



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

JUL 15 2011

**MEMORANDUM**

**SUBJECT:** Corrective Action Report: Oversight of North Carolina's Renewals of Thermal Variances, Office of Inspector General Project No. 11-P-0221

**FROM:** Gwendolyn Keyes Fleming  
Regional Administrator

A handwritten signature in black ink, appearing to read "G. Keyes Fleming".

**TO:** Arthur A. Elkins, Jr.  
Inspector General

Per our follow-up discussion with your staff, we have revised responses contained in our May 27, 2011, corrective action plan pertaining to your final Evaluation Report of May 9, 2001, entitled, "Oversight of North Carolina's Renewals of Thermal Variances," report No. 11-P-0221. Response 1 clarifies the EPA's option to object to National Pollutant Discharge Elimination System (NPDES) permits per Section IV.B.3. of the EPA Region 4's Memorandum of Agreement with the North Carolina Department of Environment and Natural Resources, and response 2 clarifies that we will continue to review all Region 4 permits with Clean Water Act (CWA) Section 316(a) variances. We believe our regional approach of recommending states require permittees to collect additional data during the current permit term in order for us to better understand the components of the applicable receiving water body's balanced and indigenous population is consistent with the EPA's national practices regarding review of NPDES permits with thermal variances established under CWA Section 316(a).

Please contact Jim Giattina, Director of the Water Protection Division, at [Giattina.Jim@epa.gov](mailto:Giattina.Jim@epa.gov) or at (404) 562-9345, if you have any questions concerning our response.

Attachment

Attachment - EPA Region 4 Correction Action Plan in Response to OIG Report 11-P-0221

Identified Issues	Corrective Measures	Time Frame for NC Permits	Means of Evaluation
<p>1. Enforce the management controls of the NPDES Memorandum of Agreement.</p>	<p>Section IV.B.3. of EPA Region 4's Memorandum of Agreement (MOA) with the North Carolina Department of Environment and Natural Resources (NCDENR) states, "EPA may provide to the State written comments on, recommendations with respect to, or objections to the issuance of the draft permit." We will continue to implement the MOA by providing comments, recommendations and possible permit objections with respect to proposed Clean Water Act (CWA) Section 316(a) thermal variances.</p>	<p>The issues with the following permits will be resolved during the 30-day comment period for each draft permit. The exact dates will depend on the State and are unknown.</p> <ol style="list-style-type: none"> <li>1. Asheville Coal Power Plant, NPDES Permit No. NC0000396 (expired)</li> <li>2. Buck Steam Station, NPDES Permit No. NC0004774 expiring 8/31/2011.</li> <li>3. Belews Creek Steam Station, NPDES Permit No. NC0024406 expiring 2/29/2012.</li> <li>4. Marshall Steam Station NPDES Permit No. NC0004987 expiring 4/30/2015.</li> <li>5. McGuire Nuclear Power Plant NPDES Permit No. NC0024392 expiring 2/28/2015.</li> <li>6. Blue Ridge Paper Products, NPDES Permit No. NC0000272 expiring 6/30/2015.</li> <li>7. Cliffside Steam Station, NPDES Permit No. NC0005088 expiring 7/31/2015.</li> </ol>	<p>During the draft permit review phase for the identified permits, we will review targeted data submitted by facilities to NCDENR pertaining to the effects of the facility's thermal component of and on the maintenance of a BIP of fish, shellfish and wildlife in the receiving water body near the discharge point. Written comments or objections will be submitted to the State, as the Region deems appropriate.</p>
<p>2. Verify that thermal variances are protective of a balanced, indigenous population (BIP).</p>	<p>By the end of each permit's term, the EPA will review data for each R4 permit with a CWA Section 316(a) thermal variance to determine if the facility's receiving water body is able to maintain a BIP.</p>	<ol style="list-style-type: none"> <li>1. Asheville Coal Power Plant, (expired); same as above.</li> <li>2. Buck Steam Station expiring 8/31/2011; same as above.</li> <li>3. Belews Creek Steam Station, expiring 2/29/2012; same as above.</li> <li>4. McGuire Nuclear Power Plant expiring 2/28/2015; same as above.</li> <li>5. Marshall Steam Station expiring 4/30/2015; same as above.</li> <li>6. Blue Ridge Paper Products expiring 6/30/2015; same as above.</li> <li>7. Cliffside Steam Station expiring 7/31/2015; same as above.</li> </ol>	<p>The EPA will review the data and verify that the thermal variances are protective of a BIP by ensuring:</p> <ol style="list-style-type: none"> <li>1. A population characterized by diversity at all trophic levels,</li> <li>2. A capacity to sustain itself through cyclic, seasonal changes,</li> <li>3. Presence of necessary food chain species, and</li> <li>4. Non-domination of pollution-tolerant species.</li> </ol>
<p>3. Verify that the permit fact sheets and public notices comply with federal regulations.</p>	<p>The EPA will include a condition in the State's Fiscal Year 2012 CWA Section 106 workplan for the NPDES Program requiring all draft permit submittals with CWA Section 316(a) variances to include a copy of the public notice announcement.</p>	<p>Fiscal Year workplans for 2012 will be finalized by July 18, 2011.</p>	<p>The EPA will review future draft permits with CWA 316(a) variances to ensure that the permit's fact sheets and public notices contain the necessary elements and language to adequately inform the public of thermal discharges in relationship to demonstrating the maintenance of a BIP.</p>



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Please contact Jim Giattina, Director of the Water Protection Division, at [Giattina.Jim@epa.gov](mailto:Giattina.Jim@epa.gov) or at (404) 562-9345, if you have any questions concerning our response.

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