

**STATE OF HAWAII  
DEPARTMENT OF HEALTH**

**State Review Framework  
Fiscal Year FY 2009**

**Final Report  
September 30, 2010**

**Conducted by  
U.S. Environmental Protection Agency  
Region IX**

## **I. EXECUTIVE SUMMARY**

### **MOST SIGNIFICANT ISSUES**

**The following were the most significant issues identified in the State Review Framework review of Hawaii Department of Health:**

- **Element 5—Inspection Coverage (Water):** Inspections of major and minor facilities in the Water program fell short of both the EPA national inspection goals and the HDOH workplan commitments.
- **Element 10 –Timely and Appropriate Action (Water):** The Clean Water Branch did not take formal enforcement action against three of the four major facilities in Significant Non-Compliance during FY2009.

### **SUMMARY OF PROGRAMS REVIEWED**

#### **Clean Air Act Program**

**The problems which necessitate state improvement and therefore require recommendations and actions include the following:**

- **Element 3—Data Timeliness:** Hawaii has some notable problems entering data in a timely manner. Timeliness was below the national average for several metrics, and should be improved by the end of FY 2011.

**Elements meeting the SRF program requirements or with minor issues brought to the State’s attention for correction include:**

- Element 1--Data Completeness
- Element 2--Data Accuracy
- Element 4--Completion of Enforcement/Compliance Commitments
- Element 5--Inspection Coverage
- Element 6--Quality of Inspection or Compliance Evaluation Reports
- Element 7--Identification of Alleged Violations
- Element 8--Identification of SNC and HPV
- Element 9--Enforcement Actions Promote Return to Compliance
- Element 10--Timely and Appropriate Enforcement Action
- Element 11--Penalty Calculation Method
- Element 12--Final Penalty Assessment and Collection

## **Clean Water Act/NPDES Program**

**The problems which necessitate state improvement and therefore require recommendations and actions include the following:**

- **Element 5--Inspection Coverage:** The Clean Water Branch (CWB) fell short of EPA's national inspection goals and averages, and of its grant workplan commitments for most categories of inspections in FY 2009.
- **Element 7.02--Identification of Alleged Violations:** The CWB uses its state databases to track SEVs (including facility-reported, complaints, spills, inspections, permit and compliance schedules, etc.) at its permitted and unpermitted facilities. However, the CWB does not enter SEVs into EPA's ICIS-NPDES database. This is a data management issue and doesn't hinder the CWB's ability to identify and track violations.
- **Element 10--Timely and Appropriate Enforcement Action:** During the FY09 review period CWB timely and appropriately issued 78 enforcement actions to non-SNC facilities. However, the CWB did not take formal enforcement action against three of four major facilities that were in SNC status during FY 2009.

**Good Practices identified in the review include:**

- **Element 7.01 – Identification of Alleged Violations:** HI CWB accurately and timely identifies facility effluent limit violations by tracking both major and minor DMR results in EPA's ICIS-NPDES database and in the state database.

**Elements meeting SRF program requirements or with minor issues for correction include:**

- Element 1--Data Completeness
- Element 2--Data Accuracy
- Element 3--Data Timeliness
- Element 4--Completion of Enforcement/Compliance Commitments
- Element 6--Quality of Inspection or Compliance Evaluation Reports
- Element 8--Identification of SNC and HPV
- Element 9--Enforcement Actions Promote Return to Compliance
- Element 11--Penalty Calculation Method
- Element 12--Final Penalty Assessment and Collection

## **RCRA Subtitle C Program**

**The problems which necessitate state improvement and therefore require recommendations and actions include the following:**

- **Element 1 -- Data Completeness:** The LQG universe reflected in OTIS and RCRAInfo is larger than the active LQG universe, as OTIS includes facilities that are no longer LQGs or are episodic LQGs. These differences in the universe of facilities need to be reconciled to accurately target LQGs requiring inspection. This issue was raised in the Round 1 review, and initially corrected.
- **Element 1 --- Data Completeness:** Some facilities subject to inspections and enforcement have not requested EPA identification numbers, and information therefore cannot be entered into RCRAInfo.

**Elements meeting SRF program requirements or with minor issues for correction include:**

- Element 2--Data Accuracy
- Element 3--Timeliness of Data Entry
- Element 4--Completion of Enforcement/Compliance Commitments
- Element 5--Inspection Coverage
- Element 6--Quality of Inspection or Compliance Evaluation Reports
- Element 7--Identification of Alleged Violations
- Element 8--Identification of SNC and HPV
- Element 9--Enforcement Actions Promote Return to Compliance
- Element 10--Timely and Appropriate Enforcement Action
- Element 11--Penalty Calculation Method
- Element 12--Final Penalty Assessment and Collection

**FOR MORE INFORMATION:**

Individual, stand-alone reports for each of the air, water, and waste program reviews follow this executive summary. Each program report contains a more detailed executive summary, information about the State program (structure, roles and responsibilities), a discussion of State priorities and accomplishments, and the detailed findings of the review.

**Hawaii Department of Health  
Clean Air Branch  
Clean Air Act Stationary Source  
Compliance and Enforcement Program FY 2009**

**State Review Framework**

**Final Report – September 21, 2010**

**Conducted by the**

**U.S. Environmental Protection Agency**

**Air Enforcement Office**

**Region IX**

**75 Hawthorne Street**

**San Francisco, CA 94105**

## **I. EXECUTIVE SUMMARY**

The State Review Framework (SRF) is a program designed to ensure that EPA conducts oversight of state compliance and enforcement programs in a nationally consistent and efficient manner. Reviews look at 12 program elements covering: data (completeness, timeliness, and quality); inspections (coverage and quality); identification of violations, enforcement actions (appropriateness and timeliness); and penalties (calculation, assessment and collection). Reviews are conducted in three phases: analyzing information from the national data systems; reviewing a limited set of state files; and development of findings and recommendations. Consultation is built into the process to ensure EPA and the state understand the causes of issues, and to seek agreement on identifying the actions needed to address problems. The reports are designed to provide factual information and do not make determinations of program adequacy. EPA also uses the information in the reports to draw a “national picture” of enforcement and compliance, and to identify any issues that require a national response. Reports are not used to compare or rank state programs.

### **A. Major State Priorities and Accomplishments**

Inspections of major sources are conducted annually, exceeding the EPA requirement of once every 2 years.

### **B. Summary of Results**

- CAB facility files were well organized and well maintained, with good correlation to the data reported to AFS. All files included a copy of the latest permit, inspection reports, correspondence, and completed enforcement. Compliance determinations were found to correlate well with the data that had been reported to AFS. 22 of 25 inspection reports were thorough and clear.
- Hawaii has some notable problems entering data in a timely manner. Timeliness was below the national average for several metrics, and should be improved by the end of FY 2011.
- One of the better practices we observed was the guidance HI DOH has developed for conducting enforcement cases based on third party witnesses, including citizens, police, and fire department personnel. This guidance was developed because many complaints, particularly fugitive dust and open burning are often times intermittent and short-lived violations that are difficult for CAB inspectors to personally observe and document.
- CAB guidance allows for issuance of informal NOV's for first-time permit violations within a rolling 24-month period. EPA believes that the guidance should be clarified to exclude emission violations, parametric monitoring violations, and operating without a major source (NSR/PSD or Title V) permit, as warning letters for such violations would be inconsistent with EPA policy on timely and appropriate response to High Priority Violations.
- EPA continues to do a variety of investigations and enforcement cases in Hawaii. CAB works very well with EPA and has referred several particularly challenging cases to Region 9

for enforcement. We welcome this role and will continue, as necessary, to support the state's air pollution control program.

## **II. BACKGROUND**

Hawaii consists of eight main islands, covering 6,422 square miles with a population of 1,295,178 (2009 year estimate, US Census). Hawaii's largest city, Honolulu, has a population of 375,571 and is the 48<sup>th</sup> largest city in the nation, comparable in size to Tulsa, Minneapolis, or Colorado Springs. It is important to note that Hawaii has a large influx of tourists, over 5,000,000 annually, creating a significant environmental impact. Honolulu maintains a low emissions bus fleet and promotes environmentally conscious urban planning. For example, a new public high-speed monorail line is being planned between the airport and downtown Honolulu.

Hawaii has relatively few air quality problems, due in part to its location in the Pacific Ocean amid consistently favorable wind patterns. Hawaii meets the National Ambient Air Quality Standards for all of the criteria pollutants, and has not had a designated nonattainment area since 1985. As of 2009 Honolulu remains on the American Lung Association's list of cleanest cities for both ozone and particle pollution. The most significant air quality issues in Hawaii are sulfur dioxide emissions and particulate matter (PM<sub>2.5</sub>) from volcanoes on the Island of Hawaii and citizen complaints arising from agricultural burning (sugar cane) on Maui.

**Attainment/Non-Attainment Designations:** None.

### **Staffing/Resources:**

Hawaii's air pollution control program is implemented by the Hawaii Department of Health, Environmental Management Division, Clean Air Branch. The Clean Air Branch (CAB) is comprised of three sections: Engineering, Monitoring and Analysis, and Compliance and Enforcement. These three sections within the Clean Air Branch each play a role in the enforcement program:

The Engineering Section (comprised of thirteen staff engineers) writes permits, with an emphasis on appropriate and enforceable conditions and monitoring requirements, oversees source testing requirements and reports, and periodically observes source tests. Five of the thirteen staff engineers are working on regional haze and emission inventories; eight are working on permitting issues.

The Monitoring and Analysis Section (comprised of ten staff environmental health specialists) is responsible for review of continuous emissions monitoring data, covered and synthetic minor source inspections, identification of violations, recommending and referring potential enforcement actions to the Compliance and Enforcement Section, and compliance data entry for covered and synthetic minor sources.

The Compliance and Enforcement Section (comprised of eight staff environmental health specialists) is responsible for case development and enforcement, HPV determinations, HPV data entry, public complaint investigations and inspections of non-major sources.

Hawaii faces a unique challenge in administering an air pollution control program, as many of their sources are located on several “neighbor” islands near Oahu (Hawaii’s most populous island and the location of the HI DOH offices). The CAB has two staff place-based on the Island of Hawaii, one on Maui and one on Kauai. It can be difficult to respond in a timely manner to public complaints or other urgent situations, particularly when one of the neighbor island staff is unavailable.

### **Enforcement Process:**

CAB has three types of enforcement responses: Formal Notice and Finding of Violation and Order (NFVO); Field Citation; and Informal Notice of Violation (no penalty assessed).

NFVO’s are docketed as a result of either a referral from the Monitoring and Analysis Section or from investigations conducted by the Compliance and Enforcement Section. Once it has been determined that a formal action will take place, a “forthcoming” or “Notice of Violation” letter is issued, which lists the violations and corrective action required. The letter does not include a penalty demand. After corrective action is verified, CAB issues a formal “Notice and Finding of Violation and Order” (NFVO) which includes an assessed penalty and orders payment within 20 days. The company can appeal to a Hearing Officer. If a hearing is requested, CAB is represented by the attorney permanently assigned to CAB from the HI Attorney General, who can also file complaints in state court when necessary.

Penalties are calculated based on Hawaii’s penalty policy, which includes factors accounting for economic benefit and ability to pay, consistent with EPA policy. Penalty amounts are rarely mitigated after the NFVO is issued. Press releases are issued for all NFVO’s.

Field Citations are expedited settlements of easily verifiable violations and are an alternative to a formal NFVO. Currently, Field Citations can be issued for fugitive dust, open burning and location change information submittals for temporary source violations. CAB is currently going through the rulemaking process to add operating without a valid non-covered or covered source permit to the Field Citation rule. Field Citations are issued as a result of either a referral from the Monitoring and Analysis Section or from investigations conducted by the Compliance and Enforcement Section. Once a Field Citation is issued, the violator has 20 days to accept the offer to settle by correcting the violation, signing the Field Citation and paying the penalty. If the violator doesn’t accept the Field Citation, a formal NFVO is issued. Penalties for Field Citations are included in the rule, therefore penalty calculations are not necessary. Press releases are not issued for Field Citations.

Informal Notices of Violation are letters sent to a violator which document a violation and includes corrective action language and consequences for continued noncompliance. No penalties are assessed and no press release is issued when an Informal Notice of Violation is issued.



There is no statute of limitations for administrative actions. However, CAB has reduced their enforcement backlog and is now issuing NFVO's within 2 to 3 months. This effort is partly in response to a Hawaii Supreme Court decision that violations must be addressed by state agencies within two years of discovery.

HI DOH leadership emphasizes tracking compliance and enforcement activity. CAB submits a monthly report to management that includes the number of informal and formal NFVO's issued, complaints investigated, inspections conducted, stack test plans and results reviewed, and visible emission testing plans and results reviewed.

One of the better practices we observed was the guidance HI DOH has developed for conducting enforcement cases based on third party witnesses, including citizens, police, and fire department personnel. This guidance was developed because many complaints, particularly fugitive dust and open burning are often times intermittent and short-lived violations that are difficult for CAB inspectors to personally observe and document.

**Note on enforcement process:**

Partly in response to EPA's observation in the first SRF review, CAB developed internal guidance on the appropriate use of a formal NOV, informal NOV, and field citation. EPA commends this action.

However, it should be noted that the guidance allows for issuance of informal NOVs for first-time permit violations within a rolling 24-month period. EPA believes that the guidance should be clarified to exclude emission violations, parametric monitoring violations, and operating without a major source (NSR/PSD or Title V) permit, as warning letters for such violations would be inconsistent with EPA policy on timely and appropriate response to High Priority Violations.

As a general rule, we discourage addressing anything other than simple administrative violations with a warning letter, as this practice suggests to the regulated community that compliance is not necessary until you've been caught.

**General Observations:**

CAB facility files were well organized and well maintained, with good correlation to the data reported to AFS. They were sorted first by the island where they were located and then filed alphabetically by facility name. Files were clearly marked and neatly spindled in 6-part folders by type of document. The most current documents were on top and older ones found in chronological order below. All files included a copy of the latest permit, inspection reports, correspondence, and completed enforcement (active enforcement files are maintained separately by the individual case developers).

The Engineering Section is responsible for granting waivers for source tests, which seems to be a regular practice in cases where facilities were well under the limits in the previous year's test.

According to CAB they have not granted a waiver for a test required by an underlying federal regulation. NSPS does not require annual tests after the required initial test.

The waivers were sometimes not documented well, and there were cases where a facility was granted a waiver verbally. We understand that CAB used to send a memo when a waiver was granted, and we do think that a written record is important in such cases. In the short term, we recommend that CAB develop a standard form that is kept in the facility file. In the long term, we recommend that CAB consider changing the standard permit conditions to remove the waiver provision and replace it with a provision for changing the testing schedule based explicitly on the results of the test. This would reduce CAB workload and place the responsibility for compliance on the facility.

Review of source test results and granting of waivers is a compliance function and as such should be done by enforcement, rather than permitting, staff. Also, all source test reviews should probably be going to one or two staff members so greater expertise can be developed.

Compliance determinations were found to correlate well with the data that had been reported to AFS. Most inspection reports were thorough and clear. In 3 of the 25 files we reviewed, we expected more detail on what limits were being evaluated and how the inspector had determined compliance; we discussed this with CAB managers in our exit interview.

Hawaii's inspection coverage of majors & SMs was nearly 100%. There were some timeliness problems in reporting this activity to AFS. Overall, we found Hawaii's compliance and reporting overall to be acceptable and in most areas better than the national average.

Four penalties identified by the SRF data pull as missing were typographical errors, having been mistakenly reported to the day zero record's penalty field instead of on the addressing action record (making them present in AFS, but invisible to the SRF).

#### **EPA's Enforcement Role:**

EPA continues to do a variety of investigations and enforcement cases in Hawaii. CAB works very well with EPA and has referred several particularly challenging cases to Region 9 for enforcement. We welcome this role and will continue, as necessary, to support the state's air pollution control program.

#### **Process for SRF Review:**

The initial state data used for the review was pulled in February 2010. A "kickoff letter" which transmitted the data and described the review process was sent to HI DOH on March 13, 2010. The on-site CAA portion of the SRF review was conducted April 6 thru 8, 2010. Region 9 maintained a dialogue with HDOH CAB throughout the course of the review.

#### **Information Sources Included in the Review:**

– HDOH CAB inspection and enforcement files

- Management and staff interviews
- EPA databases, primarily AFS and OTIS/SRF
- HODOH documents (including "Guidelines for the Exercise of Prosecutorial Discretion under the State of Hawaii Air Pollution Control Act (Draft 8/00)" ("*Enforcement Guidelines and Procedures*")

**Inspection Files Reviewed:**

AFS ID#	Plant Name	Size
1500100502	AKANA PETROLEUM	SM
1500300507	ALOHA PETROLEUM	Major
1577700104	AMERICAN HAULING	Major (Portable)
1500300056	BLACK PLUMERIA (FRMLY JAS GLOVER)	Major
1500300058	C&C HONOLULU - SAND ISLAND WWTP	Major
1500300051	CHEVRON-HONOLULU TRANSPORTATION	Major
1500300052	CHEVRON HONOLULU PRODUCTS (AKA MARINE)	Major
1500900501	CHEVRON-TERMINAL (KAHULUI)	Major
1577700011	GRACE PACIFIC - HONOKOHAU	Major (Portable)
1500300036	GRACE PACIFIC - MAKAKILO QUARRY	Major
1500700009	JAMES W. GLOVER	Major
1500700012	KAUAI ISLAND UTILITY - PORT ALLEN	Major
1500700019	KAUAI PETROLEUM	SM
1500900500	MAUI ELECTRIC CO MAALAEA GENERATING	Major
1500900035	MAUI ELECTRIC CO MAUI BASIN (MIKI)	Major
1500900040	MAUI PAVING - KALAMAULA	Major
1500100140	MAUNA LOA MACADAMIA NUT	Major
1500100504	MID-PAC PETROLEUM	Major
1577700164	PB SULLIVAN	Major (Portable)
1577700120	PINERIDGE FARMS	Major (Portable)
1577700121	PINERIDGE FARMS	Major (Portable)
1577700063	R.H.S. LEE	Major (Portable)
1500300034	UNITED LAUNDRY	Major
1500300087	UNITEK	SM
1577700031	WEST OAHU AGGREGATE	Major

**Enforcement Files Reviewed:**

1500300507	ALOHA PETROLEUM	Major
1577700104	AMERICAN HAULING	Major (Portable)
1500300058	C&C HONOLULU - SAND ISLAND WWTP	Major
1577700164	PB SULLIVAN	Major (Portable)
1577700121	PINERIDGE FARMS	Major (Portable)

**EPA On-Site Reviewers:**

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### **III. STATUS OF RECOMMENDATIONS FROM PREVIOUS REVIEW**

This is the second SRF review performed for HDOH CAB. The prior file review was conducted June 6-8, 2006 and the final report issued September 26, 2006.

There are no outstanding issues from the previous report.

### **IV. FINDINGS AND RECOMMENDATIONS**

Findings represent the Region's conclusions regarding the issue identified. Findings are based on the Initial Findings identified during the data or file review, as well as from follow-up conversations or additional information collected to determine the severity and root causes of the issue. There are four types of findings, which are described below:

<b>Finding</b>	<b>Description</b>
<b>Good Practices</b>	This describes activities, processes, or policies that the SRF data metrics and/or the file reviews show are being implemented exceptionally well and which the State is expected to maintain at a high level of performance. Additionally, the report may single out specific innovative and noteworthy activities, process, or policies that have the potential to be replicated by other States and that can be highlighted as a practice for other states to emulate. No further action is required by either EPA or the State.
<b>Meets SRF Program Requirements</b>	This indicates that no issues were identified under this Element.

<p><b>Areas for State* Attention</b></p> <p><b>*Or, EPA Region’s attention where program is directly implemented.</b></p>	<p>This describes activities, processes, or policies that the SRF data metrics and/or the file reviews show are being implemented with minor deficiencies that the State needs to pay attention to strengthen its performance, but are not significant enough to require the region to identify and track state actions to correct. This can describe a situation where a State is implementing either EPA or State policy in a manner that requires self-correction to resolve concerns identified during the review. These are single or infrequent instances that do not constitute a pattern of deficiencies or a significant problem. These are minor issues that the State should self-correct without additional EPA oversight. However, the State is expected to improve and maintain a high level of performance.</p>
<p><b>Areas for State * Improvement – Recommendations Required</b></p> <p><b>*Or, EPA Region’s attention where program is directly implemented.</b></p>	<p>This describes 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. This can describe a situation where a state is implementing either EPA or State policy in a manner requiring EPA attention. For example, these would be areas where the metrics indicate that the State is not meeting its commitments, there is a pattern of incorrect implementation in updating compliance data in the data systems, there are incomplete or incorrect inspection reports, and/or there is ineffective enforcement response. These would be significant issues and not merely random occurrences. Recommendations are required for these problems that will have well defined timelines and milestones for completion. Recommendations will be monitored in the SRF Tracker.</p>

Report Findings:

<b>Element 1 Data Completeness: Degree to which the minimum data requirements are complete</b>	
<p>Is this finding a(n) (select one):</p>	<p> <input type="checkbox"/> Good Practice  <input checked="" type="checkbox"/> Meets SRF Program Requirements  <input type="checkbox"/> Area for State Attention  <input type="checkbox"/> Area for State Improvement – Recommendations Required         </p>
<p>Finding</p>	<p>HDOH’s inspection and enforcement data is complete in AFS.</p>

Explanation	No issues were identified under this Element.
Metric(s) and Quantitative Value	
State Response	None.
Recommendation(s)	None.

**Element 2 Data Accuracy: Degree to which the minimum data requirements are accurate**

Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required
Finding	HDOH’s inspection and enforcement data is accurate in AFS.
Explanation	No issues were identified under this Element.
Metric(s) and Quantitative Value	
State Response	None.
Recommendation(s)	None.

**Element 3 Timeliness of Data Entry: Degree to which the minimum data requirements are complete**

Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input checked="" type="checkbox"/> Area for State Improvement – Recommendations Required
Finding	HI DOH’s timeliness of AFS data entry is deficient.

Explanation	
Metric(s) and Quantitative Value	<p><b>3.A Percent HPVs entered less than 60 days after designation, timely entry (1FY)</b>  HIDOH CAB 0%, National Average 35.1%</p> <p><b>3.B.1 Percent compliance monitoring related MDR actions reported less than 60 days after designation, timely entry (1FY)</b>  HIDOH CAB 35.2%, National Average 55.3%</p> <p><b>3.B.2 Percent enforcement related MDR actions reported less than 60 days after designation, timely entry (1 FY)</b>  HIDOH CAB 0%; National Average 86.1%</p>
State Response	HIDOH CAB confirmed that the late entry of the above items were due to staffing and other issues that were temporary, and committed to improvement by FY2011.
Recommendation(s)	HI CAB should identify barriers and seek to enter more of its records in a timely manner, achieving the national average for these metrics by the end of FY2011.

**Element 4 Completion of Commitments: Degree to which the CMS commitments are met.**

Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required
Finding	HDOH substantially met their CMS commitments.
Explanation	No issues were identified under this Element.
Metric(s) and Quantitative Value	
State Response	None.
Recommendation(s)	None.

**Element 5 Inspection Coverage: Degree to which state completed the universe of planned inspections/compliance evaluations**

Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input checked="" type="checkbox"/> Meets SRF Program Requirements
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	<input type="checkbox"/> Area for EPA Headquarters (OTIS) Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required
Finding	HI DOH’s inspection coverage exceeded the national average.
Explanation	No issues were identified under this Element.
Metric(s) and Quantitative Value	5A – Major source 2-year facility inspection coverage of 96.1%
State Response	None
Recommendation(s)	None

**Element 6 Compliance Evaluation Reports:** Degree to which inspection reports are complete and provide sufficient documentation

Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required
Finding	The HDOH inspection reports were adequate.
Explanation	No issues were identified under this Element.
Metric(s) and Quantitative Value	
State Response	None.
Recommendation(s)	None.

**Element 7 Identification of Alleged Violations:** Degree to which compliance determinations are accurately made and promptly reported in the national database based upon compliance monitoring report observations and other compliance monitoring information.

Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input checked="" type="checkbox"/> Meets SRF Program Requirements
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		<input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required
Finding	HDOH made accurate compliance determinations based on inspection reports	
Explanation	No issues were identified under this Element.	
Metric(s) and Quantitative Value	7A – All files contained accurate compliance determinations.	
State Response	None.	
Recommendation(s)	None.	

**Element 8 Identification of HPV: Degree to which the state accurately identifies significant noncompliance and enters information into the national system in a timely manner.**

Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required	
Finding		
Explanation	No issues were identified under this Element.	
Metric(s) and Quantitative Value		
State Response		
Recommendation(s)	None.	

**Element 9 Enforcement Actions Promote Return to Compliance: Degree to which state enforcement actions include required corrective action (i.e., injunctive relief or other complying actions) that will return facilities to compliance in a specific time frame.**

Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input checked="" type="checkbox"/> Meets SRF Program Requirements	
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		<input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required
Finding		Facilities were returned to compliance or will be returned to compliance.
Explanation		No issues were identified under this Element.
Metric(s) and Quantitative Value		
State Response		None.
Recommendation(s)		None.

**Element 10 Timely and Appropriate Action:** Degree to which a state takes timely and appropriate enforcement actions in accordance with policy relating to specific media.

		<input type="checkbox"/> Good Practice <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required
Is this finding a(n) (select one):		
Finding		HDOH took appropriate enforcement actions in a timely manner.
Explanation		No issues were identified under this Element.
Metric(s) and Quantitative Value		
State Response		None.
Recommendation(s)		None.

**Element 11 Penalty Calculation Method:** Degree to which state documents in its files that initial penalty calculation includes both gravity and economic benefit calculations, appropriately using the BEN model or other method that produces results consistent with national policy.

		<input type="checkbox"/> Good Practice <input checked="" type="checkbox"/> Meets SRF Program Requirements
Is this finding a(n) (select one):		

		<input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required
Finding		All of HDOHs penalty calculations included appropriate gravity and economic benefit calculations.
Explanation		No issues were identified under this Element.
Metric(s) and Quantitative Value		11A – 5 out of 5 penalty calculations included appropriate calculations.
State Response		None.
Recommendation(s)		None.

**Element 12 Final Penalty Assessment and Collection:** Degree to which differences between initial and final penalty are documented in the file along with a demonstration in the file that the final penalty was collected.

Is this finding a(n) (select one):		<input type="checkbox"/> Good Practice <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required
Finding		
Explanation		No issues were identified under this Element.
Metric(s) and Quantitative Value		
State Response		None.
Recommendation(s)		None.

## **APPENDIX A: STATUS OF RECOMMENDATIONS FROM PREVIOUS REVIEWS**

This is the second SRF review performed for HDOH CAB. The prior file review was conducted June 6-8, 2006 and the final report issued September 26, 2006.

There are no outstanding issues from the previous report.

## **APPENDIX B: OFFICIAL DATA PULL**

Official data serving as the foundation of this report was pulled January 26, 2010 and was shared with the HDOH CAB staff on February 23, 2010. The raw pull data is not included in this hard copy of this report, but will be posted to the SRF tracker under the HI (Round 2) CAA heading(s).

## **APPENDIX C: PRELIMINARY DATA ANALYSIS**

This section provides the results of the Preliminary Data Analysis (PDA). The Preliminary Data Analysis forms the initial structure for the SRF report, and helps ensure that the data metrics are adequately analyzed prior to the on-site review. The PDA reviews each data metric and evaluates state performance against the national goal or average, if appropriate. It is important to note that the PDA only addresses data metrics, not some of the more substantive SRF metrics (e.g. completion of commitments, quality of inspection reports, penalty policy, etc.). For discussion of these other metrics see Appendix E, File Review Analysis.

The PDA Chart in this section of the SRF report only includes metrics where potential issues are identified. However, the full PDA, which is available as a document separate from this report, contains every data metric. Initial findings are preliminary observations and are used as a basis for further investigation. Findings are developed only after evaluating them against the file review results where appropriate, and dialogue with the state have occurred. Through this process, initial findings may be confirmed, modified, or determined not to be supported. Findings are presented in Section IV of this report.

Metric	Metric Description	Measure Type	Metric Type	Nat'l Goal	Nat'l Avg	State Metric	HIDOH Correction	Initial Findings
1A1-C	Title V Universe: AFS Operating Majors (Current)	Data Quality	State			133	129	<b>Minor Issue:</b> SRF included 4 facilities marked in AFS as "Not Operating" (1 was C=closed & 3 were P=planned/pending permits). HIDOH & R9 confirm 129 as correct value for this metric for the period.
1D1-S	Compliance Monitoring: Sources with FCE's (1FY)	Data Quality	State			122	126	<b>Minor Issue:</b> CAB noted that there were 4 additional FCEs reported to AFS between January 2010 and April 2010. Hawaii clarifies that 126 FCEs were the correct number for this metric when measuring their performance for this FY09 period.
3A-S	Percent HPVs Entered less than 60 Days After Designation, Timely Entry (1 FY)	Data Quality	State	100%	35.1%	0.00%	None	<b>Potential Concern:</b> data entry appears to exceed the 60 day timeliness standard.
3B1-S	Percent Compliance Monitoring related MDR actions reported more than 60 Days After Designation (Timely Entry (1FY)	Data Quality	State	100%	55.3%	35.2%	None	<b>Potential Concern:</b> data entry appears to exceed the 60 day timeliness standard.

3B2-S	Percent Enforcement related MDR actions reported more than 60 Days After Designation, Timely Entry (1 FY)	Data Quality	State	100%	67.2%	0.0%	None	<b>Potential Concern:</b> data entry appears to exceed the 60 day timeliness standard.
5A1-S	CMS Major Full Compliance Evaluation (FCE) Coverage (2FY CMS Cycle)	Data Quality	State	100%	86.1%	96.1%	100%	<b>Minor Issue:</b> Between the time of the Preliminary Data Pull and the onsite review, all 5 of the outstanding majors missing here had FCEs reported to AFS, so there was actually 100% coverage for the Majors measured in this metric for this period. Because of the backlog & later entry of the 5 items, region is not listing this as a “Good Practice” despite final outcome being 100%.
5E-S	Number of Sources with Unknown Compliance Status (Current)	Goal	State			1	0	<b>Minor Issue:</b> SRF showed 1 unknown source which HI had not yet reported at time of SRF data pull. FCE had not yet been reported due to timeliness issues.
5G-S	CAA Stationary Source Review of Self-Certifications Completed (1 FY)	Goal	State	100%	93.7%	89.1%	97.6%	<b>Minor Issue:</b> Of the 129 Title V Operating Majors, SRF showed 115 Certifications had been reviewed and 14 had not. 11 of the 14 had been reviewed and were reported to AFS before our onsite visit. The

								corrected percentage would be 97.6%, which is above the national average. HI is following up on the remaining 3 certifications.
12A-S	No Activity Indicator – Actions with Penalties	Goal	State			4	0	<b>Minor Issue:</b> Typographical error caused 4 penalties to be reported on the Day Zero instead of the addressing action. The entries were moved and now both AFS & SRF show them.
12B-S	Percent Actions at HPVs with Penalty(1 FY)	Goal	State	>80%	85.6%	60%	100%	<b>Minor Issue:</b> Typographical error caused 4 penalties to be reported on the Day Zero instead of the addressing action. The entries were moved and now both AFS & SRF show them.

## **APPENDIX D**

### **FILE SELECTION**

Files were randomly selected by the review team, using the EPA SRF File Selection Protocol issued 9/30/08.

#### **Inspection Files Reviewed:**

AFS ID#	Plant Name	Size
1500100502	AKANA PETROLEUM	SM
1500300507	ALOHA PETROLEUM	Major
1577700104	AMERICAN HAULING	Major (Portable)
1500300056	BLACK PLUMERIA (FRMLY JAS GLOVER)	Major
1500300058	C&C HONOLULU - SAND ISLAND WWTP	Major
1500300051	CHEVRON-HONOLULU TRANSPORTATION	Major
1500300052	CHEVRON HONOLULU PRODUCTS (AKA MARINE)	Major
1500900501	CHEVRON-TERMINAL (KAHULUI)	Major
1577700011	GRACE PACIFIC - HONOKOHAU	Major (Portable)
1500300036	GRACE PACIFIC - MAKAKILO QUARRY	Major
1500700009	JAMES W. GLOVER	Major
1500700012	KAUAI ISLAND UTILITY - PORT ALLEN	Major
1500700019	KAUAI PETROLEUM	SM
1500900500	MAUI ELECTRIC CO MAALAEA GENERATING	Major
1500900035	MAUI ELECTRIC CO MAUI BASIN (MIKI)	Major
1500900040	MAUI PAVING - KALAMAULA	Major
1500100140	MAUNA LOA MACADAMIA NUT	Major
1500100504	MID-PAC PETROLEUM	Major
1577700164	PB SULLIVAN	Major (Portable)
1577700120	PINERIDGE FARMS	Major (Portable)
1577700121	PINERIDGE FARMS	Major (Portable)
1577700063	R.H.S. LEE	Major (Portable)
1500300034	UNITED LAUNDRY	Major
1500300087	UNITEK	SM
1577700031	WEST OAHU AGGREGATE	Major

#### **Enforcement Files Reviewed:**

1500300507	ALOHA PETROLEUM	Major
1577700104	AMERICAN HAULING	Major (Portable)
1500300058	C&C HONOLULU - SAND ISLAND WWTP	Major
1577700164	PB SULLIVAN	Major (Portable)
1577700121	PINERIDGE FARMS	Major (Portable)



## **APPENDIX E**

### **FILE REVIEW ANALYSIS**

The on-site file review was conducted at the Hawaii DOH offices in Honolulu between 4/6/2010 and 4/8/2010.

#### **SRF ELEMENTS:**

##### **Element 4 – Completion of Commitments**

EPA Region 9 has no Performance Partnership Agreements or State Enforcement Agreements with its state and local agencies. The Regional Administrator, Deputy and Division Directors hold annual meetings with the environmental commissioners and directors of R9's state agencies to share priorities and strategies and to explore opportunities for partnership. One component of this partnership is the Compliance Monitoring Strategy (CMS) Plan that provides an agency's commitments for conducting FCEs (including inspections, Title V certification and source test reviews), identifying HPVs, and reporting such activities to AFS. A copy of the HI CMS plan will be posted in the SRF Tracker under HI (Round 2) CAA.

HI DOH CAB submitted an adequate CMS Plan for FY06 – FY11 on May 22, 2006. In this CMS plan they committed to target majors on a 2-year cycle, megas (very large majors) on a 3-year cycle, and synthetic minors on a 5-year cycle.

In the CMS plan HI DOH committed to reporting FCEs once they have reviewed all necessary reports and records, including Title V certifications, excess emission reports and other documents, physically visited the facility and reviewed facility records and operating logs, assessed control devices and reviewed stack tests. Our file review indicated that HIDOH CAB performed these elements.

HIDOH has successfully met all of their CMS commitments, except as otherwise outlined in this report.

##### **Element 6 – Quality of Inspection Reports**

Based on our review, Hawaii's inspection reports were adequate. Files were well organized and detailed. All contained inspection reports, Title V compliance certifications, monitoring reports, correspondence, and (except for active cases) enforcement records. 100% of the reviewed FCEs met the definition of a FCE per EPA's CMS policy. Each file's subsections were filed in reverse chronological order spindled in 6-part folders by record type. Large permit or test files were often filed in their own folders.

We found that some inspectors included more detail in their reports than others and that these were the easier reports for us to determine whether a complete FCE had been conducted or an enforcement action had occurred. In general, enforcement files contained NOVs, copies of discovery action(s) (such as the inspection, summary of test or other means by which violation

was documented & discovered). Formal letters to the source were present as were penalty calculations, which included gravity & economic benefit calculations. While some inspectors included more detail in their reports than others, we found them adequate. Copies of cancelled checks or other proof of payment and return to compliance were also present.

### **Element 7 - Identification of Alleged Violations**

We found inspection reports clearly identified alleged violations. Hawaii has a good clear HPV form (a sample of which is attached in Appendix F).

Metric 7a. Accuracy of Compliance Determinations: all 25 compliance files contained accurate compliance determinations, although three of the needed additional details to explain how the determination was being made.

Metric 7b. Non-HPV Compliance Determinations: There were no non-HPV compliance determinations in the files we reviewed.

### **Element 9 - Enforcement Actions Promote Return to Compliance**

In each of the 5 cases the violation had been corrected or the file described corrective action to bring the source back into physical compliance. There was no un-penalized or “informal” enforcement in the 5 violation files we reviewed.

### **Element 11 – Penalty Calculation Method**

In each of the 5 cases the files included detailed penalty calculation sheets, and we found the penalty calculations to be generally consistent with EPA guidance on the subject, including gravity and economic benefit.

### **Element 12 - Final Penalty Assessment and Collection**

HI DOH assessed and collected \$970,800 in penalties during the FY09 period. This had not been visible on the first SRF PDA pull, but a subsequent SRF retrieval was able to find them and credit them to this metric.

## **APPENDIX F**

### **FORMS**

HPV Database Information

Docket #: -CA-EO- Permit #: AIRS No.: 15

Facility: Location:

---

Action #: \_\_\_\_\_

Air Program Code (Title V, SIP, NESHAPS, NSPS, PSD): \_\_\_\_\_

STEP 1, DAY ZERO (J9), [USE NOV FORTHCOMING LETTER DATE, YYMMDD]: \_\_\_\_\_

(must be < 90 days after discovery date)

- RESULTS CODE: 23 (ALWAYS, MEANS UNKNOWN COMPLIANCE)
- POLLUTANT CODE (FACIL, PM10, CO, NO2, SO2, VOC, PB): \_\_\_\_\_
- LEAD AGENCY: S = STATE
- VIOLATION IDENTIFIER: S = STATE
- VIOLATION TYPE CODE (GC1, GC2, ETC.): \_\_\_\_\_
- AFS INPUT DATE: \_\_\_\_\_

STEP 2, DATE OF DISCOVERY (YYMMDD): \_\_\_\_\_ Action Type: \_\_\_\_\_

(enter into AFS < 60 days after discovery date)

- JY = FCE, JX = FCE offsite, JV = PCE onsite, IL = CEM, EER, Test data review,
- JW = PCE offsite, JZ = RATA, JU = SPT done by state, IK = SPT observed
- JT = SPT review, JS = Title V cert. review
- RESULTS CODE: 23 (ALWAYS, MEANS UNKNOWN COMPLIANCE)
- AFS INPUT DATE: \_\_\_\_\_

STEP 3, NOV ISSUE DATE (J8), [USE DATE ON NOV, YYMMDD]: \_\_\_\_\_

- RESULTS CODE: 24 (ALWAYS, MEANS NOT IN COMPLIANCE WITH NOV)
- AFS INPUT DATE: \_\_\_\_\_

STEP 4, ADDRESSING ACTIONS (INCLUDE PENALTY AMOUNT)

(must be < 270 days after Notice Letter Sent)

- JP = NO CONSENT ORDER/HEARING (USE RECEIPT DATE ON GREEN CARD, YYMMDD): \_\_\_\_\_ PENALTY: \_\_\_\_\_
- AFS INPUT DATE: \_\_\_\_\_
- JK = CONSENT ORDER (USE DATE ON C.O., YYMMDD): \_\_\_\_\_
- AFS INPUT DATE: \_\_\_\_\_ PENALTY: \_\_\_\_\_
- JG = HEARING (USE ACTUAL DATE OF HEARING): \_\_\_\_\_ PENALTY: \_\_\_\_\_
- RESULTS CODE: 25 (ONLY FOR FINAL ADDRESSING ACTION, OTHERWISE, USE 24)
- AFS INPUT DATE: \_\_\_\_\_

STEP 5, RESOLVING ACTION (JO), [USE CLOSING LETTER DATE, YYMMDD]: \_\_\_\_\_

- RESULTS CODE: 25 (ALWAYS)
- AFS INPUT DATE: \_\_\_\_\_

**EPA'S STATE REVIEW FRAMEWORK REPORT**

**STATE OF HAWAII  
DEPARTMENT OF HEALTH (DOH)**

**Media Program Evaluated:** Clean Water Act (CWA), National Pollutant Discharge Elimination System (NPDES) Compliance and Enforcement Activities  
**Review Period:** Federal Fiscal Year 2009 (October 1, 2008 – September 30, 2009)  
**EPA Contact:** Ken Greenberg, CWA Compliance Office (WTR-7) 415-972-3577  
**State Contact:** Alec Wong, Clean Water Branch (808-586-4088)

## **I. EXECUTIVE SUMMARY**

The State Review Framework (SRF) is a program designed to ensure EPA conducts oversight of State compliance and enforcement programs in a nationally consistent and efficient manner. Reviews evaluate 12 program elements covering: data management (completeness, timeliness, and quality); inspections (coverage and quality); identification of violations, enforcement actions (appropriateness and timeliness); and penalties (calculation, assessment and collection). Reviews are conducted in three phases: analyzing information from the national data systems; reviewing State files; and developing findings and recommendations. Considerable consultation is built into the process to ensure EPA and the State understand the causes of issues, and to agree on the actions needed to address problems. The reports generated by the reviews intend to capture information and agreements developed during the review process to facilitate program improvements. The reports intend to provide factual information, not to determine program adequacy. EPA also uses the information in the reports to draw a “national picture” of enforcement and compliance, and to identify issues that require a national response. Reports are not used to compare or rank State programs.

## **A. MAJOR STATE PRIORITIES AND ACCOMPLISHMENTS**

### **Priorities**

Hawaii’s Department of Health (DOH) has established Clean Water Act (CWA) National Pollution Discharge Elimination System (NPDES) compliance and enforcement priorities for the Clean Water Branch (CWB) in its grant workplan, as summarized below.

1. Encourage community groups in three targeted watersheds (Hanalei, Waimanalo, or West Maui), working with state and local agencies, to implement polluted runoff control activities that lead to measurable improvements in water quality.
2. Take vigorous and timely enforcement and resolve pending enforcement actions.
3. Inspect permitted facilities to ensure compliance.
4. Respond to citizen complaints regarding water pollution as soon as possible.
5. Improve the data management system by establishing E-DMR, continuing development of the One Stop Program, and implementing EPA’s Integrated Compliance Information System for NPDES database (ICIS-NPDES).

## **Accomplishments**

During 2009, the CWB timely issued 78 enforcement actions to non-significant noncompliant (non-SNC) facilities, including 68 Notices of Apparent Violation (NAVs) and ten Notices and Findings of Violation (NFVOs); nine of the NFVOs included penalties. Of the 10 NFVOs reviewed, 80 percent of the facilities returned to documented compliance and the remaining 20 percent have enforcement deadlines.

## **Best Practices**

The CWB has a responsive enforcement program, effectively uses its formal enforcement actions to return facilities to compliance, and assesses and collects penalties that include both gravity and economic benefit. The CWB also timely evaluates violating facilities compliance with enforcement actions, documents the return to compliance, and formally closes the cases.

The CWB uses its CWA program databases to manage its NPDES compliance and enforcement program. All inspection reports are generated by the CWB with its database, where copies of each report are maintained for easy reference. The CWB tracks all Single Event Violations (SEVs) and informal, formal, and penalty enforcement actions in its database. Currently, the CWB is working to automate its Discharge Monitoring Reports (DMRs) with NetDMRs. Also, the CWB plans to submit required data electronically from the state databases in batch to EPA's Integrated Compliance and Information System for the National Pollution Discharge Elimination System (ICIS-NPDES) by 2013.

## **B. SUMMARY OF RESULTS**

The summarized findings from the EPA's SRF review of the CWB's NPDES compliance and enforcement program are provided below. The detailed findings are presented in Section IV of this report.

### **Data Management (Elements 1 – 3):**

**Findings E1.01, E2.01, and E3.01:** The CWB timely maintains complete and accurate information on Hawaii's NPDES facilities in its CWA databases, including facility inventory information and compliance status. The CWB enters most required data into EPA's ICIS-NPDES database, including permit limits, DMRs, inspections, and enforcement, with the exception of penalty actions and single event violations (SEVs) during FY 2009. The CWB has agreed to resume entry of penalty information into ICIS-NPDES immediately. EPA will consult with the CWB about entering SEVs into ICIS-NPDES (see Recommendation E7.02 below).

### **Inspections and Compliance Evaluation (Elements 4 – 8):**

**Finding E4.01:** The CWB fell short of its FY 2009 grant workplan commitments, including those for planning and conducting inspections.

**Areas for State Attention:** The EPA and the CWB are working together to develop a system so that DOH can (1) prepare and submit a detailed annual inspection plan, as described in its grant workplan; (2) use EPA's Compliance Management System (CMS) inspection spreadsheet; (3)

use EPA contractors to ensure that inspection commitments are met; and (4) submit quarterly reports with detailed information on inspections, enforcement, and other grant workplan tasks and outputs. The recommended actions included in E5.01 addresses the issues found in this element (E4.01).

**Finding E5.01:** The CWB inspected 39 percent and seven percent of its major and minor facilities. This falls short of both the EPA's national inspection goals and the DOH's workplan commitments of 50 percent and 20 percent of major and minor coverage, respectively, and the national average of 63.7 percent of majors.

**Recommendation E5.01:** For FY2011, the CWB should (1) prepare and submit a detailed annual inspection plan, as described in its grant workplan; (2) use EPA's Compliance Management System (CMS) inspection spreadsheet; (3) use EPA contractors to ensure that inspection commitments are met; and (4) submit quarterly reports with detailed information on inspections, enforcement, and other grant workplan tasks and outputs.

**Finding E6.01:** Most of the CWB's inspection reports properly document and accurately describe inspection observations, leading to compliance determinations.

**Finding E6.02:** Most of the CWB's inspection reports are completed in a timely manner, within 30 days of the inspection.

**Finding E7.01:** The CWB timely and accurately identifies effluent limit violations by tracking major and minor facilities DMR results in EPA's ICIS-NPDES and the state database.

**Finding E7.02:** The CWB uses the state database to identify and track single-event violations (SEVs), including facility-reported, complaints, spills, inspections, permit and compliance schedules, etc. However, the CWB does not enter SEVs into EPA's ICIS-NPDES database. This is a data management issue and does not hinder the CWB's ability to identify and track violations.

**Recommendation E7.02:** EPA will consult and reach agreement with CWB about options for entering SEVs into ICIS-NPDES so that CWB will begin entering SEVs in FY 2011.

**Finding E8.01:** During FY 2009, 22% of Hawaii's major facilities were accurately identified in Significant Noncompliance (SNC), better than the national average SNC rate of 23.6%.

**Finding E8.02:** The CWB does not have procedures for identifying SNC SEVs discovered through inspections and other methods. However, the CWB identifies and tracks all SEVs as described above in Finding E7-02. EPA has not yet required entry of SNC SEVs into ICIS-NPDES, therefore, there is no recommendation.

#### **Enforcement (Elements 9 – 12):**

**Finding E9.01:** During FY 2009, the CWB issued 78 enforcement actions, including 68 Notices of Apparent Violation (NAVs) and ten Notices and Findings of Violation (NFVOs) to non-SNC facilities; nine of the NFVOs included penalties. The NFVOs required corrective action within a specified timeframe and most actions returned the facilities to compliance. During 2009, the

CWB did not take formal enforcement action against the four SNC facilities. See Finding E10.01 below. However, prior to FY2009 the EPA and DOH jointly filed a lawsuit against one of the four SNC facilities; settlement negotiations are underway.

**Finding E10.01:** The CWB did not take formal enforcement action against the four major facilities in SNC during FY 2009. However, prior to FY2009 the EPA and DOH jointly filed a lawsuit against one of the SNC facilities; settlement negotiations are underway.

**Recommendation E10.01:** The EPA and the DOH will communicate quarterly regarding QNCR SNC facilities to determine the appropriate enforcement response. As needed, EPA will take formal enforcement against SNC facilities.

**Finding E11.01:** EPA reviewed nine penalty actions taken by the CWB during FY 2008 through FY 2010, three of which were taken in FY2009. EPA found that the CWB assessed and properly documented appropriate penalties that include both gravity and economic benefit, in accordance with state policy. The penalty amounts ranged from \$5,000 to \$43,500, appearing appropriate for the types and length of the violations.

**Finding E12.01:** Of the nine penalty actions reviewed, EPA found that the CWB collected six of the penalties as assessed and three actions remain open: (1) the facility operator is recalcitrant and the CWB is considering escalating enforcement; (2) the facility operator ceased operations and moved to the mainland, and the CWB closed the case; and (3) the action is very recent and is still open. The information and status for all nine penalty actions has been properly documented in the case files by the CWB.



## **II. BACKGROUND INFORMATION ON STATE PROGRAM AND REVIEW PROCESS**

### **A. GENERAL PROGRAM OVERVIEW**

#### **Agency, Compliance/Enforcement Program Structure, and Roles and Responsibilities:**

The State of Hawaii's NPDES program was authorized by EPA 9 on November 28, 1974. EPA's authorization for regulation of federal facilities occurred on June 1, 1979 and for general permits on September 30, 1991. DOH and EPA enter into a grant agreement annually for the CWA Water Pollution Control Program (CWA §106) that sets forth, through a workplan, the NPDES-related goals and outputs DOH expects to achieve during the year. DOH's Clean Water Branch (CWB) is responsible for implementing the NPDES compliance and enforcement program.

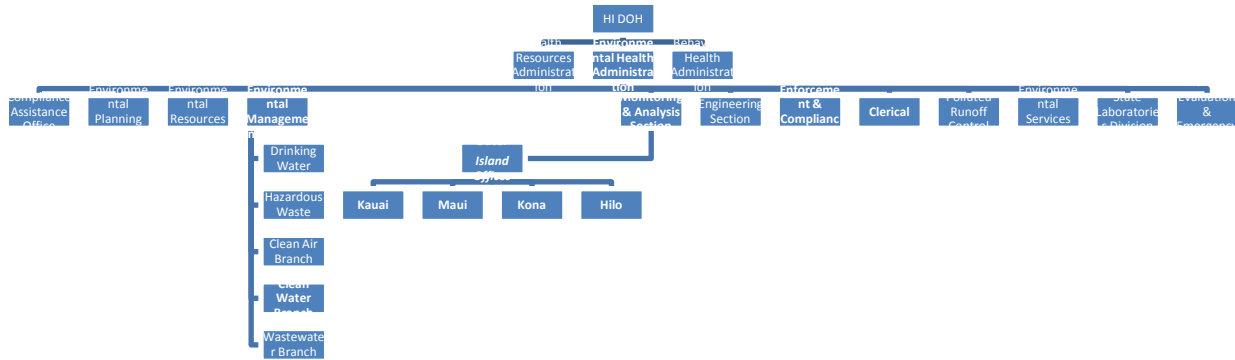
The CWB is organized into five sections, three of which are responsible for implementing the program: Enforcement and Compliance (ECS), Monitoring and Analysis (MAS), and Clerical. The other two sections are the Engineering Section (permitting) and the Polluted Runoff Control Program. On January 10, 2010, DOH had severe budget cuts in state funding, and eliminated eight positions in the CWB, reducing its staff from 42 to 34 (19 percent reduction); six of the position eliminations were in the three sections responsible for the NPDES compliance and enforcement program, as listed below:

- ECS: one of seven
- MAS: four of 11
- Clerical: two of six

As a result of the position eliminations, activities have been reduced or are being covered by existing staff, where possible. Some examples follow:

- Biweekly beach monitoring conducted by the MAS has been reduced to monthly.
- Nonpermit related complaints—investigations and reporting to the ECS for follow up—formerly covered by the MAS, is now covered by the ECS. However, staff cuts in the ECS hinder their ability to respond to these complaints as well as continuing traditional ECS activities.
- Data systems management staff has been reduced from two to one, requiring the remaining staff to focus entirely on data management and eliminate all field investigation and compliance activities. Data entry into the state NPDES compliance and enforcement database continues, but data entry into EPA's ICIS-NPDES has been sharply reduced.
- The CWB retained MAS's three outer island staff so presence is maintained; however, if there is another round of cuts, these positions will be vulnerable.
- DOH instituted department-wide furloughs two days each month.

The current organizational structure, highlighting NPDES compliance and enforcement activities and vacancies is depicted below.



**Enforcement and Compliance Section:** responsible for tracking compliance, reviewing and entering Discharge Monitoring Reports (DMRs) and data systems management, conducting compliance inspections on all islands, conducting complaint inspections on Oahu, and issuing Notices of Apparent Violations (NAVs) and Notices and Finding of Violations and Orders (NFVOs) with and without penalties at all NPDES major, minor, unpermitted facilities, and facilities covered under 11 general permits, including stormwater-- industrial and construction, and construction dewatering, hydrostatic testing, and others. This section now has one manager, five staff; work responsibilities are depicted below.

Enforcement and Compliance Section Workload Distribution		
Engineers	1	major and minor wastewater treatment plants
	1	minor facilities
Environmental Health Specialists	1	Chevron, some power plants, general permitted facilities, and unpermitted dischargers
	1	general permitted and unpermitted dischargers
	1	DMR compliance review and data entry; data systems management

**Monitoring and Analysis Section:** responsible for conducting monthly beach monitoring (frequency reduced from bi-weekly), responding to spills, and conducting complaint inspections on the outer islands. This section now has one manager and six staff: four are stationed in Maui, Hilo, Kona, and Kauai; two are stationed in Oahu, one of which is responsible for Molokai and Lanai.

**Source Universe:** The number of facilities regulated by the CWB is summarized below.

Facility Type/Program		DOH Total
<b>NPDES Major Individual</b>		<b>18</b>
<b>NPDES Non-Major Individual</b>		<b>121</b>
Minor Regular (includes 2 MS4s)	36	
Minor Sensitive Waters (includes 7 MS4s)	85	
<b>General Permits by Type</b>	<b>Appendix</b>	<b>1,185</b>
Stormwater Industrial	B	150
Stormwater Construction	C	532
-Conditionally Exempt	CE	49
-Under 5 Acres	CS	341
Underground Storage	D	2
Noncontact Cooling Waters	E	2
Hydrostatic Testing	F	59
Construction Dewatering	G	25
Petrol Bulk Stations/Tanks	H	4
Stormwater Small MS4	K	14
Circulation Waters Decorative	L	7

The activities conducted by the CWB are summarized below:

October 1, 2008 – September 30, 2009		
Program	Activity	DOH Total
<b>NPDES</b>	<b>Inspections</b>	
	Majors	8
	Minors Regular	4
	Minors--Sensitive Waters	4
	Unpermitted	1
	<b>SNC (effluent)</b>	4
	<b>Enforcement</b>	
	NAVs	9
	NFVOs	0
	NFVOs w/penalties	1
<b>General Permitting</b>	<b>Inspections</b>	
	Stormwater Construction	22
	Stormwater Construction under 5 Acres	17
	Stormwater Industrial	28
	Hydrostatic Testing	1
	Construction Dewatering	1
	<b>Enforcement</b>	
	NAVs	59
	NFVOs	1
	NFVOs w/penalties	8

**Coordination with Other Agencies:** There are no NPDES program responsibilities assumed by other agencies.

**Data Reporting Systems/Architecture:** The CWB maintains the NPDES program data in their two linked databases: (1) permits and (2) compliance and enforcement. The CWB enters NPDES permit ID information (NPDES major, minor, and general) and applicable limits in the CWB's databases and EPA's ICIS-NPDES. The CWB uses the EPA's format for DMRs and enters major DMR summary information and all minor DMR detail information into its database, and enters all major and renewed minor facility DMRs into ICIS-NPDES. The CWB tracks all inspections in both the state databases and ICIS-NPDES, generates all inspection reports using its databases where copies of each report are maintained for easy reference. All informal, formal, and penalty enforcement actions are tracked by the CWB in the state databases and EPA's ICIS-NPDES. SEVs are tracked in the CWB's databases; SEVs are not entered into ICIS-NPDES. The CWB enforcement/violations and Quarterly Non-Compliance Report (QNCR) data are maintained in EPA's ICIS-NPDES.

In FY 2009, the CWB did an excellent job of populating EPA's ICIS-NPDES with the required WENDB data elements, including permits (permit renewals, limits, and general permit enrollees), compliance (monitoring data, inspections, and enforcement activities), and the ICIS-NPDES required data elements. However, no SEV data was entered in EPA's ICIS-NPDES. In FY 2010, the CWB is falling behind in all data areas in terms of ICIS-NPDES. They continue to enter and maintain the data in their databases, but cannot continue the double data entry task into ICIS-NPDES. The CWB is working to resolve these data and resource issues by automating DMRs using NetDMR, and they are planning to submit the required data electronically from the state databases in batch to EPA. The full batch submittal will be available in 2013.

## **B. MAJOR STATE PRIORITIES AND ACCOMPLISHMENTS**

### **Priorities**

The DOH has established compliance and enforcement priorities for the CWB in its grant workplan, as summarized below.

1. Encourage community groups in three targeted watersheds (Hanalei, Waimanalo, or West Maui), working with state and local agencies, to implement polluted runoff control activities that lead to measurable improvements in water quality.
2. Take vigorous and timely enforcement and resolve pending enforcement actions.
3. Inspect permitted facilities to ensure compliance.
4. Respond to citizen complaints regarding water pollution as soon as possible.
5. Improve the data management system by establishing E-DMR, continuing development of the One Stop Program, and implementing EPA's Integrated Compliance Information System for NPDES database (ICIS-NPDES).

## **Accomplishments**

During 2009, the CWB timely issued 78 enforcement actions to non-significant noncompliant (non-SNC) facilities, including 68 Notices of Apparent Violation (NAVs) and ten Notices and Findings of Violation (NFVOs); nine of the NFVOs included penalties. Of the 10 NFVOs reviewed, 80 percent of the facilities returned to documented compliance and the remaining 20 percent have enforcement deadlines.

## **Best Practices**

The CWB has a responsive enforcement program, effectively uses its formal enforcement actions to return facilities to compliance, and assesses and collects penalties that include gravity and economic benefit. The CWB also timely evaluates violating facilities compliance with enforcement actions, documents their return to compliance, and formally closes the cases.

The CWB uses its CWA program databases to manage their NPDES compliance and enforcement program. All inspection reports are generated by the CWB with its databases, where copies of each report are maintained for easy reference. The CWB tracks all SEVs and informal, formal, and penalty enforcement actions in its database. Currently, the CWB is working to automate its Discharge Monitoring Reports (DMRs) with NetDMRs. Also, the CWB plans to submit required data electronically from the state databases in batch to EPA's ICIS-NPDES by 2013.

## **C. SUMMARY OF RESULTS**

The summarized findings from the EPA's SRF review of the CWB's NPDES compliance and enforcement program are provided below. The detailed findings are presented in Section IV of this report.

<b>Summary of EPA SRF Review of CWB's 2009 NPDES Compliance and Enforcement Activities</b>		
<b>Findings</b>		<b>Recommendations</b>
Elements 1, 2 and 3: Data completeness, accuracy and timeliness. Degree to which the Minimum Data Requirements are complete, accurate and timely entered into EPA's national database.		
E1.01	The CWB routinely enters most required data into EPA's ICIS-NPDES that is complete, accurate, and timely.	None
E2.01		
E3.01		
Element 4: Completion of Commitments. Degree to which all enforcement/compliance commitments in relevant agreements (i.e., PPAs, PPGs, categorical grants, CMS plans, authorization agreements, etc.) are met and any products or projects are completed.		

Summary of EPA SRF Review of CWB's 2009 NPDES Compliance and Enforcement Activities		
Findings		Recommendations
E4.01	The CWB fell short of its FY 2009 grant workplan commitments, including those for planning and conducting inspections.	Area for State Attention: The CWB and EPA are working together to establish a system by September 30, 2010 whereby the CWB can: (1) prepare and submit a detailed annual inspection plan, as described in its grant workplan; (2) use EPA's CMS inspection spreadsheet; (3) use EPA contractors to ensure that inspection commitments are met; and (4) submit quarterly reports with detailed information on inspections, enforcement, and other grant workplan tasks and outputs. The recommended actions included in E5.01 addresses the issues found in this element (E4.01).
Element 5: Inspection Coverage. Degree to which State completed the universe of planned inspections/compliance evaluations (addressing core requirements and federal, State and regional).		
E5.01	The CWB inspected 39 percent and seven percent of its major and minor facilities. This falls short of both the EPA's national inspection goals and the DOH's workplan commitments of 50 percent and 20 percent of major and minor coverage, respectively, and the national average of 63.7 percent of majors.	By September 30, 2010, the CWB should (1) prepare and submit a detailed annual inspection plan, as described in its grant workplan; (2) use EPA's Compliance Management System (CMS) inspection spreadsheet; (3) use EPA contractors to ensure that inspection commitments are met; and (4) submit quarterly reports with detailed information on inspections, enforcement, and other grant workplan tasks/outputs.
Element 6: Quality of Inspection or Compliance Evaluation Reports. Degree to which inspection or compliance evaluation reports properly document and accurately describe observations, and are completed in a timely manner.		
E6.01	Most of the CWB's inspection reports properly document and accurately describe observations, leading to compliance determinations.	None
E6.02	Most of the CWB's inspection reports are completed in a timely manner, within 30 days of the inspections.	None
Element 7: Identification of Alleged Violations. Degree to which compliance determinations are accurately made and promptly reported in the national database, based on compliance monitoring report observations and other compliance monitoring information (e.g., facility reported information).		
E7.01	The CWB accurately and timely identifies facility effluent limit violations by tracking major and minor DMR results in EPA's ICIS-NPDES and in the state databases.	None

Summary of EPA SRF Review of CWB's 2009 NPDES Compliance and Enforcement Activities		
Findings		Recommendations
E7.02	The CWB uses the state databases to identify and track SEVs, including facility-reported, complaints, spills, inspections, permit and compliance schedules, etc. However, the CWB does not enter SEVs into EPA's ICIS-NPDES database. This is a data management issue and does not hinder the CWB's ability to identify and track violations.	EPA will consult and reach agreement with CWB about options for entering SEVs into ICIS-NPDES so that CWB will begin entering SEVs in FY 2011.
Element 8. Identification of SNC and HPV. Degree to which State accurately identified significant noncompliance/high priority violations and enters information into the national system in a timely manner.		
E8.01	During FY 2009, 22% of Hawaii's major facilities were accurately identified in SNC, better than the national average SNC rate of 23.6%.	None
E8.02	The CWB does not have procedures for identifying SNC SEVs discovered through inspections and other methods. However, the CWB identifies and tracks all SEVs as described above in Finding E7.02. EPA has not yet required entry of SNC SEVs into ICIS-NPDES, therefore, there is not a recommendation.	None
Element 9. Enforcement Actions Promote Return to Compliance. Degree to which State enforcement actions include required corrective action (i.e., injunctive relief or other complying actions) that will return facilities to compliance in a specific time frame.		
E9.01	During FY 2009, the CWB issued 78 enforcement actions, including 68 Notices of Apparent Violation (NAVs) and ten Notices and Findings of Violation (NFVOs) to non-SNC facilities; nine of the NFVOs included penalties. The NFVOs required corrective action within a specified timeframe and most actions returned the facilities to compliance. During 2009, the CWB did not take formal enforcement action against the four SNC facilities. However, prior to FY2009 the EPA and DOH jointly filed a lawsuit against one of the SNC facilities; settlement negotiations are underway.	None
Element 10. Timely and Appropriate Action. Degree to which a State takes timely and appropriate enforcement actions in accordance with policy relating to specific media.		

Summary of EPA SRF Review of CWB's 2009 NPDES Compliance and Enforcement Activities		
Findings		Recommendations
E10.01	The CWB did not take formal enforcement action against the four major facilities in SNC during FY 2009. However, prior to FY2009 the EPA and DOH jointly filed a lawsuit against one of the SNC facilities; settlement negotiations are underway.	The EPA and the DOH will communicate quarterly regarding QNCR SNC facilities to determine the appropriate enforcement response. As needed, EPA will take formal enforcement against SNC facilities.
Element 11. Penalty Calculation Method. Degree to which State documents in its files that the initial penalty calculation includes both gravity and economic benefit calculations, using the BEN model or other method that produces results consistent with national policy.		
E11.01	EPA reviewed nine penalty actions taken by the CWB during FY 2008 through FY 2010, including three that were taken in FY2009. EPA found that the CWB assessed and properly documented appropriate penalties that include both gravity and economic benefit, in accordance with state policy. The penalty amounts ranged from \$5,000 to \$43,500, appearing appropriate for the types and length of the violations.	None
Element 12. Final Penalty Assessment and Collection. Degree to which differences between initial and final penalty are documented in the file, along with a demonstration in the file that the final penalty was collected.		
E12.01	Of the nine penalty actions reviewed, EPA found that the CWB collected six of the penalties as assessed and three actions remain open: (1) the facility operator is recalcitrant and the CWB is considering escalating enforcement; (2) the facility operator ceased operations and moved to the mainland, and the CWB closed the case; and (3) the action is very recent and is still open. The information and status for all nine penalty actions has been properly documented in the case files by the CWB.	None



## **D. PROCESS FOR SRF REVIEW**

**Review Period:** Federal Fiscal Year 2009 (October 1, 2008 through September 30, 2009)

### **Key Dates:**

February 26, 2010, EPA Region 9 establishes a frozen data set (via OTIS) and generates the data query for the Preliminary Data Analysis (PDA)

March 18, 2010, EPA initiates, by letter, its SRF evaluation of DOH's inspection and enforcement activity for Federal Fiscal Year 2009

March 26, 2010, EPA transmits the PDA spreadsheet to DOH for completion, along with the frozen data set

April 29, 2010, EPA formally transmits to DOH, by letter, the PDA spreadsheet, and the final list of files selected for review (previously transmitted on April 9, 2010)

May 3 - 6, 2010, EPA conducts the on-site SRF review at the DOH office in Honolulu, Hawaii

May 20, 2010, DOH transmits the completed PDA to EPA

May 27, 2010, EPA requests additional information from DOH to supplement the PDA

June 4, 2010, EPA requests additional information from DOH to supplement the PDA

June 7, 2010, EPA requests additional information from DOH to supplement the PDA

**Communication with DOH:** Throughout the SRF process, EPA communicated with the CWB managers and staff via official letters, emails, and phone calls. During the on-site opening meeting with the CWB managers, EPA explained the SRF purpose, process, and schedule; the programs areas to be evaluated—workplan commitments, inspections, enforcement, and data; and the methods of evaluation—file and data review and interviews. A closeout meeting was held with the DOH managers to discuss the initial file review findings.

### **State and EPA Contacts:**

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### III. STATUS OF RECOMMENDATIONS FROM PREVIOUS REVIEWS

During the SRF review of the CWB's FY 2005 NPDES compliance and enforcement program, the EPA and the CWB identified actions to be taken to address identified issues. The information below provides status on progress toward completion.

**Recommendation:** The CWB should target inspections to ensure that specific commitments in the grant workplan are met.

**Status:** Hawaii has included a task for the preparation of a detailed inspection plan in its grant workplan, however, a plan has not been prepared. A recommendation for the preparation of an inspection plan is provided in Finding E5.01 of Section IV below.

**Recommendation:** The CWB should commence using single violation SNC criterion before the end of the fiscal year.

**Status:** The CWB has not implemented this recommendation and EPA has not yet required entry of SNC SEVs into ICIS-NPDES, therefore, this is no longer a recommendation. A discussion is provided in Finding E8.02 of Section IV below.

## IV. OVERALL FINDINGS AND RECOMMENDATIONS

Findings represent the issues identified by the Region. Findings are identified during the initial data or file review, and by subsequent conversations or additional information collected to determine the existence, severity and root causes of the issue. There are four types of findings, described below:

Finding	Description
<b>Good Practices</b>	<p>This describes activities, processes, or policies that the SRF data metrics and/or the file reviews show are being implemented exceptionally well, and which the State is expected to maintain at a high level of performance. Additionally, the report may highlight specific innovative and noteworthy activities, processes, or policies that have potential to be replicated by other States. No further action is required by either EPA or the State.</p>
<b>Meets SRF Program Requirements</b>	<p>This indicates that no issues were identified under this Element.</p>
<b>Areas for State* Attention</b>  <b>*or, EPA Region’s attention where program is directly implemented</b>	<p>This describes activities, processes, or policies that SRF data metrics and/or file reviews show are being implemented with minor deficiencies. The State must monitor these deficiencies to strengthen its performance, but they are not significant enough to require the region to identify and track State actions to correct. This can describe a situation where a State is implementing either EPA or State policy in a manner that requires self-correction to resolve concerns identified during the review. These are single or infrequent instances that do not constitute a pattern of deficiencies or a significant problem. These are minor issues that the State should self-correct without additional EPA oversight. However, the State is expected to improve and maintain a high level of performance.</p>
<b>Area for State* Improvement— Recommendations Required</b>  <b>*or, or, EPA Region’s attention where program is directly implemented</b>	<p>This describes 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. This can describe a situation where a State is implementing either EPA or State policy in a manner requiring EPA attention. For example, in areas where the metrics indicate that the State is not meeting its commitments, there is a pattern of incorrect implementation in updating compliance data in the data systems, there are incomplete or incorrect inspection reports, and/or there is ineffective enforcement response. These would be significant issues and not random occurrences. Recommendations are required for these problems to have well-defined timelines and milestones for completion. Recommendations will be monitored in the SRF Tracker.</p>

**Element 1: Data completeness. Degree to which the Minimum Data Requirements are complete in EPA's national database.**

E1.01	Finding	The CWB routinely enters most data into EPA's ICIS-NPDES that is complete.
	Finding is:	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input checked="" type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required
	Explanation	<p>During the FY 2009 review period, the CWB maintained a complete and accurate inventory of its NPDES permits by entering the following information into EPA's ICIS-NPDES:</p> <ul style="list-style-type: none"> <li>• NPDES major individual facilities: permit ID, permit tracking, inspections, pipe schedules, permit limits, discharge monitoring report (DMR) data, and enforcement (except penalties)</li> <li>• NPDES major general facilities: N/A</li> <li>• NPDES non-major (minor) individual facilities: Permit ID, permit limits and DMR data as permits are renewed, inspections, and enforcement (except penalties)</li> <li>• NPDES non-major general facilities: Permit ID, inspections, and enforcement (except penalties)</li> </ul> <p>The CWB's permit limits and DMR entry rate for major individual permits exceeds EPA's national goal and average. DMR entry rate for facilities with multiple outfalls is slightly below the national goal and average. The CWB accurately enters inspections and enforcement actions for individual major, minor, unpermitted, and general permitted facilities into EPA's ICIS-NPDES. However, the CWB did not enter penalty actions into ICIS-NPDES during the review period, but has agreed to resume entry of the information.</p> <p><b>Recommended Action:</b> None</p>

**Element 1: Data completeness. Degree to which the Minimum Data Requirements are complete in EPA's national database.**

<p>Metric(s) and Quantitative Value</p>	<p><i>1-a. Accurate facility universe counts for all NPDES permit types:</i> the CWB entered all NPDES permits.</p> <p><i>1-b. Majors' individual permit limits and DMR entry complete:</i> the CWB's permit limit entry rate is 100% compared to the national goal of 100% and the national average of 99.9%. DMR entry rate is 100% compared to the national goal of 95% and national average of 92.7%. DMR entry rate for facilities with multiple outfalls is 86.1% compared to the national goal of 95% and the national average of 92.6%.</p> <p><i>1-c. Non-major individual permit limits and DMR entry rate:</i> This information is entered as these permits are renewed.</p> <p><i>1-d. Violations at non-majors:</i> not entered.</p> <p><i>1-e. Informal actions at major and non-major facilities:</i> the CWB enters all of its informal enforcement actions for all facilities.</p> <p><i>1f: Formal actions at major and non-major facilities:</i> the CWB enters all of its formal enforcement actions for all facilities.</p> <p><i>1g: Penalty actions and amounts assessed and collected:</i> this information was not entered into EPA's ICIS-NPDES for this review period due to competing workload priorities.</p>
<p>State Response</p>	
<p>Actions</p>	<p>The CWB has agreed to immediately resume entering penalty actions into EPA's ICIS-NPDES on a regular basis.</p>

**Elements 2: Data accuracy. Degree to which the Minimum Data Requirements are accurately entered in EPA’s national database.**

E2.01	Finding	The CWB accurately links its enforcement actions to violations noted in EPA’s ICIS-NPDES.
	Finding is:	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input checked="" type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required
	Explanation	The CWB properly links its enforcement actions to violations noted in ICIS-NPDES.  <b>Recommended Action:</b> None
	Metric(s) and Quantitative Value	<i>2-a. Actions linked to violations at major facilities:</i> the CWB has properly entered this information at a 100% rate compared to the national goal of 80%.
	State Response	
	Actions	None

**Element 3: Data timeliness. Degree to which the Minimum Data Requirements timely entered in EPA’s national database.**

E3.01	Finding	The CWB routinely enters most data into EPA’s ICIS-NPDES in a timely manner.
	Finding is:	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input checked="" type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required
	Explanation	During the FY 2009 review period, the CWB timely entered required data into ICIS-NPDES with the exception of penalties.  <b>Recommended Action:</b> None
	Metric(s) and Quantitative Value	<i>3a: Percent change in data metrics:</i> the CWB timely entered required data into ICIS-NPDES with the exception of penalties.
	State Response	
	Actions	The CWB has agreed to immediately resume entering penalty actions into EPA’s ICIS-NPDES on a regular basis.

**Element 4: Completion of Commitments. Degree to which all enforcement/compliance commitments in relevant agreements are met and any products or projects are completed.**

E4.01	Finding	The CWB met approximately half of the commitments in its FY 2009 grant workplan, including its commitments for conducting inspections.
	Finding is:	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input checked="" type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required
	Explanation	<p>The CWB met approximately half of the commitments in its FY 2009 grant workplan: issued most inspection reports within 30 days of inspection; prepared the Quarterly Noncompliance Reports (QNCRs), Watch Lists, reviewed DMRs and other reports; issued enforcement actions and penalties, and reported summary information to EPA; and maintained EPA’s ICIS-NPDES</p> <p>The CWB fell short on meeting the following grant workplan commitments, as listed below:</p> <ul style="list-style-type: none"> <li>▪ prepare and submit a detailed annual inspection plan;</li> <li>▪ did not meet 12 of 21 commitments for conducting inspections and discharge sampling (see table below);</li> <li>▪ provide quarterly reporting of detail information on inspections conducted (permit/facility ID and type, date, watersheds, announced or unannounced, monitoring/non monitoring); instead summary information was reported;</li> <li>▪ inspect City and County of Honolulu and County of Maui for compliance with the Consent Decrees;</li> <li>▪ take timely and appropriate enforcement action against facilities on the QNCR;</li> <li>▪ report quarterly detail information that compares actual activities to actual workplan tasks and outputs.</li> </ul> <p>The CWB and EPA are working together to establish a system whereby the CWB can: (1) prepare and submit a detailed annual inspection plan, as described in its grant workplan; (2) use EPA’s CMS inspection spreadsheet; (3) use EPA contractors to ensure that inspection commitments are met; and (4) submit quarterly reports with detailed information on inspections, enforcement, and other grant workplan tasks and outputs.</p> <p><b>Recommended Actions:</b> The recommended actions included in E5.01 addresses the issues found in this element (E4.01).</p>
	Metric(s) and Quantitative Value	<p>4.a. <i>Planned inspections completed:</i> not met; see table below</p> <p>4.b. <i>Planned commitments completed:</i> approximately half met.</p>

**Element 4: Completion of Commitments. Degree to which all enforcement/compliance commitments in relevant agreements are met and any products or projects are completed.**

State Response	CWB has cut back on complaint investigations to focus more on completing its workplan inspection commitment. All facilities within the priority watersheds will be inspected once a year. 50% of the Major facilities will be inspected. CWB will try to complete inspection of at least 20% of minor facilities and sample on at least 20% of the facilities.
Actions	The EPA and the CWB continue to discuss the workplan shortfalls; the CWB has begun taking steps to develop and implement procedures to ensure commitments are met.

CWB Workplan Inspection Commitments													
Individually Permitted													
	Universe	Inspect All Within These Watersheds:						Inspect 50% Majors 20% Minors			20% Includes Approp Sampling		
		Waimanalo		Hanalei		West Maui (Kahana)		Tar	Act	39%	Tar	Act	
Major	18	0	0	0	0	0	0	9	7	39%	2	0	0%
Minor	121	0	0	0	0	0	0	24	8	7%	5	0	0%
General Permits/Appendix													
	Universe	Inspect All Within These Watersheds:						Inspect 10 %					
		Waimanalo		Hanalei		West Maui (Kahana)		Tar	Act	15%			
SW Industrial	B 150	0	0	0	0	0	0	15	22	15%			
SW Construction	C 532	0	0	0	0	7*	0	53	20	37%			
SW Construction	CE 49	1	1	0	0	0	0	5	0	0%			
SW Construction	CS 341	0	0	0	0	3	0	34	0	0%			
Underground Storage	D 2	3	2	0	0	0	0						
Construction Dewatering	G 25	2	0	0	0	0	0						
Noncontact Cooling Water	E 2	0	0	0	0	0	0						
Hydrostatic Testing	F 59	0	0	0	0	1*	0						
Petrol Bulk Stations	H 4	0	0	0	0	0	0						
SW Small MS4	K 14	0	0	0	0	0	0						
Circulation Wtrs Decorative	L 7	0	0	0	0	0	0						
*same facility													



**Element 5: Inspection Coverage. Degree to which State completed the universe of planned inspections/compliance evaluations (addressing core requirements and federal, state and regional).**

E5.01	Finding	The CWB fell short of EPA’s national inspection goals and averages, and of its grant workplan commitments for most categories of inspections in FY 2009 (October 1, 2008 through September 30, 2009).
	Finding is:	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input checked="" type="checkbox"/> Area for State Improvement – Recommendations Required
	Explanation	<p>Inspections at Majors:            In FY 2009, the CWB inspected seven of its 18 active NPDES major facilities (39% coverage), falling short of both its grant workplan commitment and EPA’s national coverage goal of 50% of majors inspected, and the national average inspection rate of 63.7%.</p> <p>Inspections at Minors:            During FY 2009, the CWB conducted at least one inspection at eight of its 121 NPDES minor facilities with individual permits (7% coverage), falling short of its both its workplan commitment and EPA’s national coverage goal of 50% of minors inspected.</p> <p>General Permit Inspections:            In FY 2009, the CWB inspected 15% of its stormwater industrial facilities, exceeding its workplan commitment of 10%. However, the CWB fell short of its workplan commitments for inspections at 10% of its 107 construction sites (includes Appendices C, CE, and CS). The CWB also fell short of its workplan commitments to inspect all general permitted facilities located in the Waimanalo, Hanalei, and West Maui Watersheds.</p> <p>See table in Element 4 above for a detailed inspection count.</p> <p><b>Recommended Action:</b> The CWB should: (1) prepare and submit a detailed annual inspection plan, as described in its grant workplan; (2) use EPA’s CMS inspection spreadsheet; (3) use EPA contractors to ensure that inspection commitments are met; and (4) submit quarterly reports with detailed information on inspections, enforcement, and other grant workplan tasks and outputs.</p>

**Element 5: Inspection Coverage. Degree to which State completed the universe of planned inspections/compliance evaluations (addressing core requirements and federal, state and regional).**

Metric(s) and Quantitative Value	<p><i>5-a. Inspections at NPDES majors with individual permits or general permits: seven facilities inspected (39% coverage) compared to the national goal and average of 50% and 63.7 %.</i></p> <p><i>5-b-1. Inspections at NPDES non-majors with individual permits (i.e., minors): eight facilities inspected (7% coverage) compared to the national goal of 100% coverage within a 5-year period.</i></p> <p><i>5-c. Other inspections performed for NPDES permittees that do not have effluent limits and DMRs: 15% of stormwater industrial facilities, exceeding its workplan commitment; fell short of workplan commitments: less than 10% of its 107 construction sites (includes Appendices C, CE, and CS), and less than 100% of all general permitted facilities located in the Waimanalo, Hanalei, and West Maui Watersheds.</i></p>
State Response	<p>CWB has created a draft quarterly report to capture the necessary data elements.</p>
Actions	<p>EPA will consult with the CWB so that, by September 30, 2010, the CWB will:</p> <ol style="list-style-type: none"> <li>1. prepare and submit a detailed annual inspection plan, as described in its grant workplan;</li> <li>2. use EPA’s CMS inspection spreadsheet;</li> <li>3. use EPA contractors to ensure that inspection commitments are met; and</li> <li>4. submit quarterly reports with detailed information on inspections, enforcement, and other grant workplan tasks and outputs.</li> </ol>

**Element 6: Quality of Inspection or Compliance Evaluation Reports. Degree to which inspection or compliance evaluation reports properly document observations, are completed in a timely manner and include accurate description of observations.**

E6.01	Finding	Most of the CWB’s inspection reports properly document and accurately describe inspection observations.
	Finding is:	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input checked="" type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required
	Explanation	<p>The EPA evaluated CWB’s inspection reports from 24 inspections conducted at 15 different facilities in FY 2009. Most of the inspection reports properly and accurately documented the following:</p> <ul style="list-style-type: none"> <li>▪ NPDES/ID number, facility name, address, and description, inspection participants;</li> <li>▪ inspection date, type and purpose, regulated activities pertinent to the inspection, regulated areas evaluated;</li> <li>▪ inspector observations, deficiencies, findings, documentary support (photos, statements, records, etc.), compliance conclusions, corrective actions taken by facilities, enforcement recommendation;</li> <li>▪ inspector signature and date.</li> </ul> <p>Even though most reports included these categories, not all information was consistently included in each report. Several reports omitted inspection time and did not include complete facility ID information, including phone number. A few reports did not identify the areas subject to inspection and did not clarify if the regulated areas were inspected. While most reports mentioned the “permit” or other requirements, several did not cite the requirements, and did not relate the observations back to cited requirements. The CWB does not use inspection checklists.</p> <p>Appendix B includes a list of reports reviewed by EPA.</p> <p>The EPA and the CWB agree that inspections checklists are not required but will be beneficial, especially in ensuring that all regulated activities are evaluated and documented. The EPA suggests that the CWB develop the following types of checklists, and will provide examples where available:</p> <ul style="list-style-type: none"> <li>• NPDES major and minor inspection checklist(s)</li> <li>• Common SWPPP checklist</li> <li>• Storm water inspection (construction and industrial)</li> <li>• Other general permit categories, as needed</li> </ul> <p>The EPA and the CWB also agree that it may be beneficial if inspection reports cite requirements and relate the observations to the requirements.</p>

**Element 6: Quality of Inspection or Compliance Evaluation Reports. Degree to which inspection or compliance evaluation reports properly document observations, are completed in a timely manner and include accurate description of observations.**

	<b>Recommended Action:</b> None
Metric(s) and Quantitative Value	<p><i>6-a. Number of inspection reports reviewed: 23 reports from inspections of 15 facilities.</i></p> <p><i>6-b. % of reports reviewed that are complete: None of the reports reviewed are complete, per EPA’s SRF review criteria.</i></p> <p><i>6-c. % of reports reviewed that provide sufficient documentation to lead to an accurate compliance determination: 100 % of the reports reviewed provide sufficient documentation.</i></p>
State Response	
Actions	None

**Element 6: Quality of Inspection or Compliance Evaluation Reports. Degree to which inspection or compliance evaluation reports properly document observations, are completed in a timely manner and include accurate description of observations.**

E6.02	Finding	Most of the CWB inspection reports are completed in a timely manner, within 30 days of the inspections.
	Finding is:	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input checked="" type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required
	Explanation	<p>Of the 23 inspection reports reviewed by EPA, the CWB issued 20 (87 percent) in a timely manner, within 30 days following conclusion of the inspection. The average time for completion of the reports was 22 days. The CWB should strive to complete all of its reports within 30 days of the inspection.</p> <p><b>Recommended Action:</b> None</p>
	Metric(s) and Quantitative Value	<i>6-d. Degree to which inspection reports are completed in a timely manner:</i> 87% of the inspections reports reviewed were issued in a timely manner.
	State Response	
	Actions	None

**Element 7: Identification of Alleged Violations. Degree to which compliance determinations are accurately made and promptly reported in the national database based upon compliance monitoring report observations and other compliance monitoring information (e.g., facility reported information).**

E7.01	Finding	The CWB accurately and timely identifies facility effluent limit violations by tracking major and minor DMR results in EPA’s ICIS-NPDES and in the state database.
	Finding is:	(X) Good Practice ( ) Meets SRF Program Requirements ( ) Area for State Attention ( ) Area for State Improvement – Recommendations Required
	Explanation	The CWB enters all major and renewed minor facility DMRs into EPA’s ICIS-NPDES, and enters major DMR summary information and all minor DMRs into its database. This provides the CWB with an accurate read of violations at major and minor NPDES facilities. Seventy-eight percent of Hawaii’s 18 major facilities (14 of 18) had one or more effluent violations in FY 2009, higher than the national average violation rate of 53.2 percent.  <b>Recommended Action:</b> None
	Metric(s) and Quantitative Value	<i>7-d. Percentage of major facilities with DMR violations reported to the national database:</i> 14 of the Hawaii’s 18 facilities had one or more effluent violations, representing 78% noncompliance, higher than the national average of 53.2 percent.
	State Response	
	Actions	None

**Element 7: Identification of Alleged Violations. Degree to which compliance determinations are accurately made and promptly reported in the national database based upon compliance monitoring report observations and other compliance monitoring information (e.g., facility reported information).**

E7.02	Finding	The CWB uses its state databases to track SEVs (including facility-reported, complaints, spills, inspections, permit and compliance schedules, etc.) at its permit and unpermitted facilities. However, the CWB does not enter SEVs into EPA's ICIS-NPDES database. This is a data management issue and does not hinder the CWB's ability to identify and track violations.
	Finding is:	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input checked="" type="checkbox"/> Area for State Improvement – Recommendations Required
	Explanation	<p>SEVs discovered during inspections, compliance schedule violations, and permit schedule violations, and other methods are required WENDB data for major facilities. In 2008, the EPA issued an ICIS-NPDES SEV guidance for use by EPA regions and states.</p> <p>The CWB tracks and identifies SEVs in the state database, but does not enter SEVs into EPA ICIS-NPDES.</p> <p><b>Recommended Action:</b> EPA will consult and reach agreement with CWB about options and procedures for entering SEVs into ICIS-NPDES so that CWB will begin entering SEVs in FY 2011.</p>
	Metric(s) and Quantitative Value	<p>7-a. <i>Number of single-event violations reported to national system:</i> not entered into EPA's ICIS-NPDES</p> <p>7-b. <i>Compliance schedule violations:</i> not entered into EPA's ICIS-NPDES</p> <p>7-c. <i>Permit schedule violations:</i> not entered into EPA's ICIS-NPDES</p>
	State Response	The state's contractor is building in the ability to capture SEVs discovered during inspections into WPC (Water Pollution Control database). The goal is to eventually map the SEV data elements to ICIS so that CWB can batch the data into ICIS. Until the SEV data elements can be batched, the CWB will manually enter the data into ICIS.
	Actions	EPA is now consulting with CWB about options and procedures for entering SEVs into ICIS-NPDES so that CWB will begin entering SEVs in FY 2011.

**Element 8: Identification of SNC and HPV. Degree to which State accurately identified significant noncompliance/high priority violations and enters information into the national system in a timely manner.**

E8.01	Finding	During FY 2009, 22% of Hawaii’s major individual facilities were accurately identified in SNC, better than the national average SNC rate of 23.6%.
	Finding is:	<input type="checkbox"/> Good Practice <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required
	Explanation	<p>The CWB prepares Quarterly Noncompliance Reports (QNCRs), which identify major individual facility violations that meet EPA’s criteria for SNC. In FY 2009, the CWB identified four major facilities in SNC for effluent limit violations or for failure to submit required DMRs. The CWB did not take formal enforcement actions against all of the SNC facilities. Although the CWB has a relatively low SNC rate, the CWB could achieve a lower rate by taking timely enforcement action against SNC facilities (see Element 10 below).</p> <p><b>Recommended Action:</b> None</p>
	Metric(s) and Quantitative Value	<p>8-a-1. <i>Number of active majors in SNC during reporting year:</i> four of 18 majors in SNC.</p> <p>8-a-2. <i>Percent of active majors in SNC during the reporting year:</i> 22%, lower than the national average of 23.6%.</p>
	State Response	
	Actions	None



**Element 8: Identification of SNC and HPV. Degree to which State accurately identified significant noncompliance/high priority violations and enters information into the national system in a timely manner.**

E8.02	Finding	The CWB does not have procedures for identifying SNC violations discovered through inspections and methods other than DMR review. However, the CWB identifies and tracks all SEVs in the state database (see Finding E7.02). This is a data management issue and does not hinder the CWB's ability to identify and track violations, and EPA has not yet required entry of SNC SEVs into EPA's ICIS-NPDES.
	Finding is:	<input type="checkbox"/> Good Practice <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required
	Explanation	<p>SEVs discovered during inspections, compliance schedule violations, and permit schedule violations, and other methods are required WENDB data for major facilities. In 2008, EPA issued the ICIS-NPDES SEV Guidance that established procedures for flagging certain wet weather SEVs as SNC in EPA's national database. EPA is currently piloting this SNC policy for violations discovered during storm water, sewage collection system and CAFO inspections, and has not yet required the states to implement the wet weather SNC policy.</p> <p><b>Recommended Action:</b> None</p>
	Metric(s) and Quantitative Value	<p>8-b. % of single event violations that are accurately identified as SNC: the CWB does not enter SNC SEVs into EPA's ICIS-NPDES</p> <p>8-c. % of single event violations identified as SNC that are reported timely: the CWB does not enter SNC SEVs into EPA's ICIS-NPDES</p>
	State Response	
	Actions	

**Element 9: Enforcement Actions Promote Return to Compliance. Degree to which State enforcement actions include required corrective action (i.e., injunctive relief or other complying actions) that will return facilities to compliance in a specific time frame.**

E9.01	Finding	<p>During the FY 2009 review period, CWB issued 78 enforcement actions to non-SNC facilities, including 68 Notices of Apparent Violation (NAVs) and 10 Notices and Findings of Violation (NFVOs); nine of the NFVOs included penalties. The NFVOs reviewed by EPA required corrective action within a specified timeframe and returned 78% of the facilities to compliance. The CWB and EPA have jointly taken appropriate enforcement action against one of the four SNC facilities--City and County of Honolulu, Sand Island. However, the CWB did not take enforcement action against the remaining three SNC facilities.</p>
	Finding is:	<p>( ) Good Practice                  ( ) Meets SRF Program Requirements                  (X) Area for State Attention                  ( ) Area for State Improvement – Recommendations Required</p>
	Explanation	<p>The CWB’s NAVs are informal enforcement actions that may or may not include deadlines for a return to compliance or for corrective actions, but all include due dates for a response from the facility. NAVs state the possibility of penalties for failure to respond; enforcement can be escalated to an NFVO, but this is not stated in the NAV.</p> <p>The CWB’s NFVOs are formal enforcement actions that establish enforceable deadlines for a return to compliance and can also include assessed penalties for up to \$25,000 per day of violation. Failure to comply with an NFVO can result in judicial action, but it is not stated in the NFVO.</p> <p>NAVs and NFVOs do not cite the alleged violations; rather, they refer to the inspection report or other documentation (per Finding E6.01, inspections reports do not regularly “cite” violations).</p> <p>When the CWB has determined that a facility has complied with NAVs and NFVOs, the CWB notifies the facility in writing and closes the case. Of the eight NAVs reviewed, three of the six facilities returned to compliance, the compliance status of the remaining three could not be determined, and none were escalated to an NFVO. Of the ten NFVOs reviewed, eight facilities returned to compliance and two remain open with enforceable deadlines.</p> <p>In its NAVs and NFVOs, the CWB should consider citing the alleged violations and the potential for enforcement escalation for failure to comply, as well as escalating its enforcement response when warranted. The EPA has discussed these options with the CWB. The CWB should also take formal enforcement actions against facilities in SNC (see Finding</p>

**Element 9: Enforcement Actions Promote Return to Compliance. Degree to which State enforcement actions include required corrective action (i.e., injunctive relief or other complying actions) that will return facilities to compliance in a specific time frame.**

	<p>E10.01 below).</p> <p>Appendix B includes a list of enforcement actions reviewed by EPA.</p> <p><b>Recommended Action:</b> None</p>
Metric(s) and Quantitative Value	<p>9.a. Number of formal/informal enforcement responses reviewed: 10 formal and seven informal reviewed</p> <p>9.b. % of enforcement responses reviewed that have returned or will return a source in SNC to compliance: 0%</p> <p>9.c. % of enforcement responses reviewed that have returned or will return a source with non-SNC violations to compliance: 80% compliant; 20% will return a source to compliance</p>
State Response	
Actions	None

**Element 10: Timely and Appropriate Action. Degree to which a state takes timely and appropriate enforcement actions in accordance with policy relating to specific media.**

E10.01	Finding	During the FY 2009 review period, CWB timely and appropriately issued 78 enforcement actions to non-SNC facilities, including 68 Notices of Apparent Violation (NAVs) and 10 Notices and Findings of Violation (NFVOs); nine of the NFVOs included penalties. However, the CWB did not take formal enforcement action against three of four major facilities that were in SNC during FY 2009.
	Finding is:	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input checked="" type="checkbox"/> Area for State Improvement – Recommendations Required
	Explanation	<p>The CWB prepares QNCRs that identify major individual facility violations that meet EPA’s criteria for SNC. During FY 2009, the CWB identified four major facilities as SNC for effluent limit violations (EFF) or for failure to submit required DMRs. Three of the facilities had SNC for two or more quarters, but the CWB did not take formal enforcement. The three SNC facilities are listed in the table below.</p> <p>EPA policy calls for timely formal enforcement actions against SNC facilities. Formal enforcement is an action with an enforceable schedule requiring the facility to return to compliance. Timely enforcement is an action issued within 5 months of the end of the quarter when the facility first becomes SNC. The timeliness standard is set so enforcement is taken before the facility appears as SNC for a second consecutive quarter.</p> <p><b>Recommended Action:</b> The CWB should take timely formal enforcement action against facilities in SNC.</p>
	Metric(s) and Quantitative Value	<p><i>10-a. Major facilities in SNC without timely action: three</i></p> <p><i>10-b. % of enforcement responses reviewed that address SNC that are taken in a timely manner: non reviewed</i></p> <p><i>10-c. % of enforcement responses reviewed that address SNC that are appropriate to the violations: non reviewed</i></p> <p><i>10-d. % of enforcement responses reviewed that appropriately address non-SNC violations: 100%</i></p> <p><i>10-e. % of enforcement responses reviewed for non-SNC violations where a response was taken timely: 100%</i></p>
	State Response	Hickam AFB, Fort Kamehameha WWTP: Exceedences were based on a geometric mean for high ammonia readings for four (4) consecutive months; it has taken several months for the geometric mean to come back into compliance. During a 2010 inspection, it was found that the facility addressed its earlier problems and now appears to be in compliance. No further action will be taken. For the remaining two facilities, the CWB has conducted follow-up inspections, discussed findings with EPA, and will take appropriate follow-up actions.

**Element 10: Timely and Appropriate Action. Degree to which a state takes timely and appropriate enforcement actions in accordance with policy relating to specific media.**

Actions	<ol style="list-style-type: none"> <li>1. The EPA and the DOH will communicate quarterly regarding QNCR SNC facilities to determine the appropriate enforcement response.</li> <li>2. As needed, EPA will take formal enforcement against SNC facilities.</li> </ol>
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Hawaii SNC Facilities, FY 2005 – FY 2010 without Enforcement		
Facility	SNC Violation	Quarters in SNC
Hickam AFB, Fort Kamehameha WWTP, HI0110086	EFF	<ul style="list-style-type: none"> <li>▪ 1<sup>st</sup> &amp; 4<sup>th</sup> Q FY 2009</li> <li>▪ 1<sup>st</sup> – 3<sup>rd</sup> Q FY 2010</li> </ul>
	DMR	<ul style="list-style-type: none"> <li>▪ 2<sup>nd</sup> – 3<sup>rd</sup> Q FY 2008</li> </ul>
Pearl Harbor Naval Shipyard, HI0110230	EFF	▪ 1 <sup>st</sup> Q FY 2005 – 2 <sup>nd</sup> Q FY2007
		▪ 1 <sup>st</sup> Q FY 2008 - 1 <sup>st</sup> Q FY 2009
		▪ 2 <sup>nd</sup> & 3 <sup>rd</sup> Q FY 2010
Port Allen Generating Station, HI0000353	DMR	▪ 2 <sup>nd</sup> & 3 <sup>rd</sup> Q FY 2008, 2009, & 2010

**Element 11: Penalty Calculation Method. Degree to which State documents in its files that initial penalty calculation includes both gravity and economic benefit calculations, appropriately using the BEN model or other method that produces results consistent with national policy.**

E11.01	Finding	EPA reviewed one, three, and six penalty actions taken by the CWB in 2010, 2009, and 2008 respectively, and found that the CWB assessed appropriate penalties that include both gravity and economic benefit.
	Finding is:	<input type="checkbox"/> Good Practice <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required
	Explanation	<p>Each penalty action reviewed appears to be consistent with the <i>State Administrative and Civil Penalty Policy for Clean Water and Wastewater Programs</i>, and include both gravity and economic benefit calculations. Of the nine penalty actions reviewed, penalties ranged from \$5,000 to \$43,500 (average penalty \$16,100), appearing appropriate for the types and length of the violations.</p> <p>Appendix B includes a list of penalty actions reviewed by EPA.</p> <p><b>Recommended Action:</b> None</p>
	Metric(s) and Quantitative Value	<i>Element 11-a. % of penalty calculations that consider and include where appropriate gravity and economic benefit:</i> of the cases reviewed, 100% calculated appropriate gravity and economic benefit
	State Response	
	Actions	None

**Element 12: Final Penalty Assessment and Collection. Degree to which differences between initial and final penalty are documented in the file along with a demonstration in the file that the final penalty was collected.**

E12.01	Finding	EPA reviewed one, two, and six penalty actions taken by CWB in 2010, 2009, and 2008 respectively, and found that CWB collected six of the nine penalties as assessed. The penalty information and status has been properly documented in the file by the CWB.
	Finding is:	<input type="checkbox"/> Good Practice <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required
	Explanation	<p>Of the nine penalty actions reviewed, the CWB collected the assessed amount in six cases. In the three cases where the assessed penalties were not collected (1) the facility operator is recalcitrant and the CWB is considering escalating enforcement; (2) the facility operator ceased operations and moved to the mainland, and the CWB closed the case; and (3) the action is very recent and is still open. The CWB properly documented this information in its files.</p> <p>During 2009, the CWB reports that it issued nine penalty actions that assessed a total of \$1,827,750; of these actions, the CWB reports that it collected \$89,050 of the total amount assessed for seven of the penalty actions. Two of the actions remain uncollected: (1) the action stated that the penalty would be assessed at a later date; CWB has now assessed the penalty amount at \$1.73 million and settlement negotiations are underway; and (2) completion of settlement negotiations was delayed; the settlement agreement is currently underway.</p> <p><b>Recommended Action:</b> None</p>
	Metric(s) and Quantitative Value	<i>12-b. % of enforcement actions with penalties that document collection of penalty:</i> Of the nine actions reviewed, 67% documented penalty collection and 33% documented non-collection.
	State Response	
	Actions	None

## PRELIMINARY DATA ANALYSIS CHART

This section provides the results of the Preliminary Data Analysis (PDA). The PDA forms the initial structure for the SRF report, and helps ensure that the data metrics are adequately analyzed prior to the on-site review. This is a critical component of the SRF process, because it allows the reviewers to be prepared and knowledgeable about potential problem areas before initiating the on-site portion of the review. In addition, it gives the region focus during the file reviews and/or basis for requesting supplemental files based on potential concerns raised by the data metrics results.

The PDA reviews each data metric and evaluates State performance against the national goals or average, if appropriate. The PDA Chart, provided below, only includes metrics where potential concerns or potential areas of exemplary performance are identified. The full PDA contains every metric possible, neutral or negative. Initial findings indicate the observed results. Initial findings are preliminary observations and are used as a basis for further investigation. Findings are developed only after evaluating them against the file review results where appropriate, and dialogue with the State have occurred. Through this process, Initial Findings may be confirmed, modified, or determined not to be supported. Findings are presented in table below.

Note: There is a one-page version of the following Appendix included as a separate PDF file in the tracker, and included in the hard-copy version sent to CWB.

Preliminary Data Analysis (PDA)													Report Generated on 2/26/2010	
OTIS State Review Framework Results														
CWA Data for Hawaii (Review Period Ending: FY 2009)														
Metric	Metric Description	Metric Type	Agency	Nat'l Goal	Nat'l Avg	Hawaii Metric Prod	Count Prod	Universe Prod	Not Counted Prod	State Discrepancy (Yes/No) and Correction		State Data Source	State Discrepancy Explanation	EPA Initial Findings
P01A1C	Active facility universe: NPDES major individual permits (Current)	Data Quality	Combined			17	NA	NA	NA	Y	18	Access	Appear that HI0000604 was expired in ICIS. Correction was made by manually administratively extending the permit.	
P01A2C	Active facility universe: NPDES major general permits (Current)	Data Quality	Combined			0	NA	NA	NA					
P01A3C	Active facility universe: NPDES non-major individual permits (Current)	Data Quality	Combined			113	NA	NA	NA	Y		Access	Reports may have been generated during different time periods.	



**Preliminary Data Analysis (PDA)**  
**OTIS State Review Framework Results**  
**CWA Data for Hawaii (Review Period Ending: FY 2009)**

Report Generated on 2/26/2010

Metric	Metric Description	Metric Type	Agency	Nat'l Goal	Nat'l Avg	Hawaii Metric Prod	Count Prod	Universe Prod	Not Counted Prod	State Discrepancy (Yes/No) and Correction	State Data Source	State Discrepancy Explanation	EPA Initial Findings	
P01A4C	Active facility universe: NPDES non-major general permits (Current)	Data Quality	Combined			945	NA	NA	NA	Y	1009	Access	Reports may have been generated during different time periods. Query in Access includes all NGPC's, except CE's.	
P01B1C	Major individual permits: correctly coded limits (Current)	Goal	Combined	>=; 95%	99.9 %	100.0%	18	18	0	N				
C01B2C	Major individual permits: DMR entry rate based on MRs expected (Forms/Forms) (1 Qtr)	Goal	Combined	>=; 95%	92.6 %	86.1%	68	79	11	N				
C01B3C	Major individual permits: DMR entry rate based on DMRs expected (Permits/Permits) (1 Qtr)	Goal	Combined	>=; 95%	92.7 %	100.0%	17	17	0	N				
P01B4C	Major individual permits: manual RNC/SNC override rate (1 FY)	Data Quality	Combined			25.0%	1	4	3	N				
P01C1C	Non-major individual permits: correctly coded limits (Current)	Informational Only	Combined			100.0%	21	21	0	N			Not all non-major individual permits coded in ICIS. Currently not required.	
C01C2C	Non-major individual permits: DMR entry rate based on DMRs expected (Forms/Forms) (1 Qtr)	Informational Only	Combined			69.2%	27	39	12	N			Not all non-major individual permits coded in ICIS. Currently not required.	
C01C3C	Non-major individual permits: DMR entry rate based on DMRs expected (Permits/Permits) (1 Qtr)	Informational Only	Combined			8.8%	10	113	103	N			Not all non-major individual permits coded in ICIS. Currently not required.	
P01D1C	Violations at non-majors: noncompliance rate (1 FY)	Informational Only	Combined			0.9%	1	113	112	N			All DMR data not being loaded into ICIS since minor permitted features aren't coded in ICIS.	

**Preliminary Data Analysis (PDA)**  
**OTIS State Review Framework Results**  
**CWA Data for Hawaii (Review Period Ending: FY 2009)**

Report Generated on 2/26/2010

Metric	Metric Description	Metric Type	Agency	Nat'l Goal	Nat'l Avg	Hawaii Metric Prod	Count Prod	Universe Prod	Not Counted Prod	State Discrepancy (Yes/No) and Correction		State Data Source	State Discrepancy Explanation	EPA Initial Findings
C01D2C	Violations at non-majors: noncompliance rate in the annual noncompliance report (ANCR)(1 CY)	Informational Only	Combined			0 / 0	0	0	0				Data not available in ICIS.	
P01D3C	Violations at non-majors: DMR non-receipt (3 FY)	Informational Only	Combined			0	NA	NA	NA				All DMR data not being loaded into ICIS since minor permitted features aren't coded in ICIS.	
P01E1S	Informal actions: number of major facilities (1 FY)	Data Quality	State			1	NA	NA	NA	N				
P01E2S	Informal actions: number of actions at major facilities (1 FY)	Data Quality	State			2	NA	NA	NA	N				
P01E3S	Informal actions: number of non-major facilities (1 FY)	Data Quality	State			126	NA	NA	NA	Y	155	Access	Reports may have been generated during different time periods. Query in Access includes all NGPC's, non-filers, and individuals.	
P01E4S	Informal actions: number of actions at non-major facilities (1 FY)	Data Quality	State			150	NA	NA	NA	Y	161	Access	Reports may have been generated during different time periods. Query in Access includes all facility types.	
P01F1S	Formal actions: number of major facilities (1 FY)	Data Quality	State			1	NA	NA	NA	N				
P01F2S	Formal actions: number of actions at major facilities (1 FY)	Data Quality	State			1	NA	NA	NA	N				
P01F3S	Formal actions: number of non-major facilities (1 FY)	Data Quality	State			8	NA	NA	NA	N				
P01F4S	Formal actions: number of actions at non-major facilities (1 FY)	Data Quality	State			8	NA	NA	NA	N				
P01G1S	Penalties: total number of penalties (1 FY)	Data Quality	State			0	NA	NA	NA	Y	9	Access	Data was not correctly put into ICIS.	will check if not entered or if there are no penalties

**Preliminary Data Analysis (PDA)**  
**OTIS State Review Framework Results**  
**CWA Data for Hawaii (Review Period Ending: FY 2009)**

Report Generated on 2/26/2010

Metric	Metric Description	Metric Type	Agency	Nat'l Goal	Nat'l Avg	Hawaii Metric Prod	Count Prod	Universe Prod	Not Counted Prod	State Discrepancy (Yes/No) and Correction	State Data Source	State Discrepancy Explanation	EPA Initial Findings	
P01G2S	Penalties: total penalties (1 FY)	Data Quality	State			\$0	NA	NA	NA	Y	\$98,250	Access	Data was not correctly put into ICIS.	will check accuracy
P01G3S	Penalties: total collected pursuant to civil judicial actions (3 FY)	Data Quality	State			\$0	NA	NA	NA	N				
P01G4S	Penalties: total collected pursuant to administrative actions (3 FY)	Informational Only	State			\$136,850	NA	NA	NA	Y	\$80,200	Access	Data was not correctly put into ICIS.	will check why value here if no penalties
P01G5S	No activity indicator - total number of penalties (1 FY)	Data Quality	State			\$0	NA	NA	NA	?				will check if not entered or if there are no penalties
P02A0S	Actions linked to violations: major facilities (1 FY)	Data Quality	State	>=; 80%		100.0%	1	1	0	N				
P05A0S	Inspection coverage: NPDES majors (1 FY)	Goal	State	100%	63.7%	47.1%	8	17	9	Y	50%			will review against HI workplan
P05B1S	Inspection coverage: NPDES non-major individual permits (1 FY)	Goal	State			9.7%	3	31	28	Y	4.10%	Access	5/121=0.041	will review against HI workplan
P05B2S	Inspection coverage: NPDES non-major general permits (1 FY)	Goal	State			5.0%	47	945	898	Y	6.80%	Access	69/1009=0.068	will review against HI workplan
P05C0S	Inspection coverage: NPDES other (not 5a or 5b) (1 FY)	Informational Only	State			3.7%	3	82	79	N			HIS.... Inspections	will review against HI workplan
P07A1C	Single-event violations at majors (1 FY)	Review Indicator	Combined			1	NA	NA	NA	n/a			SEV data currently not being put into ICIS.	will check if HI enters
P07A2C	Single-event violations at non-majors (1 FY)	Informational Only	Combined			8	NA	NA	NA	n/a			SEV data currently not being put into ICIS.	
P07B0C	Facilities with unresolved compliance schedule violations (at end of FY)	Data Quality	Combined		31.0%	0 / 0	0	0	0	n/a			Compliance schedule data not being put into ICIS.	will check if HI enters
P07C0C	Facilities with unresolved permit schedule violations (at end of FY)	Data Quality	Combined		27.4%	0 / 0	0	0	0	n/a			Compliance schedule data not being put into ICIS.	will check if HI enters

Preliminary Data Analysis (PDA)

Report Generated on 2/26/2010

OTIS State Review Framework Results

CWA Data for Hawaii (Review Period Ending: FY 2009)

Metric	Metric Description	Metric Type	Agency	Nat'l Goal	Nat'l Avg	Hawaii Metric Prod	Count Prod	Universe Prod	Not Counted Prod	State Discrepancy (Yes/No) and Correction	State Data Source	State Discrepancy Explanation	EPA Initial Findings
P07D0C	Percentage major facilities with DMR violations (1 FY)	Data Quality	Combined		53.2 %	82.4%	14	17	3	Y 78%	Access	14/18=0.078	
P08A1C	Major facilities in SNC (1 FY)	Review Indicator	Combined			4	NA	NA	NA	N			
P08A2C	SNC rate: percent majors in SNC (1 FY)	Review Indicator	Combined		23.6 %	23.5%	4	17	13	Y 22%	Access	4/18=0.022	
P10A0C	Major facilities without timely action (1 FY)	Goal	Combined	< 2%	18.6 %	23.5%	4	17	13	Y 22%	Access	4/18=0.022	

## FILE SELECTION

Hawaii files were selected for review in accordance with a standard protocol and using the web-based file selection tool (available to EPA and State users here: [http://www.epa-otis.gov/cgi-bin/test/srf/srf\\_fileselection.cgi](http://www.epa-otis.gov/cgi-bin/test/srf/srf_fileselection.cgi)). This protocol and tool are designed to provide consistency and transparency in the process.

### A. File Selection Process

Using the standard protocol and the web-based file selection tools, the EPA generated a list of facilities that have compliance or enforcement activities during FY2009. From this list of facilities, file selection was based on the “*range of files based on size of universe*” criteria, as set forth in the *EPA’s SRF Implementation Guidance*, April 2006. Specifically, the guidance suggests reviewing between 15 and 30 files, and that the files represent different categories of dischargers, regional locations, and include inspections and enforcement actions, and violations. The files reviewed at the CWB offices are listed below.

HAWAII CWA NPDES FILES REVIEWED BY EPA										
			Compliance & Enforcement Activities During FY 2009							
Facility Type	Facility Name	Permit ID	Inspection Date	Violation	SEV	SNC	NAV Date	NFVO Date	NFVO w/Penalty Date <sup>1/</sup>	Type Total
Major	Chevron Hawaii Refinery <sup>2/</sup>	HI0000329	4/27/09						9/5/09	3
	Port Allen Generating Station	HI0000353	6/15/07 8/13/09 <sup>3/</sup>	3		1			5/5/10	
	Wailua WWTP	HI0020257	8/26/08 <sup>3/</sup>	6						
Minor	HI Institute of Marine Biology	HI0021644	5/21/09	4			6/22/09 12/21/09			2
	Kahala Resort & Hotel	HI0021300	10/24/06 1/7/09	0			1/22/09			
Stormwater Construction	Capitol Place	HIF001434	5/10/07						3/29/08	4
	Chan Residence @ Tantalus	HIF005764	6/18/09	2	2		2/9/09			
	Interstate Route H1	HIF000602	0	1	1		7/29/09			
	Kaliki/Nuuanu Sewer Rehab Ph 1c (Area 3)	HIF005625	2/12/09	2	2		3/31/09			
Stormwater Industrial	Air Liquide-Kapolei	HIF001197	3/12/09				3/25/09			3
	Ka'lulani of Princeville	HIF001427	4/3/08 4/29/08						5/28/08	
	Pepsi Bottling Group	HIF001357	9/5/07 3/18/09						2/5/08	
Construction Dewatering	Manoa Stream Emergency Repairs @ Kahaloa Dr Bridge	HIF001945	7/16/08 7/17/08 7/18/08 7/23/08						10/7/08	1
Sensitive Waters	Kulalani at Mauna Lani Resort	HIS000047					9/15/09			1
Unpermitted	Aloha Detailing	HIU001142	6/28/08						1/29/08	3
	Bob Marr Logging	HIU001144	7/13/07 2/15/08						4/22/08	
	Webb Construction LLC	HIU001143	10/6/06 10/13/06 11/21/06 11/22/06						1/29/08	
<b>TOTALS</b>			<b>24</b>	<b>18</b>	<b>5</b>	<b>1</b>	<b>7</b>	<b>1</b>	<b>9</b>	<b>17</b>
<sup>1/</sup> Includes penalties during FY 2008 because at the time of file selection, no penalties were entered into ICIS-NPDES for FY 2009. <sup>2/</sup> Reviewed at CWB's request to account for an FY 2009 penalty. <sup>3/</sup> Joint EPA/DOH inspection; report prepared by EPA contractor.										

## FILE REVIEW ANALYSIS CHARTS

This section presents the initial observations of the Region regarding program performance against file metrics. Initial Findings are developed by the region at the conclusion of the File Review process (See Appendix B). The Initial Finding is a statement of fact about the observed performance, and should indicate whether the performance indicates a practice to be highlighted or a potential issue, along with some explanation about the nature of good practice or the potential issue. The File Review Analysis Chart in the report only includes metrics where potential concerns are identified, or potential areas of exemplary performance. Initial Findings indicate the observed results. Initial Findings are preliminary observations and are used as a basis for further investigation. Findings are developed only after evaluating them against the PDA results where appropriate, and dialogue with the State have occurred. Through this process, Initial Findings may be confirmed, modified, or determined not to be supported. Findings are presented in Section IV of this report. The quantitative metrics developed from the file reviews are initial indicators of performance based on available information and are used by the reviewers to identify areas for further investigation. Because of the limited sample size, statistical comparisons among programs or across states cannot be made.

Appendix C

Hawaii Clean Water Branch			Review Period: FY 2009
CWA Metric #	CWA File Review Metric:	Metric Value	Initial Findings and Conclusions
Metric 2b	% of files reviewed where data is accurately reflected in the national data system.	did not calculate	
Metric 4a	Planned inspections completed	various	Need to compare against workplan commitments; majority of planned inspections not met.
Metric 4b	Other Commitments. Delineate the commitments for the FY under review and describe what was accomplished.	Approx 50%	
Metric 6a	# of inspection reports reviewed.	24	
Metric 6b	% of inspection reports reviewed that are complete.	Not calculated	Most are complete
Metric 6c	% of inspection reports reviewed that provide sufficient documentation to lead to an accurate compliance determination.	Not calculated	Most are complete
Metric 6d	% of inspection reports that are reviewed in a timely manner.	Not Calculated	
Metric 7e	% of inspection reports or facility files reviewed that led to accurate compliance determinations.	Not calculated	Most made accurate determinations

Hawaii Clean Water Branch		Review Period: FY 2009	
CWA Metric #	CWA File Review Metric:	Metric Value	Initial Findings and Conclusions
Metric 8b	% of single event violation(s) that are accurately identified as SNC	0%	SEVs not tracked in ICIS, however, tracked in state database; SNC criteria not used.
Metric 8c	% of single event violation(s) identified as SNC that are reported timely.	0%	SEVs not tracked in ICIS, however, tracked in state database; SNC criteria not used.
Metric 9a	# of enforcement files reviewed	17	
Metric 9b	% of enforcement responses that have returned or will return a source in SNC to compliance.	0%	One joint action against one SNC facility.
Metric 9c	% of enforcement responses that have returned or will returned a source with non-SNC violations to compliance.	78%	
Metric 10b	% of enforcement responses reviewed that address SNC that are taken in a taken in a timely manner.	0%	One joint action against one SNC facility.
Metric 10c	% of enforcement responses reviewed that address SNC that are appropriate to the violations.	0%	One joint action against one SNC facility.
Metric 10d	% of enforcement responses reviewed that appropriately address non-SNC violations.	100%	
Metric 10e	% enforcement responses for non-SNC violations where a response was taken in a timely manner.	100%	
Metric 11a	% of penalty calculations that consider and include where appropriate gravity and economic benefit.	100% of reviewed	All documented
Metric 12a	% of penalties reviewed that document the difference and rationale between the initial and final assessed penalty.	100% of reviewed	Most assessed amounts are collected; all properly documented
Metric 12b	% of enforcement actions with penalties that document collection of penalty.	100% of reviewed	All collections documented



**Hawaii Department of Health  
Resource Conservation and Recovery Act  
Compliance & Enforcement Program  
Fiscal Year 2009**

**STATE REVIEW FRAMEWORK  
DRAFT REPORT**

**June 25, 2010**

Conducted by the U.S. Environmental Protection Agency  
Region 9

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## **I. EXECUTIVE SUMMARY**

The State Review Framework (SRF) is a program designed to ensure that the U.S. Environmental Protection Agency (EPA) conducts oversight of state and U.S. EPA direct implementation, compliance and enforcement programs in a nationally consistent and efficient manner. Reviews look at 12 program elements covering: data (completeness, timeliness, and quality); inspections (coverage and quality); identification of violations, enforcement actions (appropriateness and timeliness); and, penalties (calculation, assessment and collection). Reviews are conducted in three phases: analyzing information from the national data systems; reviewing a limited set of state files; and development of findings and recommendations. Considerable consultation is built into the process, to ensure U.S. EPA and the state understand the causes of issues, and to seek agreement on identifying the actions needed to address problems. The Reports generated by the reviews are designed to capture the information and agreements developed during the review process in order to facilitate program improvements. The reports are designed to provide factual information and do not make determinations of program adequacy. EPA also uses the information in the reports to draw a “national picture” of enforcement and compliance, and to identify any issues that require a national response. Reports are not used to compare or rank state programs.

### **A. MAJOR STATE PRIORITIES AND ACCOMPLISHMENTS**

- **Priorities:**

Hawaii Department of Health’s (HDOH) Solid and Hazardous Waste Branch has the authority to monitor and direct businesses that may generate, transport or dispose of hazardous waste in Hawaii. The Solid and Hazardous Waste Branch implements state and federal hazardous waste laws pursuant to delegation from the U.S. EPA. The branch is responsible for effectively implementing standards for the safe generation, management, treatment, storage and disposal of hazardous waste. Specific responsibilities include:

- Conducting compliance and complaint inspections to ensure that hazardous wastes are safely managed and properly recycled.
- Investigating complaints and violations of Hawaii’s solid and hazardous waste laws
- Permitting facilities that treat, store or dispose of hazardous waste.
- Providing education and outreach for facilities and general public.
- Managing HDOH’s pollution prevention (P2) program and other activities aimed at eliminating or reducing the use of toxic substances and the generation of hazardous wastes.
- Issuing facility identification numbers.
- Reviewing and certifying closures and corrective actions.

The 3011 Grant authorizes Hawaii to run the Resource Conservation and Recovery Act (RCRA) program. The work plan associated with the 3011 Grant has two enforcement and compliance commitments. The first is that HDOH’s Hazardous Waste Section inspects all permitted Treatment, Storage, and Disposal (TSD) facilities every two years. The second grant commitment is that HDOH inspect at least 13 Large Quantity Generators (LQGs).

The work plan includes providing a targeting plan for inspections, documenting tips and complaint responses, and conducting training for staff.

- **Accomplishments:**

**Bottle Bill** - In Fiscal Year 2007, Hawaii established the State of Hawaii Deposit Beverage Container (DBC) Program. In Fiscal Year 2009, the program nearly met its goal of 80% redemption of containers; the program achieved an annual redemption rate of 79%. Over 700 million DBCs were recycled, which is up from approximately 680 million recycled in Fiscal Year 2008. The program continues to improve and public participation is strong.

**Electronic Waste** - Hawaii is addressing the growing problem of electronic waste by passing the Hawaii Electronic Waste and Television Recycling and Recovery Law that requires manufacturers of covered electronic devices (CEDs) and televisions to operate recycling programs. Manufacturers were required to have recycling plans implemented by January 1, 2010.

- **Best Practices:**

**Tips and Complaints** – HDOH follows up on every tip and complaint received by their office. The Hazardous Waste Section inspectors responded to 48 tips and complaints during Fiscal Year 2009.

**Inspections** - In addition to TSD and LQG inspection commitments, HDOH inspects Small Quantity Generators (SQGs) and Conditionally Exempt Small Quantity Generators (CESQGs) to insure compliance with RCRA regulations in facilities of all sizes and business sectors.

- **Element 13:** N/A

## **B. SUMMARY OF RESULTS**

- There were no remaining incomplete actions in the SRF tracker for the RCRA portion of the Round 1 SRF review. HDOH has followed up on all of the issues identified in the Round 1 SRF review.
- The performance on the following elements was good and no improvement was needed:
  - Element 2 - Data Accuracy:** Degree to which the minimum data requirements are accurate (e.g. correct codes used, dates are correct, etc.).
  - Element 3 - Timeliness of Data Entry:** Degree to which the minimum data requirements are timely.
  - Element 4 - Completion of Commitments:** Degree to which all enforcement/compliance commitments in relevant agreements (i.e., PPAs, PPGs, categorical grants, CMS plans, authorization agreements, etc.) are met and any products or projects are completed.
  - Element 6 - Quality of Inspection or Compliance Evaluation Reports:** Degree to which inspection or compliance evaluation reports properly document

observations, are completed in a timely manner, and include accurate description of observations.

**Element 7 - Identification of Alleged Violations:** Degree to which compliance determinations are accurately made and promptly reported in the national database based upon compliance monitoring report observations and other compliance monitoring information (e.g., facility-reported information).

**Element 8 - Identification of SNC and HPV:** Degree to which the state accurately identifies significant noncompliance/high priority violations and enters information into the national system in a timely manner.

**Element 9 - Enforcement Actions Promote Return to Compliance:** Degree to which state enforcement actions include required corrective action (i.e., injunctive relief or other complying actions) that will return facilities to compliance in a specific time frame.

**Element 10 - Timely and Appropriate Action:** Degree to which a state takes timely and appropriate enforcement actions in accordance with policy relating to specific media.

**Element 11 - Penalty Calculation Method:** Degree to which state documents in its files that initial penalty calculation includes both gravity and economic benefit calculations, appropriately using the BEN model or other method that produces results consistent with national policy.

**Element 12 - Final Penalty Assessment and Collection:** Degree to which differences between initial and final penalty are documented in the file along with a demonstration in the file that the final penalty was collected.

- Areas for State Improvement Requiring Recommendations were identified for the following element:

**Element 1 - Data Completeness:** Degree to which the minimum data requirements are complete

- a. Finding 1-1 - The LQG universe in OTIS and RCRAInfo is larger than the active LQG universe.
- b. Recommendation 1-1 - Review the LQG universe defined in RCRAInfo and determine if the facilities are LQGs. If not, then revise their generator status. Determine if there is trackable way to flag episodic LQGs in RCRAInfo.
- c. Finding 1-2 - HDOH does not get credit for all of the inspections and informal enforcement actions that they conduct because some facilities do not have EPA identification numbers so the information cannot be entered into RCRAInfo.
- d. Recommendation 1-2 - Inspected facilities should be assigned an EPA

identification number or short-term EPA identification number (RCRAInfo v4 functionality), so inspections and enforcements can be tracked.

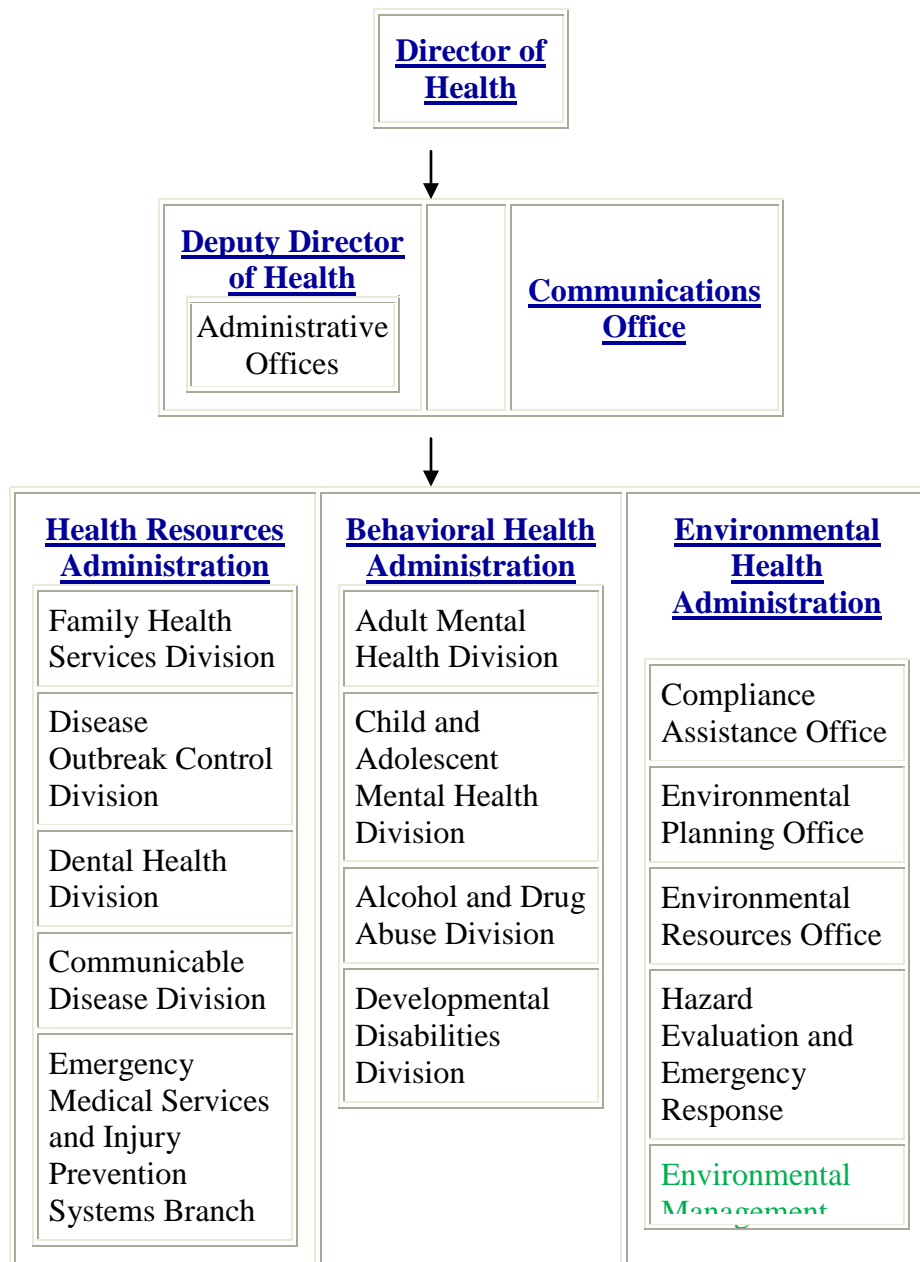
### **C. SIGNIFICANT CROSS-MEDIA FINDINGS AND RECOMMENDATIONS**

The HDOH Hazardous Waste Section should be commended for their efforts in cross-media cooperation and information sharing. They have demonstrated this in high quality inspection reports, tip and complaint follow ups, and clean-up efforts. They work closely with their Hazard Evaluation and Emergency Response Office, who respond to releases of hazardous substances and oversee cleanup of contaminated sites. The HDOH Hazardous Waste Section works closely with U.S. EPA civil and criminal enforcement offices. They participated with numerous federal and state agencies in a raid of businesses believed to be dumping hazardous waste.

## II. BACKGROUND INFORMATION ON STATE PROGRAM AND REVIEW PROCESS

### A. GENERAL PROGRAM OVERVIEW

- Agency Structure:** The organizational structure of the HDOH is shown below. The RCRA compliance and enforcement program is run out of the Hazardous Waste Section and its location within the HDOH organizational structure is highlighted by the green text.



		<div style="border: 1px solid black; padding: 5px;"> <p style="color: green; margin: 0;">Division</p> <hr/> <p style="margin: 0;">Environmental Health Services Division</p> <hr/> <p style="margin: 0;">State Laboratories Division</p> </div>
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**Environmental Management Division (EMD)**

EMD is responsible for implementing and maintaining statewide programs for controlling air and water pollution, for assuring safe drinking water, and for the proper management of solid and hazardous waste. The division also regulates the state's wastewater.

**Clean Air Branch**

The Clean Air Branch is responsible for the implementation of a statewide air pollution control program through services which include engineering analysis and permitting, monitoring and investigations, and enforcement of the federal and state air pollution control laws and regulations.

**Clean Water Branch**

The Clean Water Branch administers and enforces statewide water pollution laws and rules. This is achieved through permitting of point sources, compliance monitoring, inspections, investigations of complaints, and ambient water quality monitoring.

**Safe Drinking Water Branch**

The Safe Drinking Water Branch administers federal and state safe drinking water regulations to the approximately 155 "public water systems" in the State of Hawaii to assure that the water served by these systems meets state and federal standards. Any system which services 25 or more people a minimum of 60 days per year or has at least 15 service connections is subject to these standards and regulations. This program directly affects the drinking water quality of approximately 90-95% of the people in the State.

**Solid and Hazardous Waste Branch**

The Solid and Hazardous Waste Branch oversees management of all solid waste generated within the State through the promotion of pollution prevention and waste minimization activities, and the development of partnerships with both generators and the regulated community. SHWB also works to prevent releases, or threats of releases, of petroleum, hazardous substances, pollutants or contaminants into the environment through aggressive enforcement of environmental laws and regulations. The Solid and



Hazardous Waste Branch works closely with the Hawaii Attorney General's Office on enforcement cases.

### **Wastewater Branch**

The Wastewater Branch implements the construction of county wastewater facilities with federal and state financing by low interest loans from the State Revolving Fund. The Branch has been involved in a number of other regulatory and financing issues.

## **Solid and Hazardous Waste Branch**

The Solid and Hazardous Waste Branch is divided into the following four sections:

### **Hazardous Waste Section**

Regulates the generation, transportation, treatment, storage, and disposal of hazardous wastes. A primary focus of the section is to maintain compliance within the regulated community

### **Office of Solid Waste Management**

Regulates the management of solid wastes. The Office of Solid Waste Management is responsible for permitting landfills throughout the state.

### **Pollution Prevention and Waste Minimization Program**

Program to assist businesses and public of Hawaii in reduction and prevention of waste generation at the source.

### **Underground Storage Tank Section**

Regulates underground storage tanks which store petroleum or hazardous substances to reduce releases of these substances to the environment from leaking underground storage tanks.

- **Compliance/Enforcement Program Structure:** The RCRA compliance and enforcement program, located in the Hazardous Waste Section, is centralized in their Honolulu office. The inspectors conduct inspections at any location throughout the state as required.
- **Roles and responsibilities:** The HDOH Hazardous Waste Section handles RCRA compliance and enforcement tasks throughout Hawaii. The inspectors respond to all tips and complaints in addition to their scheduled inspections. Annually, the inspectors are required to inspect one TSD facility, 13 LQGs, and various SQGs and CESQG's. The inspectors prepare inspection reports that document violations to RCRA regulations and assist facilities to correct these violations and return to compliance. When violations are

severe, the inspectors develop a civil or criminal enforcement case and coordinate with the Hawaii Attorney General's Office to enforce these cases.

- **Resources:**

- The Hazardous Waste Section has one unit manager, one permit writer, three inspectors, one planner, and a waste minimization coordinator.
- The three inspectors divide the Oahu inspections amongst themselves. The other islands, which have few hazardous waste generators, are assigned to an inspector so that they are responsible for conducting inspections and responding to tip and complaints on their assigned island.
- HDOH has equipment limitations, including cameras and GPS hand held units. They do not have laptops or the ability to look up information in the field.
- The State of Hawaii is experiencing severe budget shortfalls that have resulted in lay-offs, pay cuts, and monthly furlough days. These cutbacks have compromised employee morale, and increased the employee workload while decreasing their effectiveness.

- **Staffing/Training:**

- The Hazardous Waste Section used to have four inspectors, but one inspector position was eliminated during FY09. HDOH plans to meet its commitments with three inspectors, but realizes that the loss of an inspector will affect the amount of work that can be done beyond their commitments. HDOH does not anticipate any further reduction in inspection staff.
- HDOH inspectors are required to receive initial 40-hour Occupational Safety and Health Administration Health and Safety training and annual 8-hour refresher training.
- HDOH also looks for opportunities for training that include courses in the areas of personal protection and safety, U.S. EPA inspection procedures, criminal investigation techniques, groundwater monitoring, corrective action, authorization, waste minimization, risk communication, air emission standards, wood preserving regulations, and any new regulatory changes.

- **Data reporting systems/architecture:** HDOH inspectors enter inspection and enforcement information directly into RCRAInfo. HDOH assigns U.S. EPA identification numbers and enters hazardous waste generator notifications directly into RCRAInfo.

## **B. MAJOR STATE PRIORITIES AND ACOMPLISHMENTS**

**Priorities:** The following five priorities have been identified by HDOH as their primary priorities: (1) Ensure full compliance with laws intended to protect human health and the

environment; (2) Minimize the quantity of toxic pollutants released, disposed of, treated, or combusted for energy recovery; (3) Clean-up of highest risk contaminated sites; (4) Develop internal policies and procedures to improve program operating efficiencies; and (5) Provide technical guidance and oversight to regulated community involved in the cleanup of sites and waste management.

**Accomplishments:** HDOH prioritizes facilities based upon generator class, span of time since the last inspection, industry type, and tips and complaints from the public and regulated community. All tips and complaints are responded to in a timely manner. LQGs are inspected within 5 years and some are inspected every 2 to 3 years. TSDs are inspected every other year. Industries with known compliance problems are inspected more often than industries without compliance problems. There is a large military presence in Hawaii and HDOH inspects military facilities on a regular basis.

Hawaii is addressing the growing problem of electronic waste by passing the Hawaii Electronic Waste and Television Recycling and Recovery Law that requires manufacturers of covered electronic devices (CEDs) and televisions to operate recycling programs. Covered electronics include computers, printers, monitors and televisions. Manufacturers of CEDs sold in the state of Hawaii must register with HDOH and pay an annual registration fee of \$5,000. Manufacturers must register with HDOH prior to selling CEDs in Hawaii and must have had recycling plans implemented by January 1, 2010.

### C. PROCESS FOR SRF REVIEW

- **Review Period:** Fiscal Year 2009, October 1, 2008 through September 30, 2009.
- **Key Dates:** Initial state notification was on January 29, 2010, the Fiscal Year 2009 data was pulled on March 2, 2010, the Preliminary Data Analysis (PDA) was conducted on March 17, 2010, the on-site review was from April 5-7, 2010, and the Draft Report was sent to HDOH on June 25, 2010.
- **Communication with the State:** Communication with HDOH during the SRF review consisted of phone conversations, emails, and face-to-face meetings. The HDOH Hazardous Waste Section was informed about the SRF review on August 5, 2009. The data files were emailed to HDOH on March 5, 2010, however, they did not receive the email because the files made the email too large to be delivered. The data files were emailed as four separate emails on March 9, 2009. The PDA was conducted during March: U.S. EPA's initial assessment was emailed on March 17, 2010 and HDOH's input was gathered during a conference call on March 19, 2010. During the file review, U.S. EPA met with the manager of the Hazardous Waste Section and the three inspectors to discuss file details and the findings of the review.

- **State and regional lead contacts for review.**

**Lead State Contact for Review**

Grace Simmons  
Hazardous Waste Section  
Hawaii Department of Health  
Phone: (808) 586-4235  
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**Lead Regional Contact for Review**

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75 Hawthorne Street  
San Francisco, CA 94105  
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[polek.jim@epa.gov](mailto:polek.jim@epa.gov)

### **III. STATUS OF OUTSTANDING RECOMMENDATIONS FROM PREVIOUS REVIEWS**

During the Round 1 SRF review of Hawaii's compliance and enforcement programs, U.S. EPA Region 9 and Hawaii identified a number of actions to be taken to address issues found during the review. The table in Appendix A shows all of the recommendations from the Round 1 SRF review. All of the Round 1 SRF review recommendations have been completed, so there are no outstanding recommendations.

#### IV. FINDINGS

Findings represent the Region’s conclusions regarding the issue identified. Findings are based on the Initial Findings identified during the data or file review, as well as from follow-up conversations or additional information collected to determine the severity and root causes of the issue. There are four types of findings, which are described below:

<b>Finding</b>	<b>Description</b>
<b>Good Practices</b>	This describes activities, processes, or policies that the SRF data metrics and/or the file reviews show are being implemented exceptionally well and which the State is expected to maintain at a high level of performance. Additionally, the report may single out specific innovative and noteworthy activities, process, or policies that have the potential to be replicated by other States and that can be highlighted as a practice for other states to emulate. No further action is required by either EPA or the State.
<b>Meets SRF Program Requirements</b>	This indicates that no issues were identified under this Element.
<b>Areas for State* Attention</b>  <b>*Or, EPA Region’s attention where program is directly implemented.</b>	This describes activities, processes, or policies that the SRF data metrics and/or the file reviews show are being implemented with minor deficiencies that the State needs to pay attention to strengthen its performance, but are not significant enough to require the region to identify and track state actions to correct. This can describe a situation where a State is implementing either U.S. EPA or State policy in a manner that requires self-correction to resolve concerns identified during the review. These are single or infrequent instances that do not constitute a pattern of deficiencies or a significant problem. These are minor issues that the State should self-correct without additional U.S. EPA oversight. However, the State is expected to improve and maintain a high level of performance.

<p><b>Areas for State * Improvement – Recommendations Required</b></p> <p><b>*Or, EPA Region’s attention where program is directly implemented.</b></p>	<p>This describes 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 U.S. EPA oversight. This can describe a situation where a state is implementing either U.S. EPA or State policy in a manner requiring U.S. EPA attention. For example, these would be areas where the metrics indicate that the State is not meeting its commitments, there is a pattern of incorrect implementation in updating compliance data in the data systems, there are incomplete or incorrect inspection reports, and/or there is ineffective enforcement response. These would be significant issues and not merely random occurrences. Recommendations are required for these problems that will have well defined timelines and milestones for completion. Recommendations will be monitored in the SRF Tracker.</p>
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**RCRA Program**

Element 1 Data Completeness: Degree to which the minimum data requirements are complete		
1-1	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input checked="" type="checkbox"/> Area for State Improvement – Recommendations Required
Finding		The LQG universe in OTIS and RCRAInfo is larger than the active LQG universe.
Explanation		<p>The LQG universe in OTIS and RCRAInfo includes facilities that are no longer LQGs or that are episodic LQGs. HDOH’s annual LQG inspection commitment is based on inspecting 20% of the LQG universe each year so that the whole universe is inspected in five years. If the universe is erroneously large, the HDOH is committing to inspect more LQGs than is required.</p> <p>Recommended action: HDOH should review the LQG universe and remove facilities that are no longer LQGs. If the LQG is an episodic LQG, then HDOH should consider a way of identifying them from other LQGs.</p>
Metric(s) and Quantitative Value		1A2 – Number of active LQGs in RCRAInfo is 68. HDOH estimates the number of active LQGs in the state to be 47.
State Response		State agrees that this is a problem and has agreed to work with U.S. EPA to resolve this within the upcoming year.
Recommendation(s)		<ol style="list-style-type: none"> <li>Review the LQG universe defined in RCRAInfo and determine if the facilities are LQGs. If not, then revise their generator status. To be completed by the end of the next state fiscal year (September 30, 2010).</li> <li>Determine if there is trackable way to flag episodic LQGs in RCRAInfo. To be in place by the end of the next state fiscal year (September 30, 2010).</li> </ol>

**Element 1 Data Completeness: Degree to which the minimum data requirements are complete**

1-2	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input checked="" type="checkbox"/> Area for State Improvement – Recommendations Required
	Finding	HDOH does not get credit for all of the inspections and informal enforcement actions that they conduct because some facilities do not have U.S. EPA identification numbers so the information cannot be entered into RCRAInfo.
	Explanation	<p>HDOH conducts inspections based on tips and complaints from the public. Some of these inspections are at facilities that have not notified U.S. EPA that they generate hazardous waste, so they do not have an U.S. EPA identification number. Without an U.S. EPA identification number, the inspection information cannot be entered in to RCRAInfo. Any enforcement action that results from these inspections cannot be entered into RCRAInfo. Therefore, the number of inspections and informal enforcement actions are under reported in RCRAInfo.</p> <p>Recommended action: HDOH should work with U.S. EPA to get U.S. EPA identification numbers for all facilities inspected, so that HDOH will receive credit for all of their inspections and enforcement actions..</p>
	Metric(s) and Quantitative Value	<p>1B1 – Number of inspections is 50. HDOH also conducted 48 tip and complaint inspections, which are not reported in RCRAInfo</p> <p>1D1 – Number of informal enforcement action is 18. The actual number of informal enforcement actions issued by HDOH was 21, so three informal enforcement actions were not reported to RCRAInfo.</p>
	State Response	State agrees that this is a problem and has agreed to work with U.S. EPA to resolve this within the upcoming year.
	Recommendation(s)	1. Inspected facilities should be assigned an U.S. EPA identification number or short-term U.S. EPA identification number (RCRAInfo v4 functionality), so inspections and enforcements can be tracked. To be completed by the end of the next state fiscal year (September 30, 2010).

**Element 2 Data Accuracy: Degree to which the minimum data requirements are accurate**

2-1	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input checked="" type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required
	Finding	HDOH’s inspection and enforcement data is accurate in RCRAInfo. Fifteen facilities are shown in violation for more than 240 days.
	Explanation	<p>The data from HDOH’s files were accurately reflected in RCRAInfo 87% of the time.</p> <p>The 15 facilities shown in violation for more than 240 days are from inspections dating back to 1999 and do not reflect current data accuracy. The state should clean up these legacy data entry issues.</p>



Metric(s) and Quantitative Value	2C – 20 out of 23 files accurately reflected in national database
State Response	None.
Recommendation(s)	None.

**Element 3 Timeliness of Data Entry: Degree to which the minimum data requirements are complete**

3-1	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required
	Finding	HDOH made determinations and entered them immediately into RCRAInfo.
	Explanation	For 86% of the time, HDOH made SNC and Secondary Violator determinations within 150 days of the inspection and entered them immediately into RCRAInfo.
	Metric(s) and Quantitative Value	3A – 12 out of 14 files had determinations entered in the national database in a timely manner.
	State Response	None.
	Recommendation(s)	None.

**Element 4 Completion of Commitments: Degree to which the commitments in the inspection plan are met.**

4-1	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required
	Finding	HDOH met their inspection commitments for TSD and LQG inspections.

Explanation	HDOH committed to inspect their TSD universe every two years and they inspected half of the universe. HDOH committed to inspect 13 LQGs and they did inspect 13 LQGs.
Metric(s) and Quantitative Value	4A – One TSD was inspected and 13 LQGs were inspected.
State Response	None.
Recommendation(s)	None.

**Element 5 Inspection Coverage: Degree to which state completed the universe of planned inspections/compliance evaluations**

5-1	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required
Finding	HDOH met the national goal for regularly inspecting operating TSD facilities.	
Explanation	HDOH met the national goal of 100% inspection of the TSD facility universe every two years. HDOH exceeded the national average of 85.7%.	
Metric(s) and Quantitative Value	5A – TSD facility inspection coverage of 100%	
State Response	None.	
Recommendation(s)	None.	

**Element 5 Inspection Coverage: Degree to which state completed the universe of planned inspections/compliance evaluations**

5-2	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input checked="" type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required
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Finding	For one fiscal year, OTIS indicated that HDOH conducted 3 LQG inspections, however, RCRAInfo reports 13 LQG inspections, which is the actual number of inspections. For five fiscal years, OTIS reports 19 LQG inspections while RCRAInfo reports 36 facilities. OTIS defines the LQG universe as the facilities that last filed Biennial Reports, i.e. 26.
Explanation	<p>For one fiscal year, OTIS reports that HDOH conducted 3 LQG inspections and 11.5% coverage of the LQG universe. For five fiscal years, OTIS reports that HDOH conducted 19 LQG inspections and 73.1% coverage of the LQG universe.</p> <p>HDOH conducted 13 LQG inspections, which is 19% of the 68 LQG universe. The goal is 20% coverage. However, as explained in Issue 1-1, HDOH estimates the universe of active LQGs at 47, which results in a 27.7% (13/27) coverage.</p> <p>The HDOH LQG universe is based on facilities that filed a notification as an LQG, as reported in RCRAInfo. The RCRAInfo LQG universe includes episodic LQGs and facilities that have become SQGs but anticipate being an LQG in the future. The RCRAInfo LQG universe more accurately reflects reality than the OTIS LQG universe, which could miss LQGs in even-numbered years. As indicated in Issue 1-1, HDOH is reviewing the RCRAInfo LQG universe to ensure it accurately reflects reality.</p>
Metric(s) and Quantitative Value	<p>5B – LQG facility inspection coverage of 11.5% for one fiscal year</p> <p>5C – LQG facility inspection coverage of 73.1% for five fiscal years</p>
State Response	None.
Recommendation(s)	None.

**Element 6 Compliance Evaluation Reports: Degree to which inspection reports are complete and provide sufficient documentation**

6-1	<p>Is this finding a(n) (select one):</p> <p><input type="checkbox"/> Good Practice</p> <p><input checked="" type="checkbox"/> Meets SRF Program Requirements</p> <p><input type="checkbox"/> Area for State Attention</p> <p><input type="checkbox"/> Area for State Improvement – Recommendations Required</p>
Finding	The HDOH inspection reports were complete and provided sufficient documentation to determine compliance at the facility.
Explanation	For 95% of the inspection reports reviewed, the reports were complete and determined facility compliance.
Metric(s) and Quantitative Value	6B – 20 out of 21 inspection reports provided sufficient documentation.
State Response	None.
Recommendation(s)	None.

**Element 7 Identification of Alleged Violations:** Degree to which compliance determinations are accurately made and promptly reported in the national database based upon compliance monitoring report observations and other compliance monitoring information.

7-1	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required
	Finding	HDOH made accurate compliance determinations based on inspection reports
	Explanation	For 95% of the inspection reports reviewed, accurate compliance determinations were made and 86% of the facilities had violations reported timely in RCRAInfo.
	Metric(s) and Quantitative Value	7A – 20 out of 21 inspection reports provided accurate determinations. 7B – 12 out of 14 files had data reported to the national database in a timely manner.
	State Response	None.
	Recommendation(s)	None.

**Element 8 Identification of SNC:** Degree to which the state accurately identifies significant noncompliance and enters information into the national system in a timely manner.

8-1	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required
	Finding	HDOH met the national goal for rate of SNC determination.

Explanation	HDOH met the national goal of 100% of SNC determination made within 150 days. HDOH exceeded the national average of 75.6%.
Metric(s) and Quantitative Value	8B –100% of SNC determination made within 150 days.
State Response	
Recommendation(s)	None.

**Element 9 Enforcement Actions Promote Return to Compliance:** Degree to which state enforcement actions include required corrective action (i.e., injunctive relief or other complying actions) that will return facilities to compliance in a specific time frame.

9-1	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required
Finding	Facilities were returned to compliance or will be returned to compliance. SNCs were more difficult to get returned to compliance than secondary violators.	
Explanation	Half (3 out of 6) of the SNCs were returned to compliance and two of the three remaining SNCs are expected to return to compliance. 90% of the Secondary Violators were returned to compliance.	
Metric(s) and Quantitative Value	9B – 3 out of 6 SNCs were returned to compliance. 2 SNCs are anticipated to return to compliance. 9C – 9 out of 10 SV were returned to compliance	
State Response	None.	
Recommendation(s)	None.	

**Element 10 Timely and Appropriate Action:** Degree to which a state takes timely and appropriate enforcement actions in accordance with policy relating to specific media.

10-1	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required
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Finding	HDOH consistently takes appropriate enforcement actions and does so in a timely manner. The percentage of formal actions taken within 360 days of inspection is greater than the national average and less than the national goal.
Explanation	All of the enforcement actions reviewed were appropriate for the violations cited and 63% enforcements were taken in timely manner. On average, the enforcements are reported in 125 days from the time of inspection. However, the mean amount of time it takes for enforcements to be reported is 80 days.  Half (1 out of 2) of the formal actions were taken in less than 360 days, which exceeded the national average of 39%. For the formal action taken in more than 360 days, a letter was sent to the facility in 188 days that indicated an intent to initiate an enforcement action. Based on this information, it could be argued that 100% of HDOH's formal actions were taken in less than 360 days, which would exceed the national goal of 80%.
Metric(s) and Quantitative Value	10A – 1 out of 2 formal actions was taken in less than 360days. National goal is 80% and national average is 39%. 10E – 10 out of 16 enforcements were taken in timely manner.
State Response	None.
Recommendation(s)	None.

**Element 11 Penalty Calculation Method:** Degree to which state documents in its files that initial penalty calculation includes both gravity and economic benefit calculations, appropriately using the BEN model or other method that produces results consistent with national policy.

11-1	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required
Finding	All of HDOHs penalty calculations included appropriate gravity and economic benefit calculations.	
Explanation	All of the penalties included appropriate gravity and economic benefit. The sixth formal action, Chevron Hilo Terminal, had sent show cause letter but had not yet calculated penalty.	
Metric(s) and Quantitative Value	11A – 5 out of 5 penalty calculations included appropriate calculations.	
State Response	None.	
Recommendation(s)	None.	

**Element 12 Final Penalty Assessment and Collection:** Degree to which differences between initial and final penalty are documented in the file along with a demonstration in the file that the final penalty was collected.

12-1	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required
Finding		All of HDOHs final penalties documented the difference between initial and final penalties, and all of the penalties were collected.
Explanation		<p>All of the final penalties documented any difference between initial penalties assessed and final penalties collected. The collection of penalties was documented.</p> <p>It was noted in RCRAInfo that the final order against Pearl Harbor Naval Shipyard (HI6 170 024 339) was for violations by its contractor, Hawaii Marine Cleaning. Orders were filed against both entities and both entities were found culpable by the Hearing Officer. However, the penalty was paid by the contractor, so the penalty is associated with that order.</p>
Metric(s) and Quantitative Value		<p>12A – 3 out of 3 final penalties documented difference between initial and final amounts.</p> <p>12B – 3 out of 3 final penalties documented final collection.</p>
State Response		None.
Recommendation(s)		None.

**V. Element 13 Submission**

None.



## APPENDIX A: STATUS OF RECOMMENDATIONS FROM PREVIOUS REVIEWS

During the Round 1 SRF review of Hawaii's compliance and enforcement programs, Region 9 and Hawaii identified a number of actions to be taken to address issues found during the review. The table below shows the status of completing those actions. This table was generated from the SRF Tracker on June 14, 2010.

State	Status	Due Date	Media	Element	Finding	Recommendation
HI - Round 1	Completed	9/30/2007	RCRA	Insp Universe	RCRAInfo and OTIS does not accurately reflect HI's LQG universe	EPA and HDOH will review & update RCRAInfo LQG universe with HDOH providing verified and accurate numbers.
HI - Round 1	Completed	9/30/2007	RCRA	Insp Universe	51% of LQGs had been inspected over 5 years	HDOH will inspect any LQG facilities not inspected in last 5 years.
HI - Round 1	Completed	9/30/2007	RCRA	Insp Universe	Disparities exist in number of SQGs reported in OTIS versus RCRAInfo due to presence of episodic or one-time generators, resulting in low 5-year inspection rate of SQGs..	EPA and HDOH will work to improve accuracy of SQG data in RCRAInfo
HI - Round 1	Completed	9/30/2008	RCRA	Violations ID'ed Appropriately	12 incomplete inspection files lacked documentation. Completed files were thorough.	HDOH should ensure that inspection & violation info is correctly reported in the inspection files in a timely manner. Inspection documentation should be prepared as soon as possible after facility site inspection.
HI - Round 1	Completed	9/30/2008	RCRA	Violations ID'ed Timely	Average time to complete inspection reports was 95 days versus 45 days as agreed.	HDOH will improve timeliness in completing inspection reports
HI - Round 1	Completed	9/30/2008	RCRA	Violations ID'ed Timely	Request for Information actions had not been entered into RCRAInfo, resulting in a larger number of cases appearing to miss the 45-day target for completion of inspection report.	RFI actions will be entered into RCRAInfo
HI - Round 1	Completed	9/30/2008	RCRA	SNC Accuracy	SNC determinations were not entered into RCRAInfo prior to case being settled.	HDOH should ensure the timely entry of SNC determinations into RCRAInfo.
HI - Round 1	Completed	9/30/2008	RCRA	Penalties Collected	HDOH settled cases in FY05 for \$1.03Million. OTIS did not identify penalties collected because HDOH failed to enter the information into RCRAInfo.	HDOH will enter penalty amounts into RCRAInfo.
HI - Round 1	Completed	9/30/2008	RCRA	Data Timely	Inspection & enforcement data have historically been entered into RCRAInfo after enf.action is concluded; return to compliance data and settlement data is entered inconsistently.	HDOH will improve timely entry of data into RCRAInfo.
HI - Round 1	Completed	9/30/2008	RCRA	Data Timely	Inspection data is not timely entered.	HDOH inspectors will continue to receive training on use of RCRAInfo database.

HI - Round 1    Completed    9/30/2008    RCRA    Data Accurate

HDOH did not enter return to compliance into RCRAInfo, and other info.

HDOH will improve data entry into RCRAInfo of return to compliance dates, settlement dates, and penalty amounts.

## APPENDIX B: OFFICIAL DATA PULL

### OTIS State Review Framework Results



Metrics  
Information

### RCRA Data for Hawaii (Review Period Ending: FY09)

**Please note:** For display purposes, some important explanatory details about the data metrics are not included on the metrics results screen. To see detailed information about each data metric, refer to the data metrics informational spreadsheet or data metrics plain language guide when reviewing the data - all SRF guidance is available on the [OTIS SRF documents page](#). The [data problems page](#) indicates any known data metrics issues.

			Production FY 2009 Data ( <a href="#">Current Data Refresh Dates</a> )						
Metric	Metric Type	Agency	National Goal	National Average	Hawaii (Metric=x/y) <sup>0</sup>	Count (x)	Universe (y)	Not Counted (y-x)	
1. Data completeness. degree to which the minimum data requirements are complete.									
A	Number of operating TSDFs in RCRAInfo	Data Quality	State			<a href="#">2</a>	NA	NA	NA
	Number of active LQGs in RCRAInfo	Data Quality	State			<a href="#">68</a>	NA	NA	NA
	Number of active SQGs in RCRAInfo	Data Quality	State			<a href="#">411</a>	NA	NA	NA
	Number of all other active sites in RCRAInfo	Data Quality	State			<a href="#">739</a>	NA	NA	NA
	Number of LQGs per latest official biennial report	Data Quality	State			<a href="#">26</a>	NA	NA	NA
B	Compliance monitoring: number of inspections (1 FY)	Data Quality	State			<a href="#">50</a>	NA	NA	NA
	Compliance monitoring: sites inspected (1 FY)	Data Quality	State			<a href="#">49</a>	NA	NA	NA
C	Number of sites with violations determined at any time (1 FY)	Data Quality	State			<a href="#">53</a>	NA	NA	NA
	Number of sites with violations determined during the FY	Data Quality	State			<a href="#">15</a>	NA	NA	NA
D	Informal action: number of sites (1 FY)	Data Quality	State			<a href="#">18</a>	NA	NA	NA
	Informal action: number of actions (1 FY)	Data Quality	State			<a href="#">18</a>	NA	NA	NA
E	SNC: number of sites with new SNC (1 FY)	Data Quality	State			<a href="#">2</a>	NA	NA	NA
	SNC: number of sites in SNC (1 FY)	Data Quality	State			<a href="#">7</a>	NA	NA	NA
F	Formal action: number of sites (1 FY)	Data Quality	State			<a href="#">7</a>	NA	NA	NA
	Formal action: number taken (1 FY)	Data Quality	State			<a href="#">7</a>	NA	NA	NA

G	Total amount of final penalties (1 FY)	Data Quality	State				<a href="#">\$154,000</a>	NA	NA	NA
2. Data accuracy. degree to which the minimum data requirements are accurate.										
A	Number of sites SNC-determined on day of formal action (1 FY)	Data Quality	State				0	NA	NA	NA
A	Number of sites SNC-determined within one week of formal action (1 FY)	Data Quality	State				0	NA	NA	NA
B	Number of sites in violation for greater than 240 days	Data Quality	State				<a href="#">15</a>	NA	NA	NA
3. Timeliness of data entry. degree to which the minimum data requirements are complete.										
A	Percent SNCs entered ≥ 60 days after designation (1 FY) <sup>1</sup>	Review Indicator	State				100.0%	<a href="#">2</a>	2	0
B	Comparison of Frozen Data Set	Compare the production data results under Element 1 to the frozen data. Please see <a href="#">Plain Language Guide</a> for details.								
5. Inspection coverage. degree to which state completed the universe of planned inspections/compliance evaluations.										
A	Inspection coverage for operating TSDFs (2 FYs)	Goal	State	100%	85.7%	100.0%		<a href="#">2</a>	2	0
B	Inspection coverage for LQGs (1 FY)	Goal	State	20%	24.6%	11.5%		<a href="#">3</a>	26	<a href="#">23</a>
C	Inspection coverage for LQGs (5 FYs)	Goal	State	100%	68.5%	73.1%		<a href="#">19</a>	26	<a href="#">7</a>
D	Inspection coverage for active SQGs (5 FYs)	Informational Only	State				18.5%	<a href="#">76</a>	411	<a href="#">335</a>
	Inspections at active CESQGs (5 FYs)	Informational Only	State				<a href="#">84</a>	NA	NA	NA
	Inspections at active transporters (5 FYs)	Informational Only	State				<a href="#">38</a>	NA	NA	NA
E	Inspections at non-notifiers (5 FYs)	Informational Only	State				<a href="#">1</a>	NA	NA	NA
	Inspections at active sites other than those listed in 5a-d and 5e1-5e3 (5 FYs)	Informational Only	State				<a href="#">10</a>	NA	NA	NA
7. Identification of alleged violations. degree to which compliance determinations are accurately made and promptly reported in the national database based upon compliance monitoring report observations and other compliance monitoring information.										
C	Violation identification rate at sites with inspections (1 FY)	Review Indicator	State				30.6%	<a href="#">15</a>	<a href="#">49</a>	34
8. Identification of SNC and HPV. degree to which the state accurately identifies significant noncompliance & high priority violations and enters information into the national system in a timely manner.										
A	SNC identification rate at sites with inspections (1 FY)	Review Indicator	State	1/2 National Avg	3.1%	4.1%		<a href="#">2</a>	49	<a href="#">47</a>
B	Percent of SNC determinations made within 150 days (1 FY)	Goal	State	100%	75.6%	100.0%		<a href="#">2</a>	2	0
C	Percent of formal actions taken that received a prior SNC listing (1 FY)	Review Indicator	State	1/2 National Avg	61.4%	50.0%		<a href="#">3</a>	6	<a href="#">3</a>
10. Timely and appropriate action. degree to which a state takes timely and appropriate enforcement actions in accordance with policy relating to specific media.										
A	Percent of SNCs with formal	Review Indicator	State	80%	39.0%	50.0%		<a href="#">1</a>	2	<a href="#">1</a>

	action/referral taken within 360 days (1 FY)								
B	No activity indicator - number of formal actions (1 FY)	Review Indicator	State			<u>7</u>	NA	NA	NA
12. Final penalty assessment and collection. Degree to which differences between initial and final penalty are documented in the file along with a demonstration in the file that the final penalty was collected.									
A	No activity indicator - penalties (1 FY)	Review Indicator	State			<u>\$154,000</u>	NA	NA	NA
B	Percent of final formal actions with penalty (1 FY)	Review Indicator	State	1/2 National Avg	64.6%	50.0%	<u>1</u>	2	<u>1</u>

[Save Results \(a comma delimited text file\)](#)

[Save Results \(Excel file\)](#)

Report Generated on 3/2/2010  
[Data Refresh Dates](#)

**Note:** EPA Regions must archive the state official data set (first results screen) used for a state review, as these data cannot be reproduced at a later date. SRF data metrics results may change as data are updated in AFS, ICIS, PCS, and RCRAInfo. The above data set may be saved in Excel or comma delimited text format by clicking on the appropriate Save Results link above. Drilldown tables that are linked from this page also cannot be exactly reproduced after a new data refresh occurs if the state has entered or changed data. OECA does not require regions to save the drilldown facility lists in order to document their review; however, if potential problem areas are identified through regional analysis or via state dialogue, the region may want to save selected drilldown lists.

**General Notes:**

- \* Blue-shaded rows denote that the metric was pulled manually.
- \* The results counts of some metrics contain enforcement sensitive (ES) records/actions. When using the drilldowns, [enforcement sensitive access](#) may be required to view all records/actions included in the results counts.
- \* Because of timeout issues, links are not provided to drilldowns that produce more than 1500 records.

**Caveats:**

- <sup>0</sup> State Metric column is generally computed from the value in the Count column (x) divided by the value in the Universe column (y).
- <sup>1</sup> This metric includes SNC entry from 10/19/08 to 10/19/09. The data are updated annually at the end of each fiscal year.

## **APPENDIX C: PDA TRANSMITTAL LETTER**

Appendices C, D, and E provide the results of the PDA. The PDA forms the initial structure for the SRF report, and helps ensure that the data metrics are adequately analyzed prior to the on-site review. This is a critical component of the SRF process because it allows the reviewers to be prepared and knowledgeable about potential problem areas before initiating the on-site portion of the review. In addition, it gives the region focus during the file reviews and/or basis for requesting supplemental files based on potential concerns raised by the data metrics results.

This section, Appendix C, contains the letter transmitting the results of the Preliminary Data Analysis to the state. This letter identifies areas that the data review suggests the need for further examination and discussion during the review process.

### **Resource Conservation and Recovery Act Preliminary Data Analysis of Hawaii's SRF Data Metrics**

#### **I. Introduction – Purpose of Preliminary Data Analysis**

To adequately prepare for U.S. EPA's on-site review of state files and discussions of findings/recommendations, the SRF process calls for the region to: (1) perform preliminary analysis of the SRF data metrics to identify potential areas of concern and (2) identify the number and specific facility list of files to be reviewed during the on-site file review step. The following preliminary data analysis provides the state with a preliminary look at how U.S. EPA interprets the state's performance relevant to each SRF element that has an associated data metric. U.S. EPA's preliminary review of the data is only the first step in the review process, and is primarily used to frame key discussion topics during the on-site review. Elements that do not have data metrics will be evaluated during the file reviews. Actual findings will be developed only after the file reviews and dialogue with the state have occurred. Data metrics results were pulled from the OTIS SRF data metrics Web site (<http://www.epa-otis.gov/otis/stateframework.html>) on March 2 and 4, 2010.

Preliminary review by Region 9 of Hawaii's RCRA SRF data metrics results for the Fiscal Year 2009 period has identified both positive accomplishments and areas for improvement that will be discussed during the file review and subsequent report writing process. The SRF on-site file review will cover all SRF metrics (data and file review), including additional Element 13 information if submitted by the state. This enclosure provides a detailed look at EPA's preliminary data analysis.

#### **II. Acknowledgement of Prior Issues, Commitments, or Ongoing Accomplishments**

The following issues or accomplishments are acknowledged here to provide context for the review.

- The SRF Tracker includes the following items that the region kept in mind during the preliminary data analysis:
  - The LQG universe includes episodic LQGs.
  - Inspection and enforcement information is not in RCRAInfo for facilities without EPA identification numbers.
  - HDOH consistently inspects their TSD and LQG universes.

## **APPENDIX D: PRELIMINARY DATA ANALYSIS CHART**

This section provides the results of the PDA. The PDA forms the initial structure for the SRF report, and helps ensure that the data metrics are adequately analyzed prior to the on-site review. This is a critical component of the SRF process because it allows the reviewers to be prepared and knowledgeable about potential problem areas before initiating the on-site portion of the review. In addition, it gives the region focus during the file reviews and/or basis for requesting supplemental files based on potential concerns raised by the data metrics results.

The PDA reviews each data metric and evaluates state performance against the national goal or average, if appropriate. The PDA Chart in this section of the SRF report only includes metrics where potential concerns are identified or potential areas of exemplary performance. The full PDA Worksheet (Appendix E) contains every metric: positive, neutral or negative. Initial Findings indicate the observed results. Initial Findings are preliminary observations and are used as a basis of further investigation that takes place during the file review and through dialogue with the state. Final Findings are developed only after evaluating them against the file review results where appropriate, and dialogue with the state have occurred. Through this process, Initial Findings may be confirmed, modified, or determined not to be supported. Findings are presented in Section IV of this report.



**RCRA**

**III. Preliminary Data Analysis of State Data Metrics Results**

U.S. EPA Region 9 has reviewed the SRF data metrics in relation to national goals and averages. Below are highlights and potential areas of concern. The region intends to focus on these areas of concern during the on-site review. The enclosed worksheet contains more detail.

Original Data Pulled from Online Tracking Information System (OTIS)							U.S. EPA Preliminary Analysis
Metric	Metric Description	Metric Type	Agency	National Goal	National Average	Hawaii Metric	Initial Findings
1A2-S	Number of active LQGs in RCRAInfo	Data Quality	State			68	The number of LQGs includes episodic LQGs so it is larger than the number of active LQGs. HDOH is reviewing facility status and will update handler information in RCRAInfo.
1B1-S	Compliance monitoring: number of inspections (1FY)	Data Quality	State			50	The number correlates with RCRAInfo. However, HDOH has done additional inspections and responses to tips and complaints, which may not be in RCRAInfo because the facility did not have an U.S. EPA ID number.
1D1-S	Informal actions: number of sites (1FY)	Data Quality	State			18	The number is less than the actual numbers of informal actions that HDOH has conducted because some of the facilities did not have U.S. EPA ID numbers.
5A-S	Inspection coverage of operating TSDFs (2FYs)	Goal	State	100%	85.7%	100%	HDOH met the national goal for regularly inspecting operating TSDFs
5B-S	Inspection coverage for LQGs (1FY)	Goal	State	20%	24.6%	11.5%	This metric is incorrect. HDOH inspected 13 LQGs in FY09 according to RCRAInfo. Even with the inflated LQG universe number of 68 facilities, that is an inspection coverage of 19% which is close to the national goal.  OTIS indicated 3 LQG inspections and a universe of 68 which corresponds to an inspection coverage of 4%, not 11.5%. Unclear metric.

5C-S	Inspection coverage for LQGs (5FYs)	Goal	State	100%	68.5%	73.1%	Hawaii's metric is higher than the national average, however, HDOH should have inspected 100% of its LQG universe within 5 years.
8B-S	Percent of SNC determination made within 150 days (1FY)	Goal	State	100%	75.6%	100%	HDOH met the national goal for rate of SNC determination.

## APPENDIX E: PDA WORKSHEET

Metric	Metric Description	Metric Type	Agency	National Goal	National Average	Hawaii Metric Prod	Count Prod	Universe Prod	Not Counted Prod	State Discrepancy (Yes/No)	State Correction	State Data Source	Discrepancy Explanation	Evaluation	Initial Findings
R01A1S	Number of operating TSDFs in RCRAInfo	Data Quality	State			2	NA	NA	NA	No					
R01A2S	Number of active LQGs in RCRAInfo	Data Quality	State			68	NA	NA	NA	Yes		Inspection Spreadsheet	Includes episodic LQGs		Need to revise LQG universe
R01A3S	Number of active SQGs in RCRAInfo	Data Quality	State			411	NA	NA	NA	No					
R01A4S	Number of all other active sites in RCRAInfo	Data Quality	State			739	NA	NA	NA	No					
R01A5S	Number of LQGs per latest official biennial report	Data Quality	State			26	NA	NA	NA	No					
R01B1S	Compliance monitoring: number of inspections (1 FY)	Data Quality	State			50	NA	NA	NA	Yes		Inspection Spreadsheet	Does not include tips and complaints		Need to revise LQG universe
R01B2S	Compliance monitoring: sites inspected (1 FY)	Data Quality	State			49	NA	NA	NA	No					
R01C1S	Number of sites with violations determined at any time (1 FY)	Data Quality	State			53	NA	NA	NA	No					
R01C2S	Number of sites with violations determined during the FY	Data Quality	State			15	NA	NA	NA	No					
R01D1S	Informal action: number of sites (1 FY)	Data Quality	State			18	NA	NA	NA	Yes		Inspection Spreadsheet	Does not include facilities without EPA IDs	Noted in end of year report	Should include about 7 more
R01D2S	Informal action: number of actions (1 FY)	Data Quality	State			18	NA	NA	NA	No					
R01E1S	SNC: number of sites with new SNC (1 FY)	Data Quality	State			2	NA	NA	NA	No					
R01E2S	SNC: number of sites in SNC (1 FY)	Data Quality	State			7	NA	NA	NA	No					
R01F1S	Formal action: number of sites (1 FY)	Data Quality	State			7	NA	NA	NA	No					
R01F2S	Formal action: number taken (1 FY)	Data Quality	State			7	NA	NA	NA	No					
R01G0S	Total amount of final penalties (1 FY)	Data Quality	State			\$154,000	NA	NA	NA	No					
R02A1S	Number of sites SNC-determined on day of formal action (1 FY)	Data Quality	State			0	NA	NA	NA	No					
R02A2S	Number of sites SNC-determined within one week of formal action (1 FY)	Data Quality	State			0	NA	NA	NA	No					
R02B0S	Number of sites in violation for greater than 240 days	Data Quality	State			15	NA	NA	NA	No					
R03A0S	Percent SNCs entered &ge; 60 days after designation (1 FY)	Review Indicator	State			100.0%	2	2	0	No					
R05A0S	Inspection coverage for operating TSDFs (2 FYs)	Goal	State	100%	85.7%	100.0%	2	2	0	No					
R05B0S	Inspection coverage for LQGs (1 FY)	Goal	State	20%	24.6%	11.5%	3	26	23	Yes		RCRAInfo	Metric appears miscalculated		13 LQG inspections for FY09
R05C0S	Inspection coverage for LQGs (5 FYs)	Goal	State	100%	68.5%	73.1%	19	26	7	Yes		RCRAInfo	Seems low		Should be closer to 100%
R05D0S	Inspection coverage for active SQGs (5 FYs)	Informational Only	State			18.5%	76	411	335	No					
R05E1S	Inspections at active CESQGs (5 FYs)	Informational Only	State			84	NA	NA	NA	No					
R05E2S	Inspections at active transporters (5 FYs)	Informational Only	State			38	NA	NA	NA	No					
R05E3S	Inspections at non-notifiers (5 FYs)	Informational Only	State			1	NA	NA	NA	No					
R05E4S	Inspections at active sites other than those listed in 5a-d and 5e1-5e3 (5 FYs)	Informational Only	State			10	NA	NA	NA	No					
R07C0S	Violation identification rate at sites with inspections (1 FY)	Review Indicator	State			30.6%	15	49	34	No					
R08A0S	SNC identification rate at sites with inspections (1 FY)	Review Indicator	State	1/2 Nation	3.1%	4.1%	2	49	47	No					
R08B0S	Percent of SNC determinations made within 150 days (1 FY)	Goal	State	100%	75.6%	100.0%	2	2	0	No					
R08C0S	Percent of formal actions taken that received a prior SNC listing (1 FY)	Review Indicator	State	1/2 Nation	61.4%	50.0%	3	6	3	No					
R10A0S	Percent of SNCs with formal action/referral taken within 360 days (1 FY)	Review Indicator	State	80%	39.0%	50.0%	1	2	1	No					
R10B0S	No activity indicator - number of formal actions (1 FY)	Review Indicator	State			7	NA	NA	NA	No					
R12A0S	No activity indicator - penalties (1 FY)	Review Indicator	State			\$154,000	NA	NA	NA	No					
R12B0S	Percent of final formal actions with penalty (1 FY)	Review Indicator	State	1/2 Nation	64.6%	50.0%	1	2	1	No					

## **APPENDIX F: FILE SELECTION**

Files to be reviewed are selected according to a standard protocol (available to U.S. EPA and state users here: [http://www.epa-otis.gov/srf/docs/fileselectionprotocol\\_10.pdf](http://www.epa-otis.gov/srf/docs/fileselectionprotocol_10.pdf)) and using a web-based file selection tool (available to U.S. EPA and state users here: [http://www.epa-otis.gov/cgi-bin/test/srf/srf\\_fileselection.cgi](http://www.epa-otis.gov/cgi-bin/test/srf/srf_fileselection.cgi)). The protocol and tool are designed to provide consistency and transparency in the process. Based on the description of the file selection process in section A, states should be able to recreate the results in the table in section B.

### **A File Selection Process**

U.S. EPA followed the SRF File Selection Protocol to determine that the number of files that should be reviewed. The protocol indicates that for a state with less than 300 facilities with compliance or enforcement activities during the review year, 15 to 30 files should be reviewed. It was determined to review 23 of HDOH's files.

The files were selected using the OTIS File Selection Tool in order to include a representative sample of files. Of the 23 files, 17 files were examined because the facility had an inspection during the base review year, and 14 files were examined because an enforcement action was taken in the review year. The inspection files include a mix of facilities with various compliance history information in the national system. If an inspection file had an enforcement action associated with it, both activities were reviewed (and vice-versa when a selected action had an inspection file).

### **B. File Selection Table**

The table below lists the selected files using the OTIS File Selection Tool.

Facility Name	EPA ID	Address	City	State	Zip Code	Ev al ua tio n	Viol atio n	S N C	Infor mal Actio n	Formal Action	Pen alty (\$)	Univ erse	Select
ALOHA PAINTING COMPANY, INC.	HIR000139204	99-1350 KOAHA PL	AIEA	HI	96701	1	5	0	1	0	0	SQG	accepted representative
ALOHA PETROLEUM BARBERS POINT TERMINAL	HID000626333	91-119 HANUA STREET	KAPOLEI	HI	96707	0	5	0	1	1	0	LQG	accepted representative
BIG ISLAND SCRAP METAL LLC	HIR000139303	HILO LANDFILL	WAIAKEA	HI	96720	1	5	0	1	0	0	TRA	accepted representative
CHEVRON HILO TERMINAL	HIT000615252	666 KALANIANAOLE AVE	HILO	HI	96720	1	6	1	1	0	0	LQG	accepted representative
CHEVRON HONOLULU TRANSPORTATION TERMINAL	HIT000615260	933 N NIMITZ HWY	HONOLULU	HI	96817	1	0	0	0	0	0	LQG	accepted representative
CHEVRON USA INC KEAHOLE AIRPORT TERMIN	HIT000615344	KEAHOLE AIRPORT	KAILUA KONA		96740	1	0	0	0	0	0	OTH	accepted representative
GIORDANO'S PAINTING AND SANDBLASTING	HIR000138917	87-1161 HAKIMO RD #C	WAIANAE	HI	96792	0	0	0	0	1	0	NON	accepted representative
HALAWA CORRECTIONAL FACILITY	HI0000146910	99 902 MOANALUA HWY	AIEA	HI	96701	0	0	0	1	0	0	SQG	accepted representative
HAMAKUA ENERGY PARTNERS	HIR000138164	45 300 LEHUA ST	HONOKAA	HI	96727	1	2	0	1	0	0	LQG	accepted representative
HAWAII GUN CLUB	HIR000135509	339 ROYAL HAWAIIAN AVE	HONOLULU	HI	96815	1	0	0	0	0	0	CES	accepted representative
HAWAII MARINE CLEANING LLC	HIR000135582	96 1382 WAIHONA ST	PEARL CITY	HI	96782	0	0	0	0	1	###	CES	accepted representative

HAWAIIAN TEL	HID981427297	1021 KIKOWAENA PLACE	HONOLULU	HI	96819	1	0	0	0	0	0	CES	accepted representative
JADE PAINTING, INC.	HIR000139378	94-1410 MOANIANI ST	WAIPAHU	HI	96797	1	6	0	1	0	0	SQG	accepted representative
MARISCO LTD	HID984467712	91 607 MALAKOLE RD	KAPOLEI	HI	96707	1	20	1	1	1	0	SQG	accepted representative
MAUI TOYOTA FKA HI WOOD PRESERVING CO	HID980883185	356 HANAKAI STREET	KAHULUI	HI	96732	1	0	0	0	0	0	LQG	accepted representative
NAVY REGION HI - WEST LOCH	HI9170090006	WEST LOCH	EWA	HI	96706	1	0	0	0	0	0	TSD (TSF)	accepted representative
NYK LINE (NORTH AMERICA) INC.	HIP000139170	PIER 1 FORT ARMSTRONG	HONOLULU	HI	96813	1	2	0	1	0	0	OTH	accepted representative
PEARL HARBOR NAVAL SHIPYARD AND	HI6170024339	667 SAFEGUARD STREET, SUITE 10	PEARL HARBOR		96860	0	5	0	1	1	0	TSD (TSF)	accepted representative
TESORO HAWAII-MAUI TERMINAL	HI0000146365	140 A HOBRON AVENUE	KAHULUI	HI	96732	1	0	0	0	0	0	SQG	accepted representative
TOSCO WAIANAE BULK PLANT 0837	HID984468959	87 523 FARRINGTON HWY	WAIANAE	HI	96792	0	0	0	0	1	0	LQG	accepted representative
USARMY KILAUEA MILITARY CAMP	HIR000045674	HAWAII VOLCANOES NATL PARK	HAWAII NATIONAL PARK		96718	1	0	0	0	0	0	SQG	accepted representative
WAIKIKI GUN CLUB	HIR000135764	2142 KALAKAUA AVE	HONOLULU	HI	96815	1	0	0	0	0	0	CES	accepted representative
WOOD PROTECTION CO	HID981164254	150 KEAA ST	HILO	HI	96720	1	0	0	1	0	0	LQG	accepted representative

## **APPENDIX G: FILE REVIEW ANALYSIS**

This section presents the initial observations of U.S. EPA Region 9 regarding program performance against file metrics. Initial Findings are developed by the region at the conclusion of the File Review process. The Initial Finding is a statement of fact about the observed performance, and should indicate whether the performance indicates a practice to be highlighted or a potential issue, along with some explanation about the nature of good practice or the potential issue. The File Review Metrics Analysis Form in the report only includes metrics where potential concerns are identified, or potential areas of exemplary performance.

Initial Findings indicate the observed results. Initial Findings are preliminary observations and are used as a basis for further investigation. Findings are developed only after evaluating them against the PDA results where appropriate, and dialogue with the state have occurred. Through this process, Initial Findings may be confirmed, modified, or determined not to be supported. Findings are presented in Section IV of this report.

The quantitative metrics developed from the file reviews are initial indicators of performance based on available information and are used by the reviewers to identify areas for further investigation. Because of the limited sample size, statistical comparisons among programs or across states cannot be made.

### **RCRA Program**

**Name of State: Hawaii**

**Review Period: Fiscal Year 2009 (10/1/08 - 9/30/09)**

<b>RCRA Metric #</b>	<b>RCRA File Review Metric Description:</b>	<b>Metric Value</b>	<b>Initial Findings</b>
<b>Metric 2c</b>	% of files reviewed where mandatory data are accurately reflected in the national data system.	87%	20/23 of files accurately reflected in national databases
<b>Metric 4a</b>	Planned inspections completed	100%	Conducted one TSD inspection, which is half the universe
<b>Metric 4b</b>	Planned commitments completed	NA	
<b>Metric 6a</b>	# of inspection reports reviewed.	21	21 inspection reports reviewed
<b>Metric 6b</b>	% of inspection reports reviewed that are complete and provide sufficient documentation to determine compliance at the facility.	95%	20/21 inspection reports provide sufficient documentation
<b>Metric 6c</b>	Inspection reports completed within a determined time frame.	48%	10/21 reports completed within 45 days of inspection. The average time for completing an inspection report was 68 days. However, a few reports that took a long time skew the number because the mean amount of time taken is 41 days, which is less than the 45 day requirement.
<b>Metric 7a</b>	% of accurate compliance determinations based on inspection reports.	95%	20/21 accurate determinations
<b>Metric 7b</b>	% of violation determinations in the files reviewed that are reported timely to the national database (within 150 days).	86%	12/14 files reported timely to national databases.
<b>Metric 8h</b>	% of violations in files reviewed that were accurately determined to be SNC.	86%	12/14 files had accurately determined SNCs

<b>Metric 9a</b>	# of enforcement responses reviewed.	16	16 enforcement responses reviewed. Of these enforcement responses, 10 were informal enforcements and 6 were formal enforcements.
<b>Metric 9b</b>	% of enforcement responses that have returned or will return a source in SNC to compliance.	50%	3/6 SNCs returned to compliance
<b>Metric 9c</b>	% of enforcement responses that have returned or will return Secondary Violators (SV's) to compliance.	90%	9/10 Secondary Violators returned to compliance. Of the facilities that RTC, the average time for a Secondary Violator to RTC was 158 days, which is below the requirement of 240 days.
<b>Metric 10e</b>	% of enforcement responses reviewed that are taken in a timely manner.	63%	10/16 enforcements taken in timely manner. On average, the enforcements are reported in 125 days from the time of inspection. However, the mean amount of time it takes for enforcements to be reported is 80 days.
<b>Metric 10d</b>	% of enforcement responses reviewed that are appropriate to the violations.	100%	16/16 enforcements appropriate for violations
<b>Metric 11a</b>	% of reviewed penalty calculations that consider and include where appropriate gravity and economic benefit.	100%	5/5 penalties included appropriate gravity and economic benefit. The sixth formal action, Chevron Hilo Terminal, had sent show cause letter but had not yet calculated penalty.
<b>Metric 12a</b>	% of penalties reviewed that document the difference and rationale between the initial and final assessed penalty.	100%	3/3 final penalties documented difference between initial and final penalties
<b>Metric 12b</b>	% of files that document collection of penalty.	100%	3/3 final penalties documented collection



## **APPENDIX H: CORRESPONDENCE**

*Attach correspondence between U.S. EPA and the state including, if received, comments on Draft Report and Final Report.*