



# REGIONAL RESOURCE

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## Water Permitting Fees and TMDL Development in Southern States

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April 2002

### Introduction

This *Regional Resource* was prepared under the direction of the Southern Legislative Conference's (SLC) Energy and Environment Committee, and highlights fees Southern states charge for issuing industrial surface water discharge permits, industrial storm water permits and municipal storm water permits, and whether any of these fees are used to offset funding for water quality planning, Total Maximum Daily Load (TMDL) development or stream monitoring. Following a brief background of these permits and the TMDL program, specific state information is provided relating to water permit fees, if any, their usage, and TMDL progress as of January 2002. Information for this report was provided by the United States Environmental Protection Agency (EPA), state divisions of water quality, and through surveys distributed to water officials in each SLC state.

### Industrial Surface Water Discharge Permitting

In passing the Clean Water Act of 1972, Congress enacted the first comprehensive national clean water legislation, prohibiting the discharging of pollutants through a "point source" into a water of the United States unless by way of a permit.<sup>1</sup> Under section 402 of the Act, the U.S. Environmental Protection Agency created the National Pollutant Discharge Elimination System (NPDES) to track and control point sources of pollution, with the primary method of control being the issuance of permits to discharge wastewater, implementing limitations on wastewater flow and contaminants. The EPA subsequently has delegated permitting authority to states or to its regional offices, which now are primarily responsible for the permitting, compliance, monitoring and enforcement activities of the NPDES program.<sup>2</sup>

Accordingly, whenever a municipality, industry, or other entity decides to discharge treated wastewater into surface waters in states, a permit from the state in which

they are located must first be obtained. To ensure and protect the quality of water, permits usually contain effluent limitations on pollutants of concern; pollutant monitoring frequencies; reporting requirements; operating conditions; schedules of compliance, when appropriate; and other administrative requirements.<sup>3</sup>

There are two types of NPDES permits: individual and general. Individual NPDES permits are unique to each facility, with limits and requirements based on the facility's operation, type and amount of discharge, and receiving stream, among other factors.<sup>4</sup> General NPDES permits are required of facilities which have very similar or identical effluent limits and requirements, such as cooling waters associated with electricity production, boiler blow down, wastewater treatment, dredging and food packaging. If an entity does not qualify for a general permit, it must apply for an individual permit. NPDES permits may not be issued for a term longer than five years before they have to be renewed.

Southern Legislative Conference

Alabama ■ Arkansas ■ Florida ■ Georgia ■ Kentucky ■ Louisiana ■ Maryland ■ Mississippi ■ Missouri  
North Carolina ■ Oklahoma ■ South Carolina ■ Tennessee ■ Texas ■ Virginia ■ West Virginia

## **Industrial and Municipal Storm Water Permits**

While certain storm water (rain water, snow melt, and surface runoff and drainage) dischargers are regulated under NPDES permit programs, others are not. Phase I of the NPDES storm water program was established in October 1990 (following 1987 amendments to federal NPDES regulations), and addresses certain (non-agricultural) storm water runoff having the greatest potential negative impact on water quality as point sources, subjecting these sources to NPDES permits.<sup>5</sup> The two broad areas of storm water point sources are discharges associated with industrial activity (11 categories) and municipal separate storm sewer permits (MS4s).<sup>6</sup> Large and medium municipalities – either incorporated areas or counties with populations of 100,000 or more – were required to obtain permits under Phase I, as were certain regulated small MS4s.<sup>7</sup> While municipalities must apply to obtain individual NPDES permits, industries may apply for either individual or general permits, and are usually eligible for the latter.<sup>8</sup>

Enacted in December 1999, Phase II of the NPDES storm water program built upon Phase I by requiring certain regulated small municipal separate storm sewer systems and construction activity disturbing between one and five acres of land to be NPDES permitted. Under Phase II, states are required to have certain small municipalities (less than 100,000 population) apply for storm water discharge permit coverage by March 10, 2003; however, states may set an earlier deadline for permit coverage. These communities are required to develop and implement comprehensive storm water management programs addressing at least six different areas: public education and outreach on storm water impacts; public involvement; illicit discharge detection and elimination; construction site storm water runoff control; post-construction storm water management for new development; and pollution preventing for municipal operations.<sup>9</sup>

### **Total Maximum Daily Loads**

According to the Environmental Protection Agency, while the quality of America's waters has improved markedly since the implementation of the Clean Water Act, more than 40 percent of assessed waters still do not meet state water quality standards despite the permitting processes for point sources of pollution. This amounts to nearly 22,000 individual river segments, lakes and estuaries in

300,000 miles of rivers and shoreline and about 5 million acres of lakes, with an estimated 218 million Americans living within 10 miles of polluted waters.<sup>10</sup>

Section 303(d) of the Clean Water Act established the Total Maximum Daily Load (TMDL) program to identify remaining sources of pollution and allocate pollution control needs where water quality goals remain unachieved.<sup>11</sup> The EPA subsequently issued regulations in 1985 and 1992 implementing this section. In short, the TMDL is a calculation of the maximum amount of a pollutant that a water body can receive (from both contributing point and nonpoint sources) and still meet state water quality standards for the type of water body which the water has been designated (e.g., drinking water, contact recreation, aquatic life support, etc.). As summarized by the Missouri Department of Natural Resources, "a TMDL is basically a science-based plan for restoring the health of a water body."<sup>12</sup>

Under the TMDL program, states are required to identify stream segments and lakes for which effective water pollution control measures are not in place; to conduct TMDL studies of those waters to determine the capacity of their streams to receive pollutants; and to identify sources of the pollutant and measures needed to improve water quality. The lists compiled by states of streams and lakes needing additional pollution controls to meet water quality standards are referred to as a 303(d) lists. These lists also prioritize polluted waters according to how quickly a TMDL should be performed for each.

Following state studies and submissions of 303(d) lists, states are required to take the necessary measures to improve water quality and then assess water quality improvement actions. The EPA must fully or partially approve or reject a state's list and established TMDLs within 30 days of the list's submission. If a state's list is determined inadequate, the EPA must then establish a list or TMDL within 30 days of the state's rejection. States must revise their 303(d) list every four years.

Because of the expense and time required to identify and prioritize non-compliant waters, develop and complete TMDL studies, implement appropriate water quality improvement actions and assess those actions, states stagger this process over the time permissible. States are now at different stages of TMDL development, and some

have experienced difficulty in meeting EPA requirements and deadlines in this process. However, with environmental and citizen organizations bringing legal actions against the EPA to list impaired waters and develop TMDLs, EPA is under court order or consent degrees in many states to ensure that TMDLs are established within, or close to, the prescribed time. Accordingly, both the EPA and states commenced a comprehensive effort to implement their section 303(d) responsibilities in 1996.<sup>13</sup>

By the year 2000, 13 of 16 SLC states had their 1998 Section 303(d) lists approved by the EPA. Alabama, Missouri and Virginia had portions of their lists approved, and other portions rejected. In addition, two Southern states, Georgia and South Carolina, have had their year 2000 Section 303(d) lists approved, updating their 1998 versions.

### **TMDL Progress**

By 2000, states nationwide had identified nearly 22,000 water bodies impaired by nearly 42,000 various causes (impairments). Over 36,000 of these causes are pollutants, which must be addressed by TMDLs. As of March 2002, the EPA had approved over 4,100 TMDLs submitted by states. Southern states alone had identified a total of 7,300 waters not meeting water quality standards due to a reported 14,042 impairments.<sup>14</sup> As of January, 2002, the Environmental Protection Agency had approved 1,461 TMDLs from SLC states.

In the South, Virginia had identified the most polluted waters (883) by 2002, followed by West Virginia (722), Mississippi (721), South Carolina (715) and Florida (712). Arkansas had identified the fewest impaired waters (51) followed by, in ascending order, Texas (147), Missouri (180), Maryland (196), and Alabama (200).

As of March 2002, West Virginia had the most TMDLs approved by the EPA both among SLC states and nationwide (765). In the South, West Virginia was followed in TMDL approvals by Georgia (201), Mississippi (119), North Carolina (69) and Kentucky (45). Arkansas had the fewest approved TMDLs (11), followed by Alabama (12), Tennessee (17), and Oklahoma and Virginia (21).

### **TMDL Costs**

While TMDL development costs vary substantially based on myriad factors, the EPA has estimated that the total cost for developing

TMDLs for affected water bodies nationwide will be approximately \$1 billion. The EPA projected that the initial cost would be between \$27 million and \$29 million in 2000, likely increasing to between \$63 million and \$75 million annually between 2005 and 2015.

Although the number of TMDLs developed by states will increase significantly by this period, their average costs are expected to decrease as states expand their capacity to develop them.

The average cost to develop each TMDL is estimated to be about \$52,000, with a range of costs between \$26,000 and \$500,000, depending on a TMDL's complexity. In addition, EPA estimates that the cost of water quality monitoring to support the development of TMDLs will be approximately \$17 million per year nationwide.<sup>15</sup> In addition to this, implementation costs (those of installing measures to reduce pollution) are expected to be between \$900 million and \$4 billion a year for states.

While many argue that EPA's cost estimates are conservative, the projections, nonetheless, imply a significant investment for states over the next 13 years. EPA officials maintain, however, that states likely will be able to minimize some expenses by developing TMDLs jointly for pollutants and waters interconnected within the same watershed, clustering plans for different pollutants in the same water body within the same watershed into a single submission, and other cost-cutting measures related to capitalizing on efficiency.

In addition, the EPA also provides some funding to offset TMDL costs through grants to states for the management of most programs of the Clean Water Act. In 2001, EPA was to have invested about \$21.7 million in managing the TMDL program, with \$10 million of this available to EPA regions to support states' efforts.<sup>16</sup> Despite federal grants and efficiency measures, the cost of listing impaired water bodies, and developing and implementing TMDLs is high, and sometimes prohibitive, to states, with costs varying among TMDLs and individual states.

During a recent meeting of the Southern Legislative Conference's Energy and Environment Committee, members expressed concern that their states had fallen behind schedule with developing TMDL water quality data and implementing TMDLs, and many noted that they were hard pressed to find the appropriate funds for doing so. To offset

the costs of TMDL development and stream monitoring, it was suggested that states use a portion of the fees received from issuing and monitoring industrial NPDES storm water and surface water discharge permits as well as municipal NPDES storm water permits. Committee discussion then centered on whether or not states charged fees for the issuance of these permits, and whether any states used the funds from these fees to offset water planning and TMDL costs.

### **The Survey**

To gather this information, divisions of water quality in each SLC state were sent a survey asking if their state charges industries for the issuance and monitoring of NPDES storm water permits; if industries are charged for the issuance and monitoring of surface water discharge permits; if MS4s are charged fees for the issuance and monitoring of NPDES storm water permits; if any of these permit fees (if applicable) are used to offset costs associated with water quality planning, TMDL development, or stream monitoring; and if any other non-permit fees which are collected are used to offset costs associated with water quality planning, TMDL development or stream monitoring. Southern Legislative Conference states are Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, Missouri, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia and West Virginia. The states of Alabama and Florida did not respond to the survey.

Of Southern states completing the survey, responses varied significantly. For example, while some states do not charge fees for the aforementioned water permits, others assess fees for certain types of permits, but not for others. Of the states charging fees, all charge different amounts, with some states charging application or initial fees, some assessing fees on an annual basis, and others applying one fee which is good for five years – the maximum time allowed by the EPA. Complicating a comparative analysis, states use different formulas or rates for calculating fees, with some charging a flat amount based on facility type, and others using a formula to calculate fee amounts, based on various factors such as facility classification, discharge amount and type of water discharge, and the number of pipes used for discharge.

The following provides an SLC state-by-

state summary of responses to the survey on water permit fees, and whether or not those fees are used to offset TMDL development costs. Additional information from the EPA regarding the status of each state's TMDL program is provided.<sup>17</sup> For a more detailed review of fee types and amounts, refer to the table following the state summaries or to state department of environment Web sites – whose links are provided.

### **SLC State-by-State Summaries Alabama**

Officials with the Alabama Department of Environmental Management did not respond to the SLC survey. Consequently, information on water permit fees and their usage is not provided. Some water permit information may be obtained from the Department's Web site: <http://www.adem.state.al.us/>.

*TMDL Progress* – Alabama's 1998 Section 303(d) list, partially approved and partially rejected by the EPA, identifies a total of 200 waters not meeting water quality standards due to a reported 378 impairments. Of these waters, 182 are streams, creeks or rivers; 11 are lakes, reservoirs or ponds; and seven are estuaries. As of March 1, 2002, the state has had 12 TMDLs approved by the EPA, covering two different pollutants: dissolved oxygen and ammonia.

### **Arkansas**

The Arkansas Department of Environmental Quality charges annual fees for the issuance of industrial storm water permits and surface water discharge permits, as well as their modification, based on facility classification and type of discharge. Officials note that permit fees are used to fund Water Division activities, helping fund water planning, TMDL development and stream monitoring costs. To learn more about the state's NPDES permit program, visit the Department's Web site: <http://www.adeq.state.ar.us/>.

*TMDL Progress* – Arkansas' 1998 Section 303(d) list, approved by EPA in July 1998, identifies a total of 51 waters not meeting water quality standards due to a reported 71 impairments. Of these waters, 43 are streams, creeks or rivers. and eight water types have not yet been reported. As of March 1, 2002, the state has had 11 TMDLs approved by the EPA, covering three pollutants: siltation, nitrate and fecal coliform.

## **Florida**

The Florida Department of Environmental Protection did not respond to the SLC survey, hence, information on water permit fees and their usage is not provided. Some information regarding the state's NPDES permit program may be found on the Department's Web site: <http://www.dep.state.fl.us/>.

*TMDL Progress* – Florida's 1998 Section 303(d) list, approved by the EPA, identifies 712 waters not meeting water quality standards due to a reported 1,973 impairments. Of these waters, 49 are streams, creeks or rivers; 17 are lakes, reservoirs, or ponds; four are bays; two are estuaries; one is an island coastal waterway; and the remaining water types have not yet been reported. As of March 1, 2002, the state has had 27 TMDLs approved by the EPA, covering three pollutants: fecal coliform, nutrients and dissolved oxygen.

## **Georgia**

The Georgia Division of Environmental Protection does not charge fees for the issuance of industrial storm water, industrial surface water discharge or municipal storm water permits. To learn more about the state's NPDES permit program, visit the Division's Web site: <http://www.ganet.org/dnr/environ/>.

*TMDL Progress* – Georgia's 2000 Section 303(d) list, approved by the EPA in August 2000, identifies a total of 710 waters not meeting water quality standards due to a reported 1,023 impairments. Of these waters, 51 are streams, creeks or rivers, one is a lake, and the remaining types have not been reported. As of March 1, 2002, the state has had 201 TMDLs approved by the EPA, covering 21 pollutants.

## **Kentucky**

While the Kentucky Department of Environmental Protection does not charge industries for general storm water permits, industries seeking individual permits are charged a flat fee. Industries must pay an issuance fee, based on type and volume of discharged waste water, for surface water discharge permits. Municipal storm water permits do not require fees. Officials with the Water Division note that all permit fees are designated for their general fund, which may be used for water planning and TMDL development activities. To learn more about the state's NPDES permit

program, visit the Department's Web site: <http://www.nr.state.ky.us/nrepc/dep/dep2.htm>.

*TMDL Progress* – Kentucky's 1998 Section 303(d) list, approved by EPA in June 1998, identifies a total of 231 waters not meeting water quality standards due to a reported 367 impairments. Of these waters, 196 are streams, creeks or rivers, and 35 are lakes, reservoirs or ponds. As of March 1, 2002, the state has had 45 TMDLs approved by the EPA, covering eight different pollutants.

## **Louisiana**

The Louisiana Department of Environmental Quality charges industries fees both for annual multi-sector general and construction storm water permits (with the latter applying only to areas covering five or more acres). Department officials responded that all permit fees go into their Environmental Trust Fund – used for departmental operating expenses – and that they may fund water planning and TMDL activities. To learn more about the state's NPDES permit program, visit the Department's Web site: <http://www.deq.state.la.us/>.

*TMDL Progress* – Louisiana's 1998 Section 303(d) list, approved in September 1998 by the EPA, identifies a total of 471 waters not meeting water quality standards due to a reported 1,652 impairments. Of these waters, 226 are streams, creeks or rivers; 91 are bayous; 59 are lakes, reservoirs or ponds; and the remaining waters are estuaries, canals, coastal waters, bays or wetlands, or have not yet been reported. As of March 1, 2002, the state has had 29 TMDLs approved by the EPA, covering four different pollutants: dissolved oxygen, nitrogen, copper and organic enrichment.

## **Maryland**

The Maryland Department of Environment charges industries a one-time, five-year permit fee for general storm water permits, and levies application (based on facility type and discharge volume) and annual (based solely on discharge) fees for individual permits. Industrial surface water discharge permits are subject to both application and annual fees. Permit fees are waived for state and local governments seeking municipal storm water permits; however, applicants for individual MS4 permits must pay a fee. Department officials note that permit fees from these sources are not used to offset costs associated with water planning, TMDL

development or stream monitoring activities. To learn more about the state's NPDES permit program, visit the Department's Web site: <http://www.mde.state.md.us/index.html>.

*TMDL Progress* – Maryland's 1998 Section 303(d) list, approved by EPA in September 1998, identifies a total of 196 waters not meeting water quality standards due to a reported 371 impairments. Water types have not been reported. As of March 1, 2002, the state has had 41 TMDLs approved by the EPA, covering nine different pollutants.

### **Mississippi**

The Mississippi Department of Environmental Quality does not charge fees for the issuance of industrial storm water or surface water discharge permits, or for municipal storm water permits. To learn more about the state's NPDES permit program, visit the Department's Web site: <http://www.deq.state.ms.us/newweb/homepages.nsf>.

*TMDL Progress* – Mississippi's 1998 Section 303(d) list, approved by EPA in September 1999, identifies a total of 721 waters not meeting water quality standards due to a reported 2,241 impairments. Of these waters, 581 are streams, creeks or rivers; 28 are lakes reservoirs or ponds; six are coastland areas; four are estuaries, and 102 have not been reported. As of March 1, 2002, the state has had 119 TMDLs approved by the EPA, covering 15 different pollutants.

### **Missouri**

The Missouri Division of Environmental Quality charges both application and annual fees for industrial storm water and surface water discharge permits, with fees based on facility classification and discharge volume. Municipalities pay fees for storm water permits, based on the same criteria. Department officials note that fees are used only for the administrative costs of issuing them, not for water planning, TMDL or stream monitoring activities. To learn more about the state's NPDES permit program, visit the Division's Web site: <http://www.dnr.state.mo.us/deq/homedeq.htm>.

*TMDL Progress* – Missouri's 1998 Section 303(d) list, partially approved and partially rejected by EPA in January 1999, identifies a total of 180 waters not meeting water quality standards due to a reported 216 impairments. Of these waters, 159 are streams, creeks or rivers, and 21 are lakes, reservoirs or

ponds. As of March 1, 2002, the state has had 23 TMDLs approved by the EPA, covering 10 different pollutants.

### **North Carolina**

The North Carolina Department of Environmental and Natural Resources requires flat annual fees for both general and individual industrial storm water permits. Annual industrial surface water discharge permit fees apply, and are based on a facility's discharge volume. Phase I municipality individual major permits require an annual fee. A portion of all permit fees helps fund positions in divisions overseeing water planning and TMDL development. To learn more about the state's NPDES permit program, visit the Department's Web site: <http://www.enr.state.nc.us/>.

*TMDL Progress* – North Carolina's 1998 Section 303(d) list, approved in June 1998 by EPA, identifies a total 477 waters not meeting water quality standards due to a reported 378 impairments. Of these waters, 406 are streams, creeks or rivers; 52 are estuaries; and 19 are lakes, reservoirs or ponds. As of March 1, 2002, the state has had 69 TMDLs approved by the EPA, covering 18 different pollutants.

### **Oklahoma**

The Oklahoma Department of Environmental Quality charges an annual general permit fee for NPDES industrial storm water permits. Annual industrial surface water discharge fees vary depending on the type and volume of wastewater discharged. Large MS4 permits require a flat, annual fee. To learn more about the state's NPDES permit program, visit the Department's Web site at: <http://www.deq.state.ok.us/>.

*TMDL Progress* – Oklahoma's 1998 Section 303(d) list, approved in September 1998 by EPA, identifies a total of 531 waters not meeting water quality standards due to a reported 1,430 impairments. Of these waters, 347 are streams creeks or rivers; 137 are lakes reservoirs or ponds; and 47 water types have not yet been reported. As of March 1, 2002, the state has had 21 TMDLs approved by the EPA covering one pollutant, dissolved oxygen.

### **South Carolina**

The South Carolina Department of Health and Environmental Control charges industries a flat, annual fee for general surface water discharge permits, and charges annual fees for individual permits based on the number of pipes discharging water. Individual and

general municipal storm water permits require annual fees. To learn more about the state's NPDES permit program, visit the Department's Web site: <http://www.deq.state.ok.us/>.

*TMDL Progress* – South Carolina's 2000 Section 303(d) list, approved by EPA in May 2000, identifies a total of 715 waters not meeting water quality standards due to a reported 876 impairments. Water types have not yet been disclosed. As of March 1, 2002, the state has had 31 TMDLs approved by the EPA, covering three different pollutants: BOD (biochemical oxygen demand), fecal coliform and dissolved oxygen.

### **Tennessee**

The Tennessee Department of Environment and Conservation charges annual fees, based on industry acreage, for the issuance of industrial storm water permits. Industrial surface water discharge permits require annual fees based on facility type and discharge volume. Municipalities discharging more than designated amounts pay the same annual fee amounts for their MS4 permits. Officials did not comment on the disposition of fee funds. To learn more about the state's NPDES permit program, visit the Department's Web site: <http://www.state.tn.us/environment/>.

*TMDL Progress* – Tennessee's 1998 Section 303(d) list, approved by EPA in September 1998, identifies a total of 353 waters not meeting water quality standards due to a reported 795 impairments. Of these waters, 317 are streams, creeks or rivers and 36 are lakes, reservoirs or ponds. As of March 1, 2002, the state has had 17 TMDLs approved by the EPA, covering two pollutants: fecal coliform and copper.

### **Texas**

The Texas Natural Resource Conservation Commission charges industries a flat application fee for a five-year individual NPDES storm water permit, with additional fees levied to modify or renew the permit and for providing public notice. Annual fees also are applicable, and based on a point formula rating. Fees for industrial surface water discharge permits vary up to a maximum amount, based on application type and discharge volume. These fees are assessed for the issuance of new, major amendment and renewal applications. In addition, annual water quality assessment and annual wastewater fees are charged, by formula and up to a maximum amount, for industrial surface water discharge

permits. There is no distinction made between industrial and municipal entities in establishing permitting and related fees. Texas officials noted that the state is in the process of completely restructuring its annual fee system for fiscal year 2003. Currently, water permit fees are not used toward TMDLs, stream monitoring or water quality planning. To learn about the state's NPDES permit program, visit the Commission's Web site at: <http://www.tnrcc.state.tx.us/>.

*TMDL Progress* – Texas's 1998 Section 303(d) list, approved by EPA in July 1998, identifies a total of 147 waters not meeting water quality standards due to an estimated 247 impairments. Of these waters, 67 are streams, creeks or rivers; 32 are lakes, reservoirs or ponds; 25 are bays; 18 are bayous, and the remainder are channels, gulfs or harbors, or have not been reported. As of March 1, 2002, the state has had 29 TMDLs approved by the EPA, covering eight different pollutants.

### **Virginia**

The Virginia Department of Environmental Quality charges industries a flat, one-time fee for a five-year NPDES storm water permit. Modification fees also are flat, and are good for five years. Industrial surface water discharge permits, also valid for five years, are based on facility classification. The state charges municipalities a one-time five-year fee for MS4 permits. Officials reported that these fees do not support water planning, TMDL development or stream monitoring costs, but are applied to the administrative costs of their development and issuance. To learn more about the state's NPDES permit program, visit the Department's Web site: <http://www.deq.state.va.us/>.

*TMDL Progress* – Virginia's 303(d) list, partially approved and partially disapproved by EPA in November 1998, identifies a total of 883 waters not meeting water quality standards due to a reported 1,002 impairments. Of these waters, 67 are streams, creeks or rivers; two are estuaries; and 814 water types have not yet been reported. As of March 1, 2002, the state has had 21 TMDLs approved by the EPA, covering eight different pollutants.

### **West Virginia**

The West Virginia Department of Environmental Protection charges industries both application and re-issuance fees for storm water permits, with the fee amount based on average discharge volume. Industrial surface

water discharge permit application fees (based on discharge volume) and re-issuance fees (based on discharge volume, facility type and wastewater type) also are required. The state has yet to issue an MS4 permit, as none of its municipalities have yet been required to obtain one. Officials note that permit fees are not used to offset water planning, TMDL development or stream monitoring costs, as funds for these activities are derived from general revenue funding. To learn more about the state's

NPDES permit program, visit the Department's Web site: <http://www.dep.state.wv.us/>.

*TMDL Progress* – West Virginia's 303(d) list, approved by EPA in September 2001, identifies a total of 722 waters not meeting water quality standards due to a reported 1,022 impairments. Of these waters, 710 are streams, creeks or rivers and 12 are lakes, reservoirs or ponds. As of March 1, 2002, the state has had 765 TMDLs approved by the EPA, covering 11 different pollutants.

<b>Southern State TMDL Progress Report, March 1, 2002</b>					
<b>State</b>	<b>1998 or 2000 section 303(d) list status</b>	<b>waters identified on sate 303(d) list</b>	<b>identified impairments of those waters</b>	<b>state TMDLs approved by EPA</b>	<b>pollutant types covered by approved TMDLs</b>
<b>Alabama</b>	Partially Approved	200	378	12	2
<b>Arkansas</b>	Approved	51	71	11	3
<b>Florida</b>	Approved	712	1,973	27	3
<b>Georgia*</b>	Approved	710	1,023	201	21
<b>Kentucky</b>	Approved	231	367	45	8
<b>Louisiana</b>	Approved	471	1,652	29	4
<b>Maryland</b>	Approved	196	371	41	9
<b>Mississippi</b>	Approved	721	2,241	119	15
<b>Missouri</b>	Partially Approved	180	216	23	10
<b>North Carolina</b>	Approved	477	378	69	18
<b>Oklahoma</b>	Approved	531	1,430	21	1
<b>South Carolina*</b>	Approved	715	876	31	3
<b>Tennessee</b>	Approved	353	795	17	2
<b>Texas</b>	Approved	147	247	29	8
<b>Virginia</b>	Partially Approved	883	1,002	21	8
<b>West Virginia</b>	Approved	722	1,022	765	11
<b>Total</b>	--	7,300	14,042	1,461	--

\* Of SLC states, only Georgia and South Carolina have had their year 2000 Section 303(d) lists approved by the EPA. All other state information is compiled from respective 1998 Section 303(d) lists.

Source: United States Environmental Protection Agency Web site: "Total Maximum Daily Load Program," <http://www.epa.gov/owow/tmdl/index.html>



**Outline of Water Permit Fees in Southern States February 2002**

State	fees for industrial NPDES storm water permits	fees for industrial surface water discharge permits	fees for municipal storm water permits	do any of these fees offset water planning, TMDL development or stream monitoring costs	do other fees offset water planning, TMDL development or stream monitoring costs
<b>Alabama</b>	No response to the SLC survey.				
<b>Arkansas</b>	General storm water construction and industrial permits require an annual \$200 fee. Annual individual permit fees vary, based on facility classification and type of discharge – initial and annual fees range from \$300 to \$15,000, with modification fees ranging from \$1,000 to \$5,000. Initial, annual and modification fees for minor facilities discharging non-contaminated storm water are based on a formula, and are not to exceed \$10,000.	Fees are based on facility classification and daily discharge volume. Major facilities are charged an initial and annual fee of either \$11,000 or \$15,000, a minor modification fee of \$1,000 and a major modification fee of \$5,000. Minor facilities' fees are based on a formula, with facilities discharging non-toxic, non-priority pollutant or non-hazardous substances, or non-contact cooling water charged a maximum initial, annual and modification fee of \$10,000. Facilities discharging toxic, priority-pollutant or hazardous substances may be charged a maximum initial, annual and modification fee of \$15,000.	The state's one major MS4 permit was initially \$9,000, with an annual fee of \$11,000.	Yes. Permit fees are used to fund Water Division activities.	Yes. Permit fees are used to fund Water Division activities.
<b>Florida</b>	No response to the SLC survey.				
<b>Georgia</b>	No fees are assessed.				
<b>Kentucky</b>	General industrial storm water permits do not require fees. Individual permits are \$1,000, and are valid for 5 years.	Issuance fees are charged for individual permits. Permit fees, from \$1,000 to \$3,200 (depending on the type and volume of discharged wastewater) are required, and are valid for 5 years.	No fees are assessed.	All fees go into the department's general fund, which may be used to offset TMDL funding.	All fees go into the department's general fund.
<b>Louisiana</b>	Annual multi-sector general permits are \$75. Construction permits, for areas covering 5 or more acres, are \$200 annually.	A rating system exists, basing fees on facility complexity and designation, type and volume of wastewater discharged, and other factors. Municipal facilities are charged \$112.00 annually per rating point, all other facilities are charged \$206 annually per point. Individual annual permit fees range from \$261 to \$108,675.	Refer to preceding cell.	All fees go into the Environmental Trust Fund, which is used for the operating expenses of the Department of Environmental Quality. Funds may be used to offset TMDL funding.	All fees go into the Environmental Trust Fund, which is used for the operating expenses of the Department of Environmental Quality. Funds may be used to offset TMDL funding.
<b>Maryland</b>	General storm water permit fees are \$550, and are valid for 5 years. Individual permits require an application fee (based on facility type and volume of discharge) which ranges from \$25 to \$20,000; and an annual fee (based solely on discharge), ranging from \$100 to \$5,000. Other associated fees may apply to individual permits.	A \$50 to \$20,000 application fee is required, depending on the volume of wastewater discharged, facility classification and how the water is designated. Annual permit fees also are required, ranging from \$100 to \$5,000, depending on discharge volume.	Permit fees are waived for state and local governments. Applicants for individual permits, however, must pay fees as outlined.	No. Officials note that the fees do not come close to covering even the permit writing and enforcement costs, let alone TMDLs and water quality monitoring.	No. Officials note that the fees do not come close to covering even the permit writing and enforcement costs, let alone TMDLs and water quality monitoring.

**Outline of Water Permit Fees in Southern States February 2002**

State	fees for industrial NPDES storm water permits	fees for industrial surface water discharge permits	fees for municipal storm water permits	do any of these fees offset water planning, TMDL development or stream monitoring costs	do other fees offset water planning, TMDL development or stream monitoring costs
<b>Mississippi</b>	No fees are assessed.	No fees are assessed.	No fees are assessed.	NA	NA
<b>Missouri</b>	General permit application fees are \$150, with annual fees set at \$60. Individual (site-specific) permit application fees range from \$1,350 to \$2,350, as do annual fees, based on facility type and discharge volume.	Application and annual permit fees range from \$1,500 to \$5,000, again based on facility type and discharge volume.	Municipal fees are the same as industrial, with one exception: wastewater treatment facilities are charged 40 cents to \$25 per hook-up annually. Modification fees are \$200.	No, fees pay for the administrative costs of issuing them.	No, these programs are financed from the agency's general fund.
<b>North Carolina</b>	General 1-year permit application fees are \$80, and cost \$80 annually thereafter. Individual 1-year permit application fees are \$715, and cost \$715 annually thereafter.	Individual major permits (for facilities discharging more than 1 million gallons per day) require an annual \$2,865 fee. Individual minor permits (facilities discharging less than 1 million gallons daily) are \$715 annually.	Phase I MS4 individual major permits require an annual \$2,865 fee.	A portion of the fees help fund positions in the TMDL, Basinwide Planning, and Environmental Science Branch units of the Department.	No.
<b>Oklahoma</b>	General industrial permit fees are \$150 annually.	Permit fees vary depending on type and volume of wastewater discharged.	Large MS4 permits are \$1,000 annually. When small and medium MS4s are permitted, a \$150 annual fee is required.	Yes. Along with these fees the division receives grants from EPA and the state. Some of these grants require matching funds.	Yes. Along with these fees the division receives grants from EPA and the state. Some of these grants require matching funds.
<b>South Carolina</b>	General permit fees are \$75 annually. Individual permit fees for facilities with 5 or fewer discharge pipes range from \$400 to \$1,600, annually, based on their flow. For industries with more than 5 discharge pipes, the fee is formulated based on the number of pipes used.	Refer to preceding cell.	General MS4 permits are \$2,000 annually; large individual MS4 permits are \$25,000 annually; medium MS4 permits are \$15,000 annually; and small MS4 individual permits are \$10,000 annually. Fees for local governments conducting industrial-related activities are the same as for private entities.	Approximately \$50,000 of an annual \$1,000,000 from these fees fund TMDL development.	No.
<b>Tennessee</b>	Storm water discharge permit fees range between \$0 and \$700 annually, depending on industry acreage.	For major industries, permit fees range from between \$2,500 and \$7,500 annually, and minor industry fees range from \$500 and \$5,000. All such fees are dependent on discharge flow measured in gallons per day.	Municipalities discharging more than 1 million gallons per day are charged the same fee amounts as are industries.	Information was not provided.	Information was not provided.

<b>Texas</b>	Individual MS4 5-year permits require application fees of \$2,000; the fee to renew, or amend and renew the permit term is \$2,000. Other, lesser fees are assessed for applying for modification of existing permits and for providing public notice. Annual fees also are assessed, based on a point-formula rating. The application fee for general industrial storm water activities is \$100, with an annual \$100 waste treatment fee required.	Fees – ranging from \$315 to \$2,050, based on application type and discharge volume – are assessed for the issuance of new, major amendment and renewal applications. Annual water quality assessment fees are assessed, based on several factors, with the maximum fee being \$40,000. Annual wastewater fees also are assessed, based on a formula, and may reach a maximum of \$25,000.	There is no distinction made between private and public entities in establishing application and other permit-related fees.	No fees are used toward TMDLs, stream monitoring or water quality planning. All of these functions currently are funded by the state or through federal grants.	Water quality assessment fees support approximately 80 percent of all surface water monitoring.
<b>Virginia</b>	Application (permit) fees are \$2,400, and are valid for 5 years. Modification fees are \$1,200, and are also good for 5 years.	For major industries, application (permit) fees are \$8,000 and modification fees are \$4,000; minor industries with no standard limits are charged \$3,400 and \$1,700, respectively; and minors with standard limits are \$2,200 and \$1,100 for modifications. All permits are valid for 5 years.	Large MS4 storm water permits are \$7,100, with a modification fee of \$3,550. Once implemented, small MS4 permits are expected to be \$200 and be valid for 5 years.	No. Officials note that permit fees roughly cover the administrative cost of developing and issuing permits.	No.
<b>West Virginia</b>	Application fees range from \$470 to \$1,750 based on average discharge volume in gallons per day; modification fees range from \$120 to \$580, based on average discharge volume. Annual permit fees range between \$100 and \$1,500.	Application fees, again based on discharge volume, range from \$400 to \$15,000; modification fees range from \$100 to \$5000, based on average discharge volume, facility and wastewater type. Annual permit fees range from \$100 to \$5,000.	West Virginia has not issued any MS4 permits as it has no Phase I (large) municipalities. Fees for Phase II municipalities have not yet been determined.	No, funds for these activities come from the department's general revenue funding.	No.

## Endnotes

- <sup>1</sup> Point source discharge means a discharge by a discernible, confined and discrete source, i.e., pipe, ditch channel, tunnel, well, container, animal feeding operation, vessel, etc.
- <sup>2</sup> North Carolina Department of Environmental and Natural Resources Web site: *NPDES Wastewater General Permits Program*, [http://h2o.enr.state.nc.us/su/Wastewater\\_GP\\_Program.htm](http://h2o.enr.state.nc.us/su/Wastewater_GP_Program.htm), accessed November 26, 2001.
- <sup>3</sup> South Carolina Department of Health and Environmental Control Web site: “National Pollutant Discharge Elimination System Permit Program,” <http://www.scdhec.net/eqc/water/html/npdespage.html>, accessed November 26, 2001.
- <sup>4</sup> Arkansas Department of Environmental Quality, NPDES Web site: [http://www.adeq.state.ar.us/water/branch\\_npdes.htm](http://www.adeq.state.ar.us/water/branch_npdes.htm), accessed November 27, 2001.
- <sup>5</sup> According to the EPA, polluted storm water runoff is a leading cause of impairment to water bodies not meeting water quality standards.
- <sup>6</sup> EPA defines an MS4 as a conveyance (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels or storm drains) owned or operated by a public body that discharges into waters of the United States.
- <sup>7</sup> EPA defines a regulated small MS4 as any small MS4 located in an urbanized area, and defined by the Bureau of the Census, or located outside of an urbanized area and brought into the program by the NPDES permitting authority.
- <sup>8</sup> United States Environmental Protection Agency Web site: Phase I NPDES Storm Water Program, [http://cfpub1.epa.gov/npdes/stormwater/swphase1.cfm?program\\_id=6](http://cfpub1.epa.gov/npdes/stormwater/swphase1.cfm?program_id=6), accessed December 10, 2001.
- <sup>9</sup> North Carolina Department of Environmental and Natural Resources Web site: NPDES Phase II Storm water Program, [http://h2o.enr.state.nc.us/su/NPDES\\_Phase\\_II\\_Stormwater\\_Program.htm](http://h2o.enr.state.nc.us/su/NPDES_Phase_II_Stormwater_Program.htm), accessed November 26, 2001.
- <sup>10</sup> United States Environmental Protection Agency Web site: “Total Maximum Daily Load Program,” <http://www.epa.gov/owow/tmdl/overviewfs.html>, accessed November 16, 2001.
- <sup>11</sup> Tennessee Department of Environment Conservation Web site: “Total Maximum Daily Load,” <http://www.state.tn.us/environment/wpc/tmdl.htm>, accessed November 26, 2001.
- <sup>12</sup> Missouri Department of Natural Resources Web site: “What Are TMDLs,” <http://www.dnr.state.mo.us/deq/wpcp/>, accessed December 12, 2001.
- <sup>13</sup> United States Environmental Protection Agency Web site: “Total Maximum Daily Load Program,” , accessed November 16, 2001.
- <sup>14</sup> Waters are streams, creeks, rivers, lakes, reservoirs, ponds, estuaries, coastlines, bays, bayous, channels, etc.
- <sup>15</sup> United States Environmental Protection Agency. *The National Costs to Develop TMDLs* (Draft Report), August 2001.
- <sup>16</sup> Ibid.
- <sup>17</sup> United States Environmental Protection Agency Web site: “Total Maximum Daily Load Program,” <http://www.epa.gov/owow/tmdl/index.html>, accessed January 25, 2002.

This Regional Resource was prepared for the Southern Legislative Conference’s (SLC) Energy and Environment Committee by Todd Edwards, SLC Regional Representative.

The SLC is a non-partisan, non-profit organization serving Southern state legislators and their staffs. First organized in 1947, the SLC is a regional component of The Council of State Governments, a national organization which has represented state governments since 1933. The SLC is headquartered in Atlanta, Georgia.