

Arkansas Department of Environmental Quality Enforcement Program Framework Review 2005

Clean Air Act Stationary Source Enforcement Program

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Information Sources Included in Review:

The review included data from the AIRS/AFS database and state enforcement and inspection files. For the review period, FY2005, the Arkansas Department of Environmental Quality (ADEQ) conducted inspections at 459 facilities. ADEQ took 58 formal enforcement actions against 56 facilities. From this universe, a subset of files were selected for file review purposes as described below:

Enforcement actions in 2005

High Priority Violator (HPV) Major w/penalty	Universe 15; selected 6
HPV SM80% w/penalty	Universe 1; selected 1
Non-HPV Major w/penalty	Universe 3; selected 1
Non-HPV SM80% w/penalty	Universe 11; selected 5
HPV Major w/o penalty	Universe 1; selected 1
HPV SM80% w/o penalty	not applicable
Non-HPV Major w/o penalty	Universe 10; selected 3
Non-HPV SM80% w/o penalty	Universe 2; selected 1

Inspections conducted in 2005 with no enforcement action

Universe 11; selected 3

The total files reviewed were 21 (3 full compliance evaluations (FCE) inspection and 18 enforcement). Files for review were selected randomly, choosing every second or third case. ADEQ did not conduct nor report any partial compliance evaluations in FY 2005. The review of each file included a review of the inspection report(s) (if applicable), enforcement case time line, notice of violations, consent orders, and penalty amounts. All files are maintained at a central location at the ADEQ offices in Little Rock, Arkansas or offsite at Central Records at the Arkansas State Police office, which is a repository for state agency files. ADEQ is moving towards an electronic recordkeeping system to maintain copies of inspection reports, permits, enforcement actions and/or correspondence as they began scanning documents in October 2005.

Section 1: Review of State Inspection Implementation

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

Findings:

Inspections at Major sources: The FY 2005 Air Program Priorities (Workplan)¹ specified a frequency for conducting Full Compliance Evaluations (FCEs) consistent with the Compliance Monitoring Strategy (CMS). The CMS recommends a minimum frequency at major sources to be once every two years. The universe of major sources includes those with an EPA or State classification code in AFS for major sources. For the purposes of this review, the universe of 234 major sources includes all sources classified in AFS by EPA or the State as a major source. ADEQ attempts to cover 100% of the major source universe each year, instead of the two-year timeframe recommended by the CMS. According to AFS, in FY 2004-2005, the State completed full compliance evaluations (FCEs) at 99.6% of the major source universe. This degree of coverage exceeds the national average of 76.2% FCEs by the State or EPA at major sources. The one source reflected as not inspected, was a synthetic minor until mid-2005, when the Title V permit was issued. The facility was inspected as a synthetic minor 4 times since 2000. The Title V permit was issued in April 2005 and ADEQ inspected the facility under that permit in January 2006.

Inspections at Synthetic Minor (80 percent of major source level) – (SM-80s): The Workplan specified a frequency for conducting FCEs consistent with the CMS. The CMS recommends that FCEs be conducted at each SM-80 source once every five years at a minimum. The universe of SM-80s includes those with an EPA or State classification in AFS as an SM-80. However, this CMS was effective in April 2001, so the data reviewed were from FY2002 - 2005. ADEQ's Workplan projected coverage of SM-80s consistent with the CMS for FY2002 – FY 2005. ADEQ completed FCEs during the four-year period FY 2002-FY2005 at 93.5% (316/338) of SM-80s, which was higher than the national average of 77.3%. The difference of 6.5%, 22 sources, was reviewed by ADEQ. Twelve of those sources are either asphalt plants or rock crushers. Of those twelve, one was never constructed. All were inspected in the five-year time period in question – most on multiple occasions. The reason they appear otherwise is that they were issued general permits. The old county specific information was not deleted from AFS, and the new general permits were entered into AFS as mobile sources. Therefore, AFS reflected two different sets of information for each facility. Inspections were entered into AFS under the active general permits identified by the mobile source identifier, but not under the county-specific identifier (which should have been deleted). When EPA pulled the data, both sets of information appeared for each plant, thereby making it appear that some had not been inspected. ADEQ has made appropriate corrections in AFS.

Of the remaining facilities, one was issued a permit in 2003, and three others were issued permits in 2005. Therefore, for these four facilities, the “CMS Start Date” (date the

¹ Annual Workplan agreed upon by Region 6 and ADEQ

sources was designated in AFS as being subject to the CMS, and the CMS “flag” and frequency indicator were added) occurred either during the review period or on a date for which the 5-year timeframe had not expired. Nonetheless, all have been inspected. Two of these facilities were coded incorrectly in AFS, so the inspections did not appear; one facility was inspected prior to a permit being issued (resulting in an enforcement action for operating without a permit, and subsequent permit issuance) and, therefore, the inspection would not have been entered into AFS. The fourth facility in this category was inspected in 2006.

Finally, six of the 22 facilities were gas compressor stations that were issued general permits. One of the permits was issued in 2004 and voided in 2006. Another was issued in 2005 and voided that same year. Another was issued in 2005, and has not yet been inspected (still within the five-year window). Another was issued in 2000 and voided in 2002. Two others were issued in 2004 and inspected in 2006. All voided permits are being removed from AFS.

Inspections at minor sources: The Workplan does not include FCEs at minor sources, as States are not required by the CMS to conduct FCEs at minor sources. The State conducted a total of eight FCEs at minor sources.

Title V Annual Compliance Certifications received and reviewed: According to AFS, 219 Title V annual compliance certifications (ACCs) were due for review and received in FY 2005. According to the Framework data metrics, ADEQ reviewed 162 or 74.0% of the ACCs received. This is slightly less than the national average of 77.1%. For the review period, ADEQ records indicate that it reviewed 100% of the ACCs received. According to AFS, of the 162, 92% were compliant. ADEQ attempts to inspect all Title V sources annually. Inspectors review ACCs and include results in inspection reports. The results from inspection reports are coded into AFS. ADEQ attributes that apparent short fall on ACC reviews, as reflected in AFS, to coding errors (i.e., the SR code was not entered for all ACCs reviewed). ADEQ has corrected those omissions and AFS now reflects that the ACCs were reviewed.

Sources with Unknown Compliance Status: The AFS database generates an unknown compliance status for CMS sources when an FCE is not conducted within the required frequency or when the FCE is completed but was not entered into AFS. The data metrics indicated zero sources in Arkansas with an unknown compliance status.

Citation of information reviewed for this criterion:

AIRS, ADEQ’s FY2005 CMS Plan, and the FY2005 Workplan, which outlines environmental and programmatic goals for the FY.

Recommendations: The Region recommends that ADEQ enter the appropriate code for all ACCs reviewed. In addition the Region recommends that ADEQ examine existing administrative procedures to ensure that future ACCs reviewed are coded properly. ADEQ reported that it has completed these actions.

2. Degree to which inspection/evaluation reports document inspection findings, including accurate identification of violations.

Findings:

All of the inspection reports reviewed contained well-documented inspection findings, including the accurate identification of violations. ADEQ utilizes a standardized format for all inspection reports. The reports “cut and paste” the Title V permit for major sources or general operating permit for non-major sources which lists all permit requirements and the inspection findings for each specific requirement.

The inspection reports include an assessment of control devices, process operating conditions, EPA Method 9 Visible emission observation as needed, a review of facility records and operating logs, process parameters and equipment performance parameters. However, none of the inspection reports reviewed contained an enforcement history as required by the CMS. ADEQ noted that the enforcement history is a part of its pre-inspection review, and any inspection report for a facility with an open enforcement action addresses that action.

The inspection reports do not indicate whether the review being done is an FCE or a partial compliance evaluation (PCE); however, on-site PCEs are not conducted in Arkansas according to ADEQ staff. FCEs reviewed met the criteria for FCE designation in the CMS Policy.

Citation of information reviewed for this criterion:

ADEQ Case files, HPV policy, CMS

Recommendations: EPA reviewed the information required to be included in the inspection report per the CMS Policy with ADEQ staff at the exit interview. EPA supports ADEQ’s determination to revise the inspection cover page to include enforcement history and to designate the inspection type (i.e., FCE or PCE).

3. Degree to which inspection reports are completed in a timely manner, including timely identification of violations.

Findings:

ADEQ is required by state regulations to complete inspection reports within 30 days of the inspection. The files reviewed indicated that all FCEs conducted in FY 2005 had the inspection reports completed within a timely manner per ADEQ’s Inspection Manual, which is the inspectors’ standard operating procedure. The Information and Collection Request (ICR) in place during FY2005 requires that FCEs and violations identified during FCEs be entered into AFS within a 90-day timeframe. Of the eight inspection files reviewed, eight identified violations. Those violations were entered into AFS timely. A review in AFS of stack tests indicates 223 observed and/or reviewed. Results for all 223 were entered into AFS.

Citation of information reviewed for this criterion:

Section 2: Review of State Enforcement Activity.

4. Degree to which significant violations are reported to EPA in a timely and accurate manner.

Findings:

ADEQ has a regular monthly HPV conference call with EPA and reports significant violations at this time if they have not done so previously. These calls are on-going and provide a mechanism for reporting on HPVs newly identified. ADEQ and EPA talk frequently and share information on cases outside of the HPV monthly call as well. EPA and ADEQ generate AFS retrievals of HPVs addressed and unaddressed in preparation of the monthly meeting to identify whether HPVs have been entered into AFS and whether the addressing action, if any, has been entered in AFS.

The vehicle for the timely and accurate reporting of HPVs to EPA is the AFS database. ADEQ reports 100% of its HPVs in AFS. Of the files reviewed, 100% of the actions were entered in AFS.

Citation of information reviewed for this criterion:

HPV Policy.

Recommendations:

ADEQ has requested training on the HPV policy. EPA is coordinating training to be held in another State and arranging to have the training videotaped for distribution to all Region 6 states.

5. Degree to which state enforcement actions require complying action that will return facilities to compliance in a specific time frame.

Findings:

EPA reviewed 18 enforcement files. All 18 of the enforcement actions reviewed were correctly identified as HPV or not; eight (8) were HPVs and 10 were not HPVs. In every instance where a complying action was needed, ADEQ specified what actions were necessary and the time frame for completing those actions.

Citation of information reviewed for this criterion:

ADEQ Case files, HPV Policy

6. Degree to which the state takes enforcement actions, in accordance with national enforcement response policies relating to specific media, in a timely and appropriate manner.

Findings:

Under the HPV Policy, a timely action must occur within 270 days of the day zero, or date violations were identified plus 45 days. An appropriate action must either address or resolve the violation (i.e., on a legally-enforceable and expeditious administrative or judicial order, or be the subject to a referral to the attorney general for further action. All state enforcement actions should also assess civil penalties where applicable.

All addressing enforcement actions reviewed occurred within 270 days of day zero. All corrective actions either occurred within 270 days of day zero or the facility was placed on a compliance schedule to come back into compliance. All eight (8) HPV enforcement actions were appropriate. A review of the data metrics indicated ADEQ had 25% (5/20) HPVs unaddressed for more than 270 days compared to the national average of 53.2%. Three of these HPVs (one company with three locations in Arkansas) were addressed in a global fashion and took more time to settle. One enforcement action is an ongoing joint action with EPA. The remaining HPV involves numerous complex regulatory issues and has taken longer to address.

Citation of information reviewed for this criterion:

ADEQ Case files, HPV Policy

7. Degree to which the state includes both gravity and economic benefit calculations for all penalties.

Findings:

Pollution Control and Ecology Regulation Number 7 guides ADEQ penalty calculations. The Rule, includes the consideration of economic benefit and the gravity of the violation(s) in terms of environmental impact. To that degree, the Rule is consistent with the HPV Policy. However, the Rule does not go into detail on the penalty calculation methodology or calculation documentation. The 8 HPV penalties reviewed were accompanied by Settlement Amount Factors Established (SAFE) checklists that indicated that economic benefit and gravity were considered. However, the checklists do not provide specific numerical factors. The penalties shown in enforcement actions do not distinguish what portion of the amount is economic benefit or gravity component. At the time of the review, air enforcement penalty calculation documentation (outside of the checklists) were not maintained by ADEQ.

Of the 18 enforcement files reviewed, 13 had penalties; none included calculation documentation and hence an assessment for economic benefit or gravity. From the file review, it did not appear that the violations indicated an economic benefit was appropriate.

The ADEQ Air Division is developing a penalty policy that includes economic benefit and gravity components. ADEQ indicated that under this policy, it will document penalty calculations including economic benefit and gravity components.

Citation of information reviewed for this criterion:

ADEQ Case files, HPV Policy

Recommendations:

The Region recommends and supports ADEQ's development and implementation of a State Penalty Policy that would include gravity and economic benefit components and be consistent with the HPV Policy. The Region also recommends and supports ADEQ's development of a mechanism to document in the case file or elsewhere that the Penalty Policy was followed in calculating the penalty. In addition, the Region recommends that a justification be included in ADEQ's penalty calculations for instances when the economic benefit is determined to be zero. ADEQ plans to provide the Region with the policy implementation date.

8. Degree to which final enforcement actions (settlements or judicial results) take appropriate action to collect economic benefit and gravity portions of a penalty, in accordance with penalty policy considerations.

Findings:

The case files included a copy of the facility's check to settle all penalties. All final penalty documentation in the files included justifications for differences between proposed and final penalties. As with the proposed penalties, there was no distinction made for gravity and economic benefit components. Thirteen (13) HPV and non-HPV final penalties were reviewed. Based upon the files reviewed, the violations did not appear to warrant the inclusion of an economic benefit component in the penalty assessment.

Citation of information reviewed for this criterion:

Case Files, HPV policy

Recommendations:

See recommendations under element 7.

Section 3: Review of Other Enforcement Agreements

9. Enforcement commitments in the PPA/PPG/categorical grants (written agreements to deliver product/project at a specified time), if they exist, are met and any products or projects are complete.

Findings:

Enforcement commitments in the Workplan with ADEQ are reviewed by Region 6 at mid-year and end-of-year of the CAA Section 105 funding cycle. FY 2005 EOY review indicated that the state has met all commitments. ADEQ committed to perform FCEs at major sources and SM80% per the CMS frequency. However, ADEQ goes beyond what is required by the CMS as previously discussed.

Citation of information reviewed for this criterion:

Overview of ADEQ CMS Plan for FY 04 and 05.

Section 4: Review of Database Integrity.

10. Degree to which the Minimum Data Requirements are timely.

Findings:

Minimum data requirements (MDRs) represent the minimum amount of data that EPA believes is necessary to manage the national air stationary source compliance monitoring and enforcement program. FCEs, stack tests and stack test results, results of Title V ACC reviews, and compliance status are some examples of the MDRs. ADEQ enters all data directly into the AFS database online. It does not have a state database, so there are not any data conversion issues. ADEQ utilizes an AFS data entry form which documents each data step of a case. This data entry form is included in the case file. The review of the data metrics and files did not reveal any significant data timeliness issues.

Citation of information reviewed for this criterion:

Workplan, AFS, CMS

11. Degree to which the Minimum Data Requirements are accurate.

Findings:

With the exception of the data errors discussed under Element 1 of this report, the review of the AFS/AIRS data requirements indicated that the Minimum Data Requirements entered by ADEQ are accurate. The review of the data metrics and files did not reveal any chronic data accuracy issues.

Citation of information reviewed for this criterion:

AFS/AIRS.

12. Degree to which the Minimum Data Requirements are complete:

Findings:

With the exception of the data errors discussed under Element 1 of this report, the review of the AFS/AIRS data requirements indicated that the Minimum Data Requirements entered by ADEQ are accurate and timely. The review of the data metrics and files did not reveal any chronic data completeness issues.

Citation of information reviewed for this criterion:

AFS/AIRS

Section 5: Optional

13. Evaluation of other projects.

ADEQ Air Division staff conducts outreach activities and presentations to city and county governments when requested. This is done based upon the needs of the community.

ADEQ Air Division personnel volunteered to participate in the Katrina cleanup in 2005. The staff assisted the Louisiana Department of Environmental Quality with assessing environmental issues for several weeks.

ADEQ Air Enforcement personnel conduct presentations at the annual Arkansas Environmental Federation workshops to assist industry within the state of Arkansas.

ADEQ Air Enforcement has conducted presentations at specific industries when requested.

To better serve the facilities needs, ADEQ Air Enforcement has offered facilities the option of submitting reports required by their permit, by regulation, or by CAO, via e-mail. Examples of reports that may be submitted by e-mail include annual compliance certifications, six-month monitoring reports, quarterly CEMS reports, upset condition reports, stack test reports, MACT/NSPS reports and notifications, equipment/facility start-up reports, and CAO audit reports. Any report that is required to be submitted to Air Enforcement may now be submitted by e-mail. This process of reporting is available to industry and has been implemented successfully.

ADEQ Air Enforcement has implemented the generation of monthly reminder letters to all Title V facilities reminding them of the date required to submit their annual compliance certifications and semi-annual monitoring reports. These dates are pulled from a database which lists all Arkansas Title V facilities and their respective due dates. This database also tracks the receive dates for each report required.

ADEQ Air Enforcement implemented high speed scanning procedures of all hard copy documents to include all incoming mail, inspection reports, facility correspondence and reports, and permits, to streamline agency responses and reviews.

ADEQ Air Division personnel in conjunction with the ADEQ Public Outreach and Assistance personnel assists small businesses in understanding the environmental regulatory requirements associated with their particular facility. This outreach assistance helps small businesses meet air quality regulations and provides assistance in areas such as completing permit applications, assisting with regulations, and providing compliance audits to help facilities determine whether their industrial processes meet regulatory requirements.

Arkansas Department of Environmental Quality Enforcement Program Framework Review 2005

Clean Water Act NPDES

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The Environmental Protection Agency (EPA) conducted the on-site review of the Arkansas Department of Environmental Quality (ADEQ) National Pollutant Discharge Elimination System (NPDES) enforcement program. The purpose of this review was to ensure that the ADEQ NPDES program was being operated in a manner consistent with the Clean Water Act (CWA) NPDES Memorandum of Agreement (MOA) between EPA and ADEQ, the ADEQ's Water Division Enforcement Strategy and all applicable Federal regulations, guidelines, and polices that implement the CWA. This review was based on FY 2005 data, (July 1, 2004 through June 30, 2005) which was the most recent full year of data available at the time of the review.

EPA, along with ADEQ, selected a total of 45 files for the review process. EPA and ADEQ selected the files on a random basis by reviewing the following:

Quarterly Non-Compliance Report (QNCR),
A portion of both major and minor NPDES municipal/industrial facilities,
Facilities with penalties, and
Inspected facilities

Forty-five files were reviewed which consisted of 10 NPDES major facilities, 5 NPDES minor facilities, 10 Concentrated Animal Feeding Operations, and 20 Stormwater facilities. The inspection types reviewed included Compliance Evaluation Inspections, Pretreatment Compliance Inspections, Reconnaissance Inspections, Stormwater Inspections and CAFO Inspections.

Section 1: Review of State Inspection Implementation

- 1. Degree to which state program has completed the universe of planned Inspections/evaluation (covering core requirements and federal, state, and regional priorities).**

Findings:

As of July 9, 2004, ADEQ Water Division is responsible for approximately 110 major facilities, 704 minor facilities with individual permits and 337 facilities covered under 10 non-stormwater general permits. ADEQ conducted inspections at 100% of the major facilities.

Also, ADEQ inspected 100% of the liquid waste management type CAFOs at least once per year. Based on the data from the review metrics, ADEQ performed:

- 100% of the major facilities in FY2005 (68 municipal and 42 industrial facilities), which is above the national average of 63.1%.
- 21% of the minor facilities (52 municipal and 96 industrial facilities), which is consistent with the national average of 22.9%.
- 746 other inspections (322 CAFO's and 424 Stormwater inspections)

In addition, ADEQ performed 23 Compliance Sampling Inspections, 18 Sanitary Sewer Overflow Inspection, 20 Pretreatment Compliance Inspections, 45 Industrial User Inspections, and 55 Reconnaissance Inspections.

According to the Framework data metrics, ADEQ conducted 99.1% of NPDES major inspections as opposed to the 100% calculated by EPA and ADEQ. In a conference call conducted between EPA Region 6, Headquarters, and ADEQ, it was determined that the universe erroneously included an MS4 facility. This error caused the Percentage inspected to show as 99.1% as opposed to 100%. This error has been reported to Headquarters and will be addressed.

Citation of information reviewed for this criterion:

NPDES Compliance Inspection Manual (September 1994)
and ADEQ Program Authorization documents

2. **Degree to which inspection/evaluation reports document inspection findings, including accurate identification of violations.**

Findings:

The ADEQ Field Services Branch does a very thorough job of documenting NPDES, CAFO and Stormwater inspection findings. Of the 45 files, 38 files (10 NPDES, 10 CAFO, and 18 Storm Water files) inspection reports identified violations. All violations were accurately identified in the files and in PCS. ADEQ submits copies of all inspection reports and enforcement actions to EPA.

For the city of Rogers file, three of five inspection reports for inspections conducted over the period 3/05 - 8/05 were in the file. The other two inspection reports could not be located. Some of the 2005 inspection reports for the city of Searcy were not in the files at the time of the review.

Citation of information reviewed for this criterion:

ADEQ's Program Authorization documents
Memorandum of Agreement (MOA) between ADEQ and EPA, dated
11/1/1986.

Recommendation:

ADEQ should develop a mechanism to insure that all inspection reports are maintained in the appropriate facility files.

3. **Degree to which inspection reports are completed in a timely manner, including timely identification of violations.**

Findings:

All of the inspection reports reviewed had the violations identified and the report completed in a timely manner. This continues to be a strength of the ADEQ NPDES enforcement program. According to the MOA, the inspection reports must be available for review within 30 days of the date of inspection. Of the 15 NPDES, 10 CAFO, and 20 Stormwater files with enforcement actions taken during the review period, 100% of the inspection reports reviewed were completed within three to five days.

Since the last EPA review of the files, inspections are now being electronically transmitted from the field to the central ADEQ office, expediting the inspection process further. For one of these electronic inspection reports, the supervisory review and warning letter were all completed in a single day. In addition, all single event violations stemming from the inspection reports reviewed were identified in PCS in a timely manner.

Citation of information reviewed for this criterion:

ADEQ's Program documents
MOA and
Draft Enforcement Management System.

Section 2: Review of State Enforcement Activity

4. **Degree to which significant violations are reported to EPA in a timely and accurate manner.**

Findings:

Thirty-eight of the 45 files reviewed contained enforcement actions taken during the review period from July 1, 2004 through June 30, 2005. Many of the files had multiple informal enforcement actions (NOVs). Four formal enforcement actions were reviewed. All SNCs identified in the NPDES files reviewed were entered into PCS in a timely and accurate manner. CAFO and Storm water facilities do not have SNC criteria at this time. From the

inspection file reviews, one facility had several complaint driven inspections during the review period. These inspections revealed repeat violations that, according to ADEQ policy and the EPA EMS, should have been escalated to formal enforcement; the formal enforcement action (CAO) was taken in 2006.

For the Framework data metric 4.B, the total number of majors, used in calculating the percent of majors in SNC, was 177. According to ADEQ, this 177 number double counts 66 sludge facilities that are major municipalities (i.e., already counted). That caused the discrepancy.

Citation of information reviewed for this criterion:

ADEQ program delegation documents

Recommendations:

See Recommendations under Element 6.

5. Degree to which state enforcement actions require complying action that will return facilities to compliance in a specific time frame.

Findings:

Thirty-eight files contained enforcement actions. All of the formal and informal enforcement actions reviewed included requirements for complying actions and specified time frames. The NOV's reviewed were standardized; each requiring the facility to either come into compliance within 21 days of receipt and report to ADEQ or provide a compliance schedule for approval within 21 days. The formal enforcement actions each contain individualized complying requirements and time frames.

Citation of information reviewed for this criterion:

ADEQ program documents

6. Degree to which the state takes enforcement actions, in accordance with national enforcement response policies relating to specific media, in a timely and appropriate manner.

Findings:

According to the *NPDES Profile: Arkansas* dated July, 2004, ADEQ addresses significant noncompliance (SNC) violations with enforcement actions, also incorporating the findings from inspection reports, stormwater inspections, SSO violations, citizen complaints, and compliance issues discovered during review of monthly reports and during routine file reviews by the Enforcement assistants and administrators. The reviewing official reviews all SNC violations using the appropriate Violation Review Action Criteria (VRAC) to ensure that problems are quickly identified and referred to an enforcement supervisor. An Enforcement Response Guide (ERG) is used for enforcement determinations to ensure that the most appropriate response or set of responses is taken and to ensure that the permittee adheres to permit limitations. Both the VRAC and the ERG are contained in ADEQ's Draft

Enforcement Management System (EMS) Manual. At the time of the Framework Review, the EMS Manual which would help to systematize timely and appropriate enforcement action and enforcement escalation had not been finalized.

Under the procedures in place for the review period, ADEQ issues formal enforcement actions for any SNC at a major facility. For minors, a formal enforcement action is issued if there are violations in 3 consecutive months or 4 violations in a six month period. All violations identified from inspections receive informal enforcement actions and enforcement is escalated for repeat or egregious violations.

For the review period, ten formal enforcement actions were issued for non-stormwater violations. Of those, 4 formal enforcement (penalty) actions were reviewed; the actions were timely and appropriate. However, ADEQ did not in all instances appropriately escalate repeat violations. It was noted in the review of one facility file, that several inspection reports, beginning with 6/05, showed repeated unsatisfactory ratings for several of the same areas reviewed including unpermitted discharges. NOV's have been issued; however, the formal Consent Agreement Order (under negotiation) had not been issued as of this review.

No SNC criterion has been established for CAFOs. Under ADEQ's standard procedures, the permittees are given the opportunity to address any violations found during inspections. CAFO formal enforcement actions are initiated where serious violations, such as discharges to surface water, or where responses from the facilities are not adequate to address all violations cited from inspections (i.e., escalation). The file review revealed that ADEQ did not in all instances address repeat violations. For example, 3 of the 10 CAFO files owned by the same company had the same violations at different facilities. The file review revealed instances where improper land application practices and inadequate record-keeping practices were not addressed. CAFO enforcement actions are addressed through the State Permits Branch.

Although there are no established SNC criteria for stormwater, approximately 26% of ADEQ 2005 penalty actions were for the stormwater program. ADEQ's first response to alleged stormwater violators is to provide compliance assistance to help operators/owners achieve compliance. Violators that do not cooperate may receive an escalated enforcement action with penalty.

ADEQ attributes the instances where appropriate enforcement escalation has not taken place to staff/manager turn over. During the 2005 review period, 3 enforcement staff left ADEQ. In addition the Branch Manager and first line supervisor both retired. The loss of these individuals occurred as ADEQ stormwater enforcement ramped up (see penalty chart in element 7). At the time of the review those management positions had not been permanently filled.

As mentioned above, ADEQ is in the process of finalizing its EMS document. The draft was reviewed and discussed with ADEQ. The current draft VRAC and ERG portions do not prescribe specific enforcement responses and time frames for the Water enforcement program. Such detail might enhance its utility in terms of systemizing timely and appropriate enforcement including enforcement escalation.

Citation of information reviewed for this criterion:

ADEQ program delegation documents

Recommendations:

Region 6 supports and recommends that ADEQ continue its efforts to fill the vacant positions.

Finalizing the EMS should provide guidelines for consistency in escalating enforcement actions. Such structure would be particularly helpful in dealing with the effects of turn over and training new staff. Although the current draft VRAC and ERG are designed to be general in order to apply to multiple program areas, the Region recommends that ADEQ consider some additional mechanism(s) to help make the enforcement escalation process as consistent as possible. The Region offers to work with ADEQ in this and in finalizing the EMS

7. Degree to which the State includes both gravity and economic benefit calculations for all penalties.

Findings:

According to the Program Integrity Profile, ADEQ uses the CWA settlement penalty policy to calculate and assess penalty amounts along with the Arkansas Pollution Control and Ecology Commission Regulation #6.501 and Regulation # 7, section 9 (State Regulation). The Profile also observed that ADEQ did not have documentation for penalty calculations.

That State Regulation calls for the consideration of economic benefit gained from non-compliance and the gravity of the violation when calculating penalties. The CWA settlement penalty policy also includes gravity and economic benefits in penalty calculations, but provides considerable more detail than the State Regulation on the calculations of those components.

Three of the four files (75%) that were reviewed for penalties did not include a penalty calculation identifying the gravity and economic benefit. The remaining file had penalty calculations included with the violations and showed both gravity and economic benefit. Those calculations were patterned after guidance (Water Division Enforcement Strategy) developed in August 2005. These guidelines, however, preceded the review period so for the review period, the penalty calculations were based upon the State Regulation, and penalty calculations were not documented.

Under the Water Division Enforcement Strategy, there are 10 factors with a range of point values (e.g. 1 – 10) for each factor. Points may total up to 100. Among the factors are gravity and economic benefit. The penalty calculation is total points / 100 X \$10,000 = CIVIL PENALTY. Under this methodology, the maximum economic benefit appears to be \$1000 per violation. Although they were taken after the review period, some penalty calculations were reviewed. Application of this penalty guideline is a positive step and follows a positive trend in overall penalty assessments. It promotes consistency and requires the documentation of penalty calculations. The following table shows a history of penalties collected under the NPDES program including Stormwater. The data indicates a shift from core program to stormwater enforcement activities as well as an overall increase for the program in general.

	NPDES # Enf Actions	NPDES \$ Collected	Stormwater # Enf Actions	Stormwater \$ Collected
FY 2004	32	\$ 66,500	20	\$ 65,018
FY 2005	12	\$ 18,200	115	\$396,952
FY2006#	10	\$116,100 *	50	\$193,081

FY 2006 information covers only 7 months of the year.

* This total includes the amount shown in the enforcement action, not the amount actually collected which may have been less in some instances.

In most cases, the Water Division Enforcement Strategy penalty guidelines, however, would not yield penalties as large as those that the CWA settlement penalty policy would yield. It should be noted that the State’s statutory maximum is a third of the federal statute. Nonetheless, the penalty guidelines may not support the calculation of sufficient economic benefit in all cases.

Citation of information reviewed for this criterion:

ADEQ Program Documents

Recommendations:

Region 6 supports ADEQ’s movement toward consistency among its enforcement programs in penalty assessments. It is recommended that ADEQ examine additional methodologies for calculating penalty amounts including the computation for economic benefit like EPA’s BEN model or some similar versions used by other States. The Region offers assistance to ADEQ in this. ADEQ plans to submit the Water Division Enforcement Strategy to EPA for approval by 12/06.

- 8. **Degree to which final enforcement actions (settlements or judicial results) take appropriate action to collect economic benefit and gravity portions of a penalty, in accordance with penalty policy considerations.**

Findings (including successful performance and areas for improvement):

ADEQ issues CAOs. The draft CAO penalty figure is negotiated with the facility and the final CAO is issued with the negotiated penalty. The file reviews and discussions with ADEQ indicated that economic benefit is considered in the determination of final penalty amounts to be collected in formal enforcement actions, but actual economic benefit gain to the violator is not calculated. For the review period, penalty calculations were not documented (see Element 7). The data in PCS verifies that penalties are collected, however, ADEQ does not have written documentation of its penalty calculations. The data metric indicates that in FY05, 94.7% of ADEQ enforcement actions have a penalty. The total penalties for NPDES enforcement actions in FY05 were \$18,200.

Citation of information reviewed for this criterion:
ADEQ program documents

Recommendation:
See Element 7 Recommendations.

Section 3: Review of Other Enforcement Agreements

- 9. Enforcement commitments in the PPA/SEA (written agreements to deliver product/project at a specified time), if they exist, are met and any products or projects are complete.**

Findings (including successful performance and areas for improvement):
According to Section IV of the Memorandum Of Agreement (MOA), ADEQ conducts 100% of compliance inspections at all major facilities annually. There are 110 major facilities in Arkansas, which have been inspected. Compliance inspections of minor facilities are conducted at least once every 3 years and ADEQ enters the major and minor facility inspections in PCS. Field Inspectors submit inspections electronically and have the capability of issuing warning letters the same day as the inspection. The facility has twenty-one days to come into compliance after the warning letter is issued. Any response to the warning letter is forwarded to the Enforcement Branch to verify compliance. If the warning letter response deadline is violated, enforcement action could be initiated at that time.

Citation of information reviewed for this criterion:
ADEQ program documents

Section 4: Review of Database Integrity

- 10. Degree to which the Minimum Data Requirements are timely.**

Findings (including successful performance and areas for improvement):

PCS is the data system that ADEQ uses to manage their NPDES program. The result of the framework review indicates that ADEQ successfully enters 100%

of the data requirements in a timely manner. ADEQ is in the process of transitioning from using NPDES Permit Numbers to Arkansas Facility Identification Numbers (AFIN). By using this new system, all information associated with that particular AFIN will “pull up”. In the past, the file room was a “self service” process. Files were easily accessible to staff and the general public. The new filing system will be accessible on line to both staff and the general public making the system more streamlined. There will be a period of “educating” the user on the new system.

Citation of information reviewed for this criterion:
PCS

11. Degree to which the Minimum Data Requirements are accurate

Findings (including successful performance and areas for improvement):

According to the Otis State Framework Results, the data metrics indicates that 16% of enforcement actions are not linked to the violations. ADEQ, however, states the percent of enforcement actions not linked to violations is less than 2%. A conference call was held on July 27, 2006. During the call, it was discussed that there were discrepancies on the Otis Framework Results relating to enforcement actions (11.A). At this time, Headquarters will place an 86% of enforcement actions that have been linked instead of the 16% noted in the metric. Headquarters will go back through the logic for setting up the metric and identify the “problem” areas.

This Element is reviewed by verifying data/information in the file and comparing it to the database. In reviewing files, we found that at least 50% of the files reviewed had misplaced or misfiled documents. For example, one facility’s stormwater documents were found in the NPDES correspondence files. Another facility’s inspection reports and correspondence were in the purple file folder labeled “C”, but according to ADEQ’s file structure, it should have been in the folder labeled “D”. In other files, it was found that documents were not filed correctly, i.e. in chronological order.

ADEQ is in the process of developing a Multimedia Integrated Information System (IIS). Facility, permit, compliance, and enforcement data are components of the IIS. The PDS is the core of the IIS. It contains the basic facility and permit information regarding entities of interest to ADEQ, such as basic facility information, invoicing and billing information, mailing and contact information, GIS location information, and historical SIC code information. PDS also contains data on complaints and tracks responses to complaints, and an inspection component is under development. Some PDS information is available for access through ADEQ’s Website (<http://www.adeq.state.ar.us/default.htm>) under “On-line Searchable Databases,” “Permitted Facilities Data”.

Citation of information reviewed for this criterion:

State Framework Data Metrics

Recommendations: ADEQ should take steps to ensure that filing deficiencies are addressed.

12. **Degree to which the Minimum Data Requirements are complete, unless otherwise negotiated by the Region and State or prescribed by a national initiative.**

Findings (including successful performance and areas for improvement):

According to the data metrics, ADEQ has a 98.5% DMR accuracy rate, which is above the national average of 89.5% and above the 95% national standard. The majority of the data required to be in PCS for the files reviewed were 99% complete. PCS data retrievals related to DMR data, inspections, enforcement actions, and limit summaries were complete when compared to the information in the files.

Citation of information reviewed for this criterion:

PCS, OTIS

Recommendations: Region 6 recommends that ADEQ change the coding from 05/07 (frequency of analysis) to 05/WK.

Section 5: Optional

13. **Evaluation of other projects.**

ADEQ has performed several compliance assistance activities. The NPDES Section is involved in an annual wastewater operator training in Hot Springs Arkansas with emphasis on the requirements of the permit rather than actual operations. There are training and review classes conducted twice a year for all Class IV (highest classification) Wastewater Operators, and all the Enforcement Administrators (ADEQ has one Class IV, three Class III and two Class I operators) have wastewater operators' licenses. Since the last EPA review of the files, inspections are now being electronically transmitted from the field to the central ADEQ office, expediting the inspection process further. For one of these electronic inspection reports, the supervisory review and warning letter were all completed in a single day.

Arkansas Department of Environmental Quality State Framework Review 2005

Resource Conservation and Recovery Act (RCRA) Hazardous Waste Enforcement Program

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Information Sources Included in Review:

The review encompassed two data sources: the national RCRAInfo data system and information located in the state inspection and enforcement facility files. ADEQ conducted 136 inspections at 129 facilities in FY 2005. Fifteen facilities were selected for review, randomly. However, after discussions with ADEQ, 17 facilities with a total of 22 inspections conducted in FY 2005 were reviewed.

FY 2005 RCRA Facilities Reviewed for Inspections

Treatment, Storage and Disposal Facilities	6
Large Quantity Generators	3
Small Quantity Generators	4
Conditionally Exempt Small Quantity Generators	2
No Universe	2

FY 2005 RCRA Facilities Reviewed for Enforcement

Treatment, Storage and Disposal Facilities	4
Large Quantity Generators	5
Small Quantity Generators	5
Conditionally Exempt Small Quantity Generators	0
No Universe	1

ADEQ issued 9 formal enforcement actions to 8 facilities. Eleven actions taken in 2005 and coded into RCRAInfo as formal enforcement do not appear to meet the Hazardous Waste Civil Enforcement Response Policy definition for formal enforcement actions, but are considered to be informal actions (see Findings under Element 6). In FY 2005,

ADEQ issued 43 informal enforcement actions to 39 facilities. Again, 15 facilities were selected for review, randomly. Therefore, a total of 20 informal enforcement actions and 7 formal enforcement actions issued in FY 2005 were reviewed.

Section 1: Review of State Inspection Implementation

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

Findings:

The RCRA Program requires States to conduct inspections at treatment, storage and disposal facilities (TSDF) once every 2 years. Data metric 12.a.1 shows the Arkansas TSDF universe at 13, however, this is off by one. The actual universe is 12 and ADEQ has made the appropriate data corrections in RCRAInfo in August 2006. Therefore, in FY 2005, the State inspected 92% of their TSDF Universe (12 out of 13) and this exceeds the National Average of 90.7%. If RCRAInfo had been accurate, this data metric would have shown that ADEQ conducted 100% of their TSDF Universe.

A national program goal is to have all large quantity generators (LQG) inspected every 5 years, i.e., 20 percent every year. In FY 2005, ADEQ inspected 32 out of 170 LQG's for an average of 19%. The National Average for LQG inspections is 26.4%. This Framework Review covers only the FY 2005 period, but, the goal for conducting inspections at LQG's is 20% per year over 5 years, i.e., 100 % will be conducted in 5 years. For the period FY 2001 – FY 2005 the data metrics show ADEQ inspected 49% of the LQG universe. ADEQ attributes this LQG shortfall to resource constraints. The ADEQ RCRA Program has 5 inspectors available to conduct routine inspections at regulated facilities. During FY2005, ADEQ inspectors conducted a total of 133 inspections at 114 facilities.

Citation of information reviewed for this criterion:

RCRA State Review Framework Metrics and the national RCRAInfo data system

Actions:

ADEQ corrected TSDF identification in RCRAInfo. ADEQ's coverage is nearing the 20 % goal and EPA Region 6 is working with ADEQ in expanding LQG inspection coverage to meet this goal.

2. Degree to which inspection/evaluation reports document inspection findings, including accurate identification of violations.

Findings:

The total number of inspections conducted by ADEQ in FY 2005 was 133. EPA reviewed 22 FY 2005 inspection reports from a random selection of the total 133 inspections. The review covered 17 facilities out of 114 facilities that were inspected in FY 2005.

All of the inspection reports that were reviewed were complete and had detailed narratives of what was found at a facility. The inspection reports included photographs as well as attached documentation to support the alleged violations cited. Applicable RCRA inspection checklists are used by the State inspectors during facility inspections and listed as a reference in the report.

Another 15 inspection reports that were associated with the enforcement list were also reviewed. Several of the inspection reports from the enforcement list were from previous fiscal years. Four facilities were on both the inspection and enforcement list and the review of those inspection reports are listed under the inspection category of this report.

One facility inspection report identified a drum that needed a waste determination. The file, however, has no documentation as to whether a follow up hazardous waste determination was made. RCRAInfo shows the facility to be in compliance. ADEQ reviewed the inspection documentation and contacted the facility to obtain documentation of the waste determination that showed the waste was non-hazardous. One facility on the enforcement list has 4 inspection reports that were not provided to EPA during the review, however, the reports were sent to EPA in September 2006. Two of the inspection reports at this facility have SNC violations that were on an alternate schedule for formal enforcement. The facility received a Final Order on June 30, 2006.

Citation of information reviewed for this criterion:

ADEQ inspection and enforcement facility files, The Hazardous Waste Civil Enforcement Response Policy, dated December 2003

Actions:

ADEQ is ensuring that documentation is received and in the file to show that violations have been corrected prior to entering return-to-compliance data into RCRAInfo.

3. Degree to which inspection reports are completed in a timely manner, including timely identification of violations.

Findings:

All of the 17 inspections reports from the inspection list were completed in a timely manner and all of the violations were identified within the prescribed timeframe of 150 days. In fact, the review noted that 17 of the 22 inspection reports on the inspection list had no problems with their inspection reports. Eleven of the inspections denoted secondary violations and enforcement actions (Secondary Violation Letter) were issued timely.

The 15 inspections that were reviewed from the enforcement list had 2 facilities that received their notification of violations beyond the prescribed timeframe of 150 days from the inspection date.

Citation of information reviewed for this criterion:

ADEQ inspection and enforcement facility files, The Hazardous Waste Civil Enforcement Response Policy, dated December 2003

Section 2: Review of State Enforcement Activity.

4. Degree to which significant violations are reported to EPA in a timely and accurate manner.

Findings:

ADEQ reports significant violations to EPA in a timely and accurate manner by using the RCRAInfo data system. Version 3 of RCRAInfo has a date field for SNY violations and 9 of the 15 facilities on the enforcement list had SNC violations. Two of the 9 facilities had more than one inspection with SNC violations bringing the total up to 12 inspections with SNC violations. Of the 12 inspections, 11 were timely, i.e., within 150 days, and only 1 was untimely.

The data metrics indicate that proper/timely SNC identification is an ADEQ strength. The data metrics indicate that nationally 3.2% of the inspections conducted in FY 2005 revealed significant non-compliance. Nationally, 53.2% of FY 2005 formal enforcement actions had prior SNC designations. These data reveal that across the country SNCs are not always being properly identified in RCRAInfo. The metrics show ADEQ with a 7.9% SNC identification rate and 100% of its formal enforcement actions had prior SNC designations.

An inspection at a federal facility noted a violation (operating without a permit) originally coded in as SNC, but after further review, it was later downgraded to a secondary violation because of ADEQ's contribution to the occurrence of the violation.

Citation of information reviewed for this criterion:

ADEQ inspection and enforcement facility files, The Hazardous Waste Civil Enforcement Response Policy, dated December 2003.

Actions:

ADEQ has been very pro-active in SNC identification and we encourage them to work to improve coordination among the inspection, enforcement and permitting groups.

5. Degree to which state enforcement actions require complying action that will return facilities to compliance in a specific time frame.

Findings:

ADEQ's Consent Administrative Orders (CAOs) include compliance related activities to be completed within a specified time frame from the effective date of the Order. This could be on the effective date of the Order, or within forty-five (45) days of the effective

date of the Order, etc. Secondary Violation Letters also require the facilities to document to ADEQ their return to compliance within a specified period of time, usually thirty (30) days.

Citation of information reviewed for this criterion:

ADEQ inspection and enforcement facility files, The Hazardous Waste Civil Enforcement Response Policy, dated December 2003.

6. Degree to which the state takes enforcement actions, in accordance with national enforcement response policies relating to specific media, in a timely and appropriate manner.

Findings:

The Framework review revealed that 11 proposed Consent Administrative Orders issued by ADEQ in FY2005 and coded into RCRAInfo as formal enforcement (211) do not appear to meet EPA's definition for formal enforcement action. Rather, they are considered to be informal enforcement actions by EPA because the proposed orders are not signed by the appropriate ADEQ authority and therefore, not yet binding upon the facility.

Under its enforcement procedures, ADEQ typically starts the formal enforcement process by sending an unsigned proposed Consent Administrative Order under a signed cover letter to the facility. The facility has a specific time frame in which to respond. If agreement is reached, the facility signs the CAO and then the Director signs it, effectively executing the CAO.

The Enforcement Response Policy allows States to request alternate schedules (i.e., an extended timeframe) in issuing formal enforcement actions to SNC facilities. If ADEQ believed that it would exceed the timeframe for issuing formal enforcement, ADEQ requested alternate schedules for their facilities. Therefore, even though EPA believes ADEQ's proposed Consent Administrative Orders are informal actions, they were covered by alternate schedules.

Of the seven formal enforcement actions reviewed, 4 CAO's were issued within the 360 day timeframe. Three other CAO's were issued to facilities under an alternate schedule and again are considered to be timely.

Citation of information reviewed for this criterion:

ADEQ inspection and enforcement facility files, The Hazardous Waste Civil Enforcement Response Policy, dated December 2003.

Actions:

See Actions under Element 11 for coding of proposed Consent Administrative Orders.

7. Degree to which the state includes both gravity and economic benefit calculations for all penalties.

Findings:

A review of penalty calculations in the 7 files that received a CAO denoted that both gravity and economic benefit were addressed for each violation in the CAO. The files included documentation for instances where ADEQ determined there was no economic benefit.

One file was missing the penalty calculations. ADEQ indicated that it did not retain the penalty calculations as part of the settlement terms. It is ADEQ's general practice to maintain penalty calculation sheets even though ADEQ does not believe that there is a formal requirement in the Memorandum of Agreement (MOA) to retain penalty calculations sheets after settlement.

Citation of information reviewed for this criterion:

ADEQ's Penalty Policy. RCRA Program Authorization Memorandum of Agreement.

Actions:

EPA Region 6 recommends that all penalty calculations be retained as agreed to in the MOA between Arkansas and EPA, Region VI under Section VIII,. Compliance Monitoring and Enforcement, B. State. It states "ADPC&E agrees to retain all records for at least three years unless there is an enforcement action pending. In that case all records will be retained until such action is resolved. EPA also agrees to retain all records for at least three years."

8. Degree to which final enforcement actions (settlements or judicial results) take appropriate action to collect economic benefit and gravity portions of a penalty, in accordance with penalty policy considerations.

Findings:

ADEQ collects the penalties associated with the executed CAO's. ADEQ issued 8 executed CAO's in FY 05 and has collected all of the settled penalties for 6 of the 8 executed CAO's. One facility has paid a partial penalty and another one had not paid its penalty by the report pull date because the penalty was not yet due.

The files reviewed included documentation of the gravity and economic benefit components of the final penalties.

According to the Framework data metrics, 51.4% of formal enforcement actions issued nationally have penalties. ADEQ exceeds the national average with 67% of its formal enforcement actions that include penalties. For final formal enforcement actions that carry any penalty, the national average is 77.6%. ADEQ's exceeds the national average with 100% of its final formal enforcement actions carrying penalties.

Citation of information reviewed for this criterion:

The RCRAInfo CME Formal and Informal Enforcement Actions with Timeliness Data Report, dated 2/21/06; the Hazardous Waste Civil Enforcement Response Policy, dated December 2003.

Section 3: Review of Other Enforcement Agreements

9. Enforcement commitments in the PPA/PPG/categorical grants (written agreements to deliver product/project at a specified time), if they exist, are met and any products or projects are complete.

Findings:

ADEQ has a grant that references the Hazardous Waste Enforcement Memorandum of Understanding (MOU) signed October 4, 1994. The MOU includes requirements for TSD inspection coverage as well as timely and appropriate enforcement. The FY 2005 end of year report concluded that ADEQ met its enforcement related commitments.

Citation of information reviewed for this criterion:

The 1994 Enforcement Memorandum of Understanding between ADEQ and EPA.

Section 4: Review of Database Integrity.

10. Degree to which the Minimum Data Requirements are timely.

Findings:

A review of data from RCRA State Review Framework Metrics shows that 1 out of 8 SNCs was untimely and it was only 4 days late. Therefore, ADEQ met the Minimum Data Requirements for entering data into RCRAInfo, in a timely manner.

Citation of information reviewed for this criterion:

RCRA State Review Framework Metrics; The RCRAInfo CME Formal and Informal Enforcement Actions with Timeliness Data Report, dated 2/21/06

11. Degree to which the Minimum Data Requirements are accurate.

Findings:

ADEQ's proposed Consent Administrative Orders (11 total for 2005), do not appear to meet the definition of a formal enforcement action in the Hazardous Waste Civil Enforcement Response Policy. They would be considered to be informal enforcement actions. The ERP states that "For States, formal enforcement action is (1) a referral to the State's Attorney General for the commencement of a civil or administrative action in the appropriate forum, or (2) the filing of an administrative complaint, or the issuance of an order, requiring compliance and a sanction."

The file review noted that one facility has an incorrect issue date for a Secondary Violation Letter. The review also noted that one facility has a missing inspection date,

enforcement action and compliance date for 2 secondary violations. A distinct subsection of the facility was inspected and received a separate Secondary Violation Letter and CEI Report. The inspection date, enforcement action, and return to compliance dates were actually in RCRAInfo, however, they were not segregated from the overall facility inspection conducted under the same EPA ID Number.

The Data Metrics list 4 facilities in violation for greater than 3 years. One facility has no violations in RCRAInfo and therefore should not be on the list; one facility was referred to Superfund and is in bankruptcy; one facility is in compliance and RCRAInfo will be updated; and the last facility is on a long term corrective action schedule.

Citation of information reviewed for this criterion:

RCRA State Review Framework Metrics; ADEQ inspection and enforcement files and the RCRAInfo Data System

Actions:

ADEQ has made data corrections in RCRAInfo for the following:

1. Flexsteel Industries Inc – 7/12/05 Secondary Violation Letter, RCRAInfo said 7/20/05
2. Teris LLC - 6/30/05 CEI, RCRAInfo said 6/29/05
3. University of Arkansas 8/4/04 CEI, RCRAInfo said 8/3/04
4. Segregate Pine Bluff Chemical Demilitarization Facility 6/23/05 CEI, 10/10/05 WL and 12/14/05 compliance date from Pine Bluff Arsenal 6/20/05 CEI

ADEQ has agreed, beginning October 1, 2006, to code their proposed unsigned orders as 126 in RCRAInfo, although they do not agree that their proposed unsigned orders are informal enforcement.

12. Degree to which the Minimum Data Requirements are complete:

Findings:

With the corrections mentioned in # 11, ADEQ will meet the Minimum Data Requirements for completeness in RCRAInfo

Citation of information reviewed for this criterion:

RCRAInfo Data System