Number of Informal Enforcement Actions Taken Against NPDES Major Facilities

Number of Informal Enforcement Actions Taken Against NPDES Major Facilities

Source: Permit Compliance System Search for Informal Enforcement Actions (Code: 03), http://oaspub.epa.gov/enviro/code_expansion.query_form
Number of NPDES Major Facilities Receiving Informal Enforcement Actions

Number of Formal Enforcement Actions Taken Against NPDES Major Facilities

Number of NPDES Major Facilities Receiving Formal Enforcement Actions

Percent of Major NPDES Facilities Without Timely Enforcement Action

Percent of NPDES Non-Major Individual Permit Facilities Inspected

Percent of NPDES Non-major General Permit Facilities Inspected

Percent of Other NPDES Facilities Inspected

Percent of NPDES Non-major Facilities in Non-compliance

ECHO Multi-Year Chart
Violations at non-majors: noncompliance rate (1 FY)

Percent of NPDES Non-major Facilities in Category I Non-compliance

Source: Annual Non-Compliance Reports (U.S. EPA, 2004-2007),
Percent NPDES Non-major Facilities in Non-compliance

Source: Annual Non-Compliance Reports (U.S. EPA, 2004-2007),
Non-receipt of Discharge Monitoring Reports From NPDES Non-major Facilities

Number of Informal Enforcement Actions Taken Against NPDES Non-major Facilities

Number of Informal Enforcement Actions Taken Against NPDES Non-major Facilities

Source: Permit Compliance System Search for Informal Enforcement Actions (Code: 03), http://oaspub.epa.gov/enviro/code_expansion.query_form
Number of NPDES Non-major Facilities Receiving Informal Enforcement Actions

Number of Formal Enforcement Actions Taken Against NPDES Non-major Facilities

Number of NPDES Non-major Facilities Receiving Formal Enforcement Actions

Percent of NPDES Facilities With Unresolved Compliance Schedule Violations

ADEM Administrative Orders
Mining/Non-point Source/Surface Water

http://www.enviro-lawyer.com/ADEM-AOs.html
“Rule 335-1-1-.06 (4) states – ‘Records will not be created by compiling selected items from other documents at the request of a member of the public, nor will records be created to provide the requester with data such as ratios, proportions, percentages, frequency distribution, trends, correlations or comparisons except as necessary to administer the Act.’”

Source: July 28, 2009 ADEM e-mail response to July 19, 2009 request for historical information on Notices of Violation for NPDES program alone and All programs combined. Info desired, in chronological order, are: date of issuance (FY2005 to present), permittee, facility, permit number.
ADEM Administrative Penalties
Mining/Non-point Source/Surface Water

http://www.enviro-lawyer.com/ADEM-AOs.html