

Director's Report to AEMC June 15, 2018

Good morning all and welcome to the fifth meeting of the AEMC for FY 2018. A special welcome to Jay Masingill our newest commission member. This must have been a busy couple of weeks for you becoming informed on all the matters currently being considered by the Commission. I'm confident Debi Thomas was a big help in guiding you through the process. Although Commissioner Merritt is not here today, my congratulations to her for recently being named "Enterprise Woman of the Year". That is quite an honor. It appears we had the perfect storm in conflicts with Commissioner's schedules and for the first time in at least a decade we do not have a quorum; however I will read my report into the record. Today's report will: update the Commission on the Department's budget status; review the performance of the Department's Air Division using EPA dashboards; and, give you a brief update on activities related to Sanitary Sewer Overflows.

Budget

On the budget front, the Department continues to be on target with its FY 2018 funding and expenditures.

Work on completing the RESTORE Act funding for a facility to house the Mobile Field Office and Coastal Program continues. We are actively looking at sites that would be suitable for constructing the new facility and have identified several possibilities. A draft Request for Proposals for Architectural and Engineering Services has been reviewed by the Alabama Building Commission. We will be prepared to move along promptly as soon as funding becomes available which is anticipated to be around calendar year-end.

Air Dashboards

Today we will look at the performance of our Air Division. As is done with the Department's other divisions we will look at the most recent updates to the same performance metrics

reviewed in years past so we can see trends. While we are looking at standard EPA-developed metrics today, a comprehensive review of Departmental performance would take into account additional measures less suited to statistical analysis such as: environmental quality trends in Alabama like those highlighted at the April Commission meeting; innovations that improve operational efficiencies; the quality of non-discrimination programs; effectiveness of outreach to the public; progress in achieving strategic and annual plan goals; and other qualitative measures.

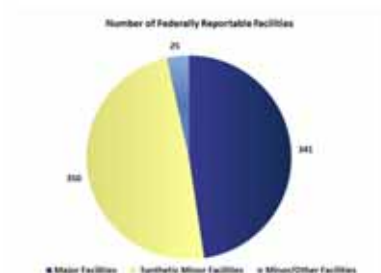
Today's focus is on the dashboard metrics component of performance analysis. It will cover the size of the regulated universe, the rate of inspections, the findings from those inspections, and then the enforcement actions taken where violations were found. As was noted the last time Air Division metrics were reviewed, EPA changed the format the states are required to use in reporting air data into the EPA database, which has resulted in reporting problems for a number of states. While the Department has been able to quickly implement the new format, many other states have not completed the process. EPA is able to publish statistics for ADEM's Air program but is unable to provide a comparison of our performance against national averages. The graphs you will see today will show ADEM performance measures for the years 2011 through 2017, however, national averages are only available for the years 2014 and earlier.

A couple of additional things to note: First, the information in the following graphs is for the entire State of Alabama; however, Jefferson County and the City of Huntsville implement the Clean Air Act in their respective jurisdictions. Because the performance analysis is for the Department as well as Jefferson County and Huntsville, these dashboards do not solely reflect the Department's universe of regulated facilities or its activities.

Second, these dashboards only reflect information for federally reportable facilities. To be federally reportable, a regulated facility must be a major source, a synthetic minor source (which is a facility that is capable of being a major source but which has elected to restrict its emissions to a level below that which would put it in the category of a major source), or any minor source that had a federally reportable violation during the most recent fiscal year. The Department actually reports compliance and enforcement data for approximately 1,300 of its regulated facilities, but all of these activities are not classified as federally reportable and therefore not reflected in these dashboards.

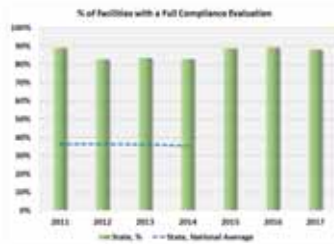
So, with those caveats in mind, please turn your attention to the screen where I will walk you through a few of the more than 50 Air dashboards available for analysis of the air pollution control program.

Slide 1



This first slide depicts data from EPA's database for Alabama's total universe of federally reportable facilities under the Clean Air Act. There are currently 341 facilities classified as major sources, which are shown in dark blue; 350 synthetic minor sources, which are shown in yellow; and 25 minor or other sources, which are shown in light blue. These numbers do not include facilities that are exclusively regulated by EPA. The number of major, synthetic minor, and minor sources is up slightly in all categories for 2017 but has not fluctuated significantly in recent years. The trend is basically flat.

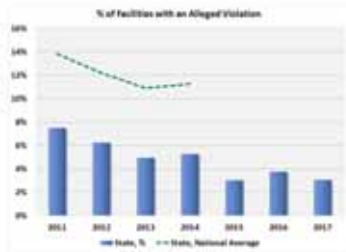
Slide 2



In this second slide, you see an analysis of the percentage of full compliance evaluations (or FCEs), conducted on federally reportable facilities in Alabama for the period from 2011 through 2017. Full compliance evaluations are analogous to inspections for the Land and Water media. EPA does not require that federally reportable facilities receive an FCE each year. EPA requires an FCE for major sources once every two fiscal years and for synthetic minor sources once every five fiscal years. However, the Department's goal is to conduct a full compliance evaluation on each of these sources every fiscal year. The reason the bars on the graph are less than the Department's 100% goal is that the local programs in Jefferson County and the City of Huntsville do not seek to operate with the same self-imposed goal to conduct compliance evaluations for 100% of the federally reportable facilities each year. In 2017 the Department achieved 100% compliance evaluation coverage as in years past. During the past seven years the state-wide coverage has fluctuated between 80% and 90%. The three year state-wide trend is essentially flat at approximately 90%.

As you can see, Alabama as a whole has consistently exceeded EPA's inspection requirement of at most once every two years or 50%. The FCE national average across all states is shown as the dashed blue line hovering just below 40% on the graph. As noted earlier, on this and other air media graphs, the national average comparison information is only available through 2014.

Slide 3



The dashboard graph shown on this third slide reflects the percentage of federally reportable facilities that were found to have a federally reportable violation. There are expected year-to-year fluctuations in violation rates that often relate to the effective dates of new air regulations. The dashed green line at the top of the graph represents the national average violation rate across all states through fiscal year 2014. The data indicates that the violation rate in Alabama was significantly lower than the national average. The violation rate in Alabama in 2017 was tied for an all-time low around 3%. Over the last seven years the violation rate has consistently been much lower than prior national averages and has been trending down.

A reasonable explanation for this lower violation rate in Alabama is that the high compliance evaluation, i.e., inspection rate, and high informal enforcement rate, which is a form of compliance assistance or education, discourages violations.

Slide 4



On this fourth slide, you see displayed the percentage of federally reportable facilities receiving informal and formal enforcement actions. Informal enforcement actions appear in

blue and formal enforcement actions appear in yellow. Despite the 2017 dip in informal enforcement, the longer term trend is up, as is the trend for formal enforcement. In the Air program, formal actions are typically preceded with informal actions; therefore, a facility may be represented in each column. The dashed green line at the top of the graph represents the national average informal enforcement action rate across all states, and the dashed purple line at the top of the graph represents the national average formal enforcement action rate across all states through fiscal year 2014. Please note that, unlike the prior graph, this graph includes enforcement actions that were taken for both non-federally reportable violations and federally reportable violations. That is why the percentage of facilities with alleged violations presented in the prior slide is typically lower than the percentage of facilities receiving enforcement actions for the same fiscal year in this slide. Also, because Alabama has violation rates that are less than half the national average, the percentage of facilities undergoing enforcement actions is likewise lower than the national average.

Do the compliance and enforcement metrics shown on the four previous slides have an actual impact on environmental improvement? The answer is a resounding yes. As was noted in the last report to the Commission, for the first time since the Clean Air Act became law 48 years ago, Alabama now meets all National Ambient Air Quality Standards. This is no small achievement, especially since those standards have become more and more stringent over the years and, as you may recall, Birmingham was considered to have the worst air quality in the country in the 1960's and early 1970's.

To summarize: Alabama has a steady universe of facilities with air permits; our inspection rates are trending steady at a rate much higher than the national averages through 2014; the percentage of facilities with violations is much lower than the available national averages and trending down; and, there is increasing use of informal enforcement along with formal enforcement, which is the strategy that delivers the lower rate of violations being experienced

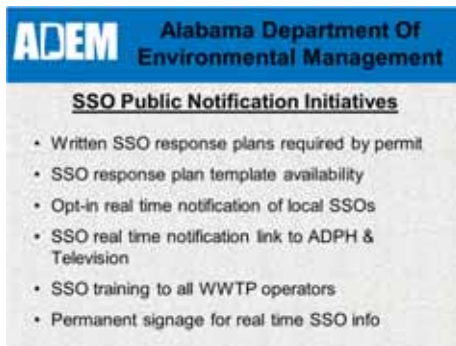
in Alabama. Most importantly, Alabama has moved from at or near the bottom in air quality to at or near the top.

That aggressive mindset of seeking to move quickly to improve the environment does, however, occasionally create bureaucratic challenges. The Department has proposed to have the Commission rescind a Departmental rule which was recently put in place to implement EPA guidelines on controlling gaseous emissions from landfills. It will be helpful to provide some background on the reasons for the proposal to rescind the rule. Under the Clean Air Act, EPA is required to review technology based rules such as the New Source Performance Standards rules periodically, which includes those for gaseous emissions from landfills. EPA did such a review and issued what it called final guidance for landfill emission rules in August of 2016. The ADEM rule implementing those guidelines was adopted by the Commission in April of 2017. Alabama is one of three states that acted to implement rules reflecting the EPA guidelines. In May of 2017 EPA concluded that its guidelines had serious errors and urged states to withhold rulemaking for several years until EPA could correct the errors. That is why at the August Commission meeting, based on the record you were provided in advance of this meeting, you will be asked to rescind the April 2017 rule. Assuming EPA acts as anticipated, we will be coming back to you in the next two to three years for rulemaking on this matter.

SSO update

Now for a brief update on public notification of Sanitary Sewer Overflows (SSOs). Including today's report, SSO related issues have been addressed by the Department or various interest groups at each of the last seven Commission meetings. There have also been three open meetings involving the Department and multiple interest groups to discuss public notification of SSOs and related topics.

Slide 5



Numerous other SSO public notification initiatives have been undertaken during the last few years, including:

- Implementing a new permit requirement for all Municipal Waste Water Treatment Plants (WWTPs) to have written SSO response plans that include public notification procedures;
- Developing an SSO response plan template to assist small and underfunded systems in creating their SSO response plans;
- Rolling out an opt-in real time local SSO notification system; the information is available to the public within minutes of ADEM receiving it electronically; currently approximately 83% of all permittees are registered to report SSOs by electronic means, and that percentage continues to increase;
- Offering interested organizations the ability to link to the Department's real time SSO notification system on their website; the Alabama Department of Public Health now has the link on its website; and television stations with combined coverage for the entire State are now automatically notified by the system so they have immediate access for reporting on SSOs that may have widespread impacts;
- Offering statewide SSO training for all WWTP operators, highlighting the permittees' ongoing obligation to notify the public of SSOs; and,

- Posting permanent signage at all public boat ramps, marinas, and gulf beaches as well as other permissible watercourse entry points, which shows links to the latest information regarding SSOs, and other water quality data.

Slide 6



A copy of the sign is shown in this slide.

Slide 7



Working with the Department on posting the signs are the US Army Corps of Engineers, the Tennessee Valley Authority, the Alabama Department of Conservation and Natural Resources, and several environmental and other commercial organizations. This slide shows one of the permanent informational signs in place at a Jordan Dam public boat access.

Slide 8



Here's one at a public beach access on Dauphin Island. At the end of May approximately half of the anticipated 350 total signs were in place.

The Chairman of the Commission's rules committee, Dr. Richardson, has been keeping informed on these activities which included him being a participant in the December 2017 meeting where interested environmental organizations, waste water treatment plant operators, waste water industry organizations and consultants, and ADEM conferred on numerous SSO topics.

Several environmental organizations, waste water treatment entities, and the Department of Public Health have independently undertaken other public information activities. As is readily evident, the SSO issues are being thoroughly vetted.

In fact, just recently, EPA requested that the Department's SSO public notification program be made available as a "best practices" model for other state environmental agencies to consider adopting.

Reminder on Strategic Plan Update

One last item is to remind interested parties that the Department and the Commission's ad hoc committee are inviting public input on the 2019 update to the Unified Strategic Plan. The

2014 Unified Strategic Plan and instructions on how to provide input for the 2019 update are available on the ADEM website.

Conclusion

That concludes today's report. I will be pleased to answer any questions you may have.