

**U.S. Environmental Protection Agency
State Review Framework: Round 1 (Fiscal Years 2003 – 2007)
Recommendation Status**

Idaho Department of Environmental Quality

23 Recommendations

Clean Air Act Recommendations

Recommendation Title: FCE tracking & Completion

Element: E1 Insp Universe

Finding: Not conducting FCEs in accordance with CMS plan.

Status: Completed

Expected Completion Date: 11/16/2006

Responsible Agency: State Action

Recommendation Narrative: State will modify their scheduling and reporting portions of their CMS tracking plan to facilitate ease of real time tracking. Formal check-ins will occur each July.

Recommendation Title: Documentation & compliance status system

Element: E5 Return to Compliance

Finding: Slow air enforcement actions, lack of documentation in regards to status, disposition of violations, and current compliance status

Status: Completed

Expected Completion Date: 03/30/2007

Responsible Agency: State Action

Recommendation Narrative: State will develop a system to better document and track the status of a source once it has been determined to be noncompliant.

Recommendation Title: Documentation of Penalty Actions

Element: E7 Penalty Calculations, E8 Penalties Collected

Finding: Documentation of penalty calculation and collection not always included in files. IDEQ uses EPA's Civil Penalty Policy but documentation/justification for lower collected penalties is lacking.

Status: Completed

Expected Completion Date: 03/30/2007

Responsible Agency: State Action

Recommendation Narrative: Idaho shall develop a system to better document and track its penalty actions.

Recommendation Title: MDR reporting

Element: E12 Data Complete

Finding: CAA MDRs not being entered in timely fashion.

Status: Completed

Expected Completion Date: 03/30/2007

Responsible Agency: State Action

Recommendation Narrative: State will document how its current process shall satisfy EPA's data reporting expectations.

Clean Water Act Recommendations

Recommendation Title: Source Universe

Element: E1 Insp Universe

Finding: There appear to be many uninspected non-major sources.

Status: Working

Expected Completion Date: 10/31/2007

Responsible Agency: Regional Action

Recommendation Narrative: Region 10 should conduct an assessment of the non-majors that have not been inspected or that have not been inspected within two years to determine if any them have been inspected and not reported to the database and to determine if there are any that need to be inspected in the near future. Region 10 indicates that this has already been accomplished. The Region should provide this assessment to OECA by October 31, 2007.

Recommendation Title: Inspection Coverage

Element: E1 Insp Universe, E9 Grant Commitments

Finding: It is difficult to know the number of inspections the Region will conduct in Idaho.

Status: Completed

Expected Completion Date: 10/31/2007

Responsible Agency: Regional Action

Recommendation Narrative: Region 10 should provide in the ACS a breakout of NPDES inspection commitments in Idaho, which was not required in FY 2005. The Region indicates that this will occur on all future ACS bids. OECA will follow up on this by reviewing the ACS bids.

Recommendation Title: Inspection Reports

Element: E2 Violations ID'ed Appropriately

Finding: Inspecting reports are not always complete.

Status: Completed

Expected Completion Date: 10/31/2007

Responsible Agency: Regional Action

Recommendation Narrative: Region 10 should have a SOP for managing and ensuring the completeness of the inspection reports to include a management review of the reports. The Region indicates that it has already developed an SOP to ensure management review of EPA generated reports. Beginning in August of 2007, all inspection reports will be QA's by a manager and the 3560's will reflect this. By October 31, 2007, the Region should provide OECA with a copy of the SOP.

Recommendation Title: Inspection Reports

Element: E3 Violations ID'ed Timely

Finding: Inspection reports are not always timely.

Status: Working

Expected Completion Date: 09/30/2008

Responsible Agency: Regional Action

Recommendation Narrative: Region 10 should have a SOP to ensure that all inspection reports are completed in a timely manner. In addition, determinations of violations (i.e., SEVs) should be also made and reported in a timely manner according to ICIS-NPDES policy, and should be included in the SOP. The manager of the NPDES Compliance unit indicates that not all inspectors in the region are under her management. Many of the inspectors are not comfortable declaring an observation as a “violation,” and they feel that this job should be done by the Compliance Officer. The region will work on an SOP to address this issue by COB FY 2008.

Recommendation Title: Enforcement Response

Element: E4 SNC Accuracy

Finding: Timeliness of enforcement actions.

Status: Working

Expected Completion Date: 12/31/2007

Responsible Agency: Regional Action

Recommendation Narrative: Region 10 should appropriately address noncompliance at the two facilities that are in SNC. The Region indicates that one of these facilities (Beartrack) was in active negotiations with the Region at the time of the review. The Region should also work with the other four facilities that are in RNC to ensure that they return to compliance as well. The Region states that they will address these facilities as soon as headquarters is able to run the Watch List for Region 10. The Region will also evaluate the QNCR each quarter and take appropriate enforcement. Region 10 should not wait for the Watch List in order to address the facilities listed in OTIS as being in either SNC or RNC. The Region should propose a timeframe and milestones for addressing these instance of non-compliance, especially the ones that are in SNC or RNC for more than two or three quarters, per the requirements of the CWA EMS.

Recommendation Title: Enforcement Response

Element: E5 Return to Compliance

Finding: Region needs to verify that facilities receiving ESOs are actually in compliance.

Status: Working

Expected Completion Date: 12/31/2007

Responsible Agency: Regional Action

Recommendation Narrative: Region 10 should conduct spot check inspections at some number of facilities that have issued ESOs against them in order to verify their return to compliance. The verification should be included in the enforcement file. The Region has indicated that this will only occur when they are in these areas for other activities. OECA recognizes that a lack of travel funds is a constraint to complying with this recommendation. However, Region 10 should still provide OECA an indication of when they will conduct at least one of these verification visits within the next fiscal year.

Recommendation Title: Enforcement Response

Element: E5 Return to Compliance

Finding: SNC and RNC need to be addressed timely.

Status: Working

Expected Completion Date: 12/31/2007

Responsible Agency: Regional Action

Recommendation Narrative: Region 10 needs to ensure that facilities that are in long term SNC or RNC are addressed as quickly as possible and that instances of SNC are addressed with a formal enforcement action. Region 10 states that they will continue to review the Watch List on a quarterly basis and compare their other case load with the subject facility to determine if they can refocus their resources. As noted in the recommendation under Element 4, Region 10 needs to address these longstanding instances of SNC and RNC per the requirements of the CWA EMS. The Region should propose a timeframe and milestones for addressing and implementing this recommendation.

Recommendation Title: Enforcement Response.

Element: E5 Return to Compliance

Finding: Region needs to use compliance orders to return sources to compliance.

Status: Working

Expected Completion Date: 11/30/2007

Responsible Agency: Regional Action

Recommendation Narrative: Region 10 should include as part of its municipal strategy the practice using compliance orders for returning the municipalities to compliance. These orders should determine a reasonable time period for compliance, i.e., applying for permit or complying with an existing permit, and require timely performance. The region does not agree with this recommendation and will use compliance orders when determined to be appropriate, and not as a common way of dealing with noncompliance at none sophisticated entities. The Region believes that such practice only seems to prolong the facilities getting appropriate funding to correct the problem. The review team discussed this issue with the director of WED. OECA disagrees with the Regions position on the use of compliance orders and would like to discuss this further with the Region. By November 30, 2007, the management of WED and Region 10 should discuss and resolve this issue.

Recommendation Title: Penalty Calculations

Element: E7 Penalty Calculations

Finding: Penalties need to be consistent with policy and documented in files.

Status: Completed

Expected Completion Date: 09/30/2007

Responsible Agency: Regional Action

Recommendation Narrative: Region 10 should ensure that it is using the CWA penalty policy in determining penalties and properly documenting penalty assessments, including calculations for economic benefit, in the files. The Region indicates that this practice has now been institutionalized.

Recommendation Title: Data Quality

Element: E11 Data Accurate

Finding: Linking enforcement actions to violations.

Status: Working

Expected Completion Date: 01/31/2008

Responsible Agency: Regional Action

Recommendation Narrative: Relating to the issue of linking enforcement actions to violations, metric 11b, OECA should look at this metric by the end of January 2008 to ensure that the linking is taking place. If that is the case, then this recommendation will close. If it looks like the linking is not taking hold, then OECA and Region 10 will need to set up a process for assessing the problem further and determining the nature of the problem.

Recommendation Title: Data Quality

Element: E11 Data Accurate

Finding: Data errors need correction.

Status: Working

Expected Completion Date: 11/30/2007

Responsible Agency: Regional Action

Recommendation Narrative: Region 10 should correct the identification numbers and any other data errors associated with the Harrison Heights facility and the associated inspections and enforcement actions. Region indicates that data is quality assured on a periodic basis. This is a specific issue that should not wait for period data clean up. It should be addressed by November 30, 2007.

Resource Conservation and Recovery Act Recommendations

Recommendation Title: Maintain Resource Level

Element: E1 Insp Universe

Finding: Idaho DEQ hazardous waste program met or exceeded inspection coverage expectations but face declining budgets that would impact the ability to maintain this level of performance.

Status: Long Term Resolution

Expected Completion Date: 09/30/2006

Responsible Agency: State Action

Recommendation Narrative: We recommend that IDEQ maintain the hazardous waste program funding and staff levels that provided this level of compliance monitoring.

Recommendation Title: Use appropriate evaluation codes

Element: E2 Violations ID'ed Appropriately

Finding: Two files coded as CEI in RCRAInfo did not have adequate CEI documentation. IDEQ maintained that CEI was the closest applicable definition among the data choices for evaluation type.

Status: Completed

Expected Completion Date: 10/02/2006

Responsible Agency: State Action

Recommendation Narrative: IDEQ should not enter a CEI evaluation type if there is not a thorough compliance evaluation report filed, instead use a CAV or other type that more accurately matches the file documentation.

Recommendation Title: Confer on formal enforcement

Element: E4 SNC Accuracy

Finding: IDEQ made different interpretations of the Enforcement Response Policy SNC criteria than Region 10 would have made in two site specific cases.

Status: Working

Expected Completion Date: 07/02/2007

Responsible Agency: State Action, Regional Action

Recommendation Narrative: Region 10 and IDEQ confer about any case in which the IDEQ proposes to undertake formal enforcement action without first designating the violator as a SNC to better align their interpretations of the ERP guidance.

Recommendation Title: Obtain appropriate injunctive relief

Element: E5 Return to Compliance

Finding: There is room for improvement in the degree to which IDEQ concludes formal enforcement actions with appropriate compliance schedules and required actions (injunctive relief)

Status: Working

Expected Completion Date: 07/02/2007

Responsible Agency: State Action

Recommendation Narrative: IDEQ continue with the actions taken in response to the 2000-2002 review recommendations, including more systematic post-referral communication with the Attorney General's Office, to obtain appropriate injunctive relief and return to compliance.

Recommendation Title: Implement consistent penalty collection

Element: E8 Penalties Collected

Finding: IDEQ had a low final penalty to final enforcement rate of 40%, possibly due to diverting potential penalty amounts to site cleanup work

Status: Working

Expected Completion Date: 07/02/2007

Responsible Agency: State Action

Recommendation Narrative: Region 10 and IDEQ monitor the collection of applicable penalties as more cases work through the new IDEQ process that includes economic benefit and gravity components together.

Recommendation Title: Address 240 day violations

Element: E11 Data Accurate

Finding: There were three (3) handlers for which violations had been open for more than 240 days without having return to compliance or SNC data entered. We found that all

three had future scheduled dates for return to compliance, pending completion of cleanup projects.

Status: Working

Expected Completion Date: 07/02/2007

Responsible Agency: State Action

Recommendation Narrative: Region 10 and IDEQ discuss options for reporting compliance with a cleanup schedule that will keep handlers with open violations from showing up negatively on the OECA national performance measure 11.b.

Definition of Terms

Round 1 Elements:

Element 1: Degree to which state program has completed the universe of planned inspections/compliance evaluations (addressing core requirements and federal, state, and regional priorities).

Element 2: Degree to which inspection reports and compliance reviews documents inspection findings, including accurate description of what was observed to sufficiently identify violations.

Element 3: Degree to which Compliance Monitoring Reports are completed in a timely manner, including timely identification of violations.

Element 4: Degree to which significant violations (e.g., significant noncompliance and high priority violations) and supporting information are accurately identified and reported to EPA national databases in a timely manner.

Element 5: Degree to which state enforcement actions include required corrective or complying actions (injunctive relief) that will return facilities to compliance in a specific time frame.

Element 6: Degree to which a state takes timely and appropriate enforcement actions in accordance with policy relating to specific media.

Element 7: Degree to which a state includes both gravity and economic benefit calculations for all penalties, appropriate using BEN model of similar state model (where in use and consistent with national policy).

Element 8: The degree to which penalties in final enforcement actions include economic benefit and gravity in accordance with applicable penalty policies.

Element 9: Degree to which enforcement commitments in the PPA/PPG/categorical grants (SEAs), written agreements to deliver a product/project at a specified time are met and any products or projects are completed.

Element 10: Degree to which the Minimum Date Requirements are timely.

Element 11: Degree to which the Minimum Date Requirements are accurate.

Element 12: Degree to which the Minimum Date Requirements are complete.

Element 13: Optional evaluation element could include program areas such as compliance assistance, pollution prevention, innovation, incentive or self-disclosure programs, outcome

measures, environmental indicators, relationships with Attorney General or other legal offices, etc.

Finding: An observation of activities, processes, or policies that the metrics and/or the file reviews show are being implemented by the state that have significant problems that need to be addressed and that require follow-up EPA oversight.

Status:

Working: The recommendation is in progress, it is expected to be completed, and it is on schedule to meet agreed upon completion date

Completed: The terms of recommendation have been implemented, the corrections have been agreed upon, and the work attributed to the recommendation was completed

Being Negotiated: The region and the state still have to determine the timeline and the procedures for implementing the recommendation, the timeline of recommendation cannot be determined by the completion of the final report

Long Term Resolution: The recommendation cannot be completed without legislative fix, policy change, or institutional arrangement that would have to go on to the future

Responsible Agency: The agency that administers the program. Mostly States, but is EPA where EPA directly implements the program.

List of Acronyms

A

ACS – Annual Commitment System
ASHERA – Asbestos Hazard and Emergency Response Act
AFS – Air Facilities System
AFS ICR - Air Facilities System – Information Collection Request
AST – Above Ground Storage Tank
ASDWA – Association of State Drinking Water Administrators

B

BIA – Bureau of Indian Affairs
BMP – Best Management Practices
BoP – Bureau of Prisons

C

CA – Compliance Assistance
CAA – Clean Air Act
CAC – Compliance Assistance Coordinator
CACDS – Compliance Assistance Conclusion Data Sheet
CAFO – Concentrated Animal Feeding Operations
CBP – Bureau of Customs and border Protection
CBI – Confidential Business Information
CCDS – Case Conclusion Data Sheet
CEC – Commission for Environmental Cooperation
CEI – Compliance Evaluation Inspection
CERCLA – Comprehensive Environmental Response, Compensation and Liability Act
CESQG – Conditionally-exempt Small Quantity Generator
CID – Criminal Investigation Division
CIPs – Compliance Incentive Programs
CMS - Compliance Monitoring Strategy
CSOs – Combined Sewer Overflows
CSS – Combined Sewer Systems
CWA – Clean Water Act
CFC – Chlorofluorocarbon

D

DMR – Discharge Monitoring Report

E

EA – Environmental Assessment
EIS – Environmental Impact Statement
EJ – Environmental Justice
EJAC – Environmental Justice Areas of Concern

EJSEAT – Environmental Justice Strategic Enforcement Assessment Tool
EMP – Environmental Management Practices
EMR – Environmental Management Reviews
EMS – Environmental Management System
EPA – Environmental Protection Agency
EPCRA – Emergency Planning and Community Right to Know Act
ERPs – Enforcement Response Policies
ERP – Environmental Results Program
ESD – Explanations of Significant Differences

F

FCE – Full Compliance Evaluation
FEMA – Federal Emergency Management Agency
FFEO – Federal Facilities Enforcement Office
FIFRA – Federal Insecticide Fungicide and Rodenticide Act
FRP – Facility Response Plan
FTE – Full Time Equivalent

G

GAO – Government Accounting Office
GME – Groundwater Monitoring Evaluation
GPRA – Government Performance and Results Act

H

HAP – Hazardous Air Pollutant
HPV – High Priority Violators
HQ - Headquarters
HUD – Housing and Urban Development

I

IAC – Innovative Action Council
ICDS – Inspection Conclusion Data Sheet
ICIS – Integrated Compliance Information System
ICIS – NPDES Integrated Compliance Information System – National Pollutant Discharge Elimination System
IG – Inspector General
INECE – International Network for Environmental Compliance and Enforcement
IU – Industrial users (non-domestic)
IPOD – ICIS Policy on Demand

L

LBP – Lead-based Paint
LDAR - Leak Detection and Repair
LEA – Local Education Authority
LGEAN – Local Government Environmental Assistance Network
LQG – Large Quantity Generator

M

MACT – Maximum Achievable Control Technology
MDR – Minimum Data Requirements
MOA – Memorandum of Agreement
MS4 – Municipal Separate Storm Sewer System

N

NAAQS – National Ambient Air Quality Standards
NEIC – National Enforcement Investigations Center
NEJAC – National Environmental Justice Advisory Council
NEPA – National Environmental Policy Act
NESHAP – National Emissions Standards for hazardous Air Pollutants
NETI – National Enforcement Training Institute
NOV – Notice of Violation
NO_x – Nitrogen Oxide
NPDES – National Pollutant Discharge Elimination System
NPL – National Priorities List
NPM – National Program Manager
NRC – National Response Center
NSPS – New Source Performance Standards
NSR – New Source Review
NTP – National Training Plan

O

OAM – Operation and Maintenance
OAP – Office of Administration and Policy
OC – Office of Compliance
OCE – Office of Civil Enforcement
OCEFT – Office of Criminal Enforcement, Forensics and Training
OCFO – Office of Chief Financial Officer
OCIR – Office of Congressional and Intergovernmental Relations
ODS – Ozone Depleting Substances
OECA- Office of Compliance and Assurance
OEJ – Office of Environmental Justice
OGD – Office of Grants and Disbarment
OIG – Office of the Inspector General
OMB – Office of Management and Budget
OPP – Office of Pesticide Programs
OPPTS – Office of Prevention, Pesticides, and Toxic Substances
OSWER – Office of Solid Waste and Emergency Response
OTIS – Online Tracking Information System

P

PBT – Persistent Bio-accumulative Toxics
PCB – Polychlorinated Biphenyls

PCE – Partial Compliance Evaluation
PCS – Permit Compliance System
PEI – Production Establishment Inspections
PFA – Preliminary Financial Assessments
PM10 – Particulate Matter
POTW – Publically Operated Treatment Works
PPA – Performance Partnership Agreement
PPG – Performance Partnership Grants
PRP – Potentially Responsible Party
PSD – Prevention of Significant Deterioration
PWS – Public Water System
PWSS – Public Water System Supervision

R

RCRA – Resource Conservation Recovery Act
RCRAInfo – Resource Conservation and Recovery Act Information
RECAP – Regional Enforcement and Compliance Assurance Program
RMP – Risk Management Plan
ROD – Record of Decision
RR+P – Renovation, Repair and Painting

S

SAAP – Special Appropriations Act Projects
SAC – Special Agent-in-Charge
SCAP – Superfund Comprehensive Accomplishment Planning
SDWA – Safe Drinking Water Act
SDWIS/ODS – Safe Drinking Water Information System/ Operational Data System
SEC – Securities and Exchange Commission
SEE – Senior Environmental Employment
SEP – Supplemental Environmental Project
SGTM – State Grant Template Measures
SITS – Strategy Implementation Teams
SLPD – Special Litigation and Projects Division
SNCs – Significant Noncompliance
SOC – Significant Operational Compliance
SO2 – Sulfur Dioxide
SPCC – Spill Prevention Control and Countermeasures
SQG – Small Quantity Generator
SRF – State Review Framework
SSO – Sanitary Sewer Overflows
STAG - -State and Tribal Assistance Grant
SWPPP – Stormwater Pollution Prevention Plan

T

TSCA – Toxic Substance Control Act
TSD - Treatment, Storage and Disposal

TSDf – Treatment, Storage and Disposal Facility
TSS – Total Suspended Solids
TVA – Tennessee Valley Authority

U

UIC – Underground Injection Control
UNICOR – trade name of Federal Prison Industries
UST – Underground Storage Tank

V

VOC – Volatile Organic Compounds

W

WW – Wet Weather