

**Maryland Department of the Environment
State Review Framework Report
For Fiscal Year 2007
December, 2009**

Table of Contents

- I. EXECUTIVE SUMMARY
- II. BACKGROUND INFORMATION ON STATE PROGRAM REVIEW PROCESS
- III. STATUS OF RECOMMENDATIONS FROM PREVIOUS REVIEWS
- IV. FINDINGS AND RECOMMENDATIONS
- V. PRELIMINARY DATA ANALYSIS
- VI. FILE SELECTION
- VII. FILE REVIEW ANALYSIS
- VIII. APPENDICES:
 - A. Corrected Data
 - B. PDA
 - C. State/Local Correspondence
 - D. Acronyms

I. EXECUTIVE SUMMARY

The Environmental Protection Agency (EPA) Region III conducted the second state review of the Maryland Department of the Environment's (MDE) Clean Air Act, Clean Water Act - NPDES and the Resource Conservation and Recovery Act (RCRA) enforcement programs using the criteria of the State Review Framework. The Region used data and reviewed files of inspections and enforcement actions from Fiscal Year 2007.

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 look at 12 program elements covering: data (completeness, timeliness, and quality); inspections (coverage and quality); identification of violations, enforcement actions (appropriateness and timeliness); penalties (calculation, assessment and collection); and, grant and/or PPA/PPG commitments. 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 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:

Element 13 of the SRF is a mechanism for states that have demonstrated good performance in their core enforcement programs the ability to request recognition and resource flexibility credit. MDE did not provide an Element 13 submission.

Accomplishments:

MDE's air enforcement program has been timely in submitting its Compliance Monitoring Strategy (CMS) Plan to EPA and in uploading the planned CMS inspections to the Air Facility System (AFS) database. MDE has met all its commitments to inspect, on an annual basis, 1-2 percent of its area sources that were identified in the Region III Round I Area Source Implementation Strategy – a Strategy that exceeds national requirements in itself. Conversations with MDE personnel during the file review led the Review Team to believe that they are very knowledgeable about air pollution control and monitoring methods. Despite resource constraints, the Review Team noted the consistent high quality of the Compliance Monitoring Reports (CMRs) reviewed during the file review. All but one reported HPVs addressed during the review year were addressed with penalties. The lone facility not to be addressed with a penalty was a federal facility.

Inspector Field Tool – Since July 2008, the TEMPO Remote Inspection Process (TRIP) has been an effective laptop system and field tool that allows for MDE inspectors to complete an inspection checklist in real time. The checklist is printed and provided to the facility operator for review and signature.

Best Practices:

Documenting CMRs - The quality of the air enforcement program's CMRs written by MDE personnel is considered a best practice. The CMRs were found to be complete and well written. The quality of the CMRs ensures that the compliance status of a facility is well documented, and serves as an excellent source for future CMRs written at a given facility.

New SSO Initiative The Department is implementing a new enforcement initiative effective January 1, 2009 as a further step in its efforts to address unauthorized discharges of pollutants resulting from sanitary sewer overflows. The Department has taken numerous enforcement actions independently and jointly with the Environmental Protection Agency (EPA) and citizen groups over the last ten years that included orders for system upgrades and penalties for unlawful discharges. These actions are intended to focus greater attention on illicit discharges and to encourage municipalities and private sewer system owners to do all they can to identify and correct problems in their systems to prevent overflows. In the past, MDE targeted those systems with numerous sewage overflows or large volume overflows for enforcement actions.

Under the new enforcement initiative, MDE will begin to assess penalties for all sewage overflows, with the exception of permitted combined sewer overflows, unless the owner or operator of the system can clearly demonstrate that the overflow was beyond their control and in spite of taking all reasonable steps to properly operate, maintain and improve sewer system infrastructure. Under State and federal law, penalties for sewage overflows can range from \$1,000 to \$32,500 per day respectively for each overflow. The Department may also issue orders requiring improvements to prevent and eliminate sewer overflows from systems with repeated overflows from the same pump station, manhole or sewer line, large volume overflows or overflows that are due to poor system maintenance, operation or design.

Construction Initiative - The NPDES storm water program's general permit for construction sites requires developers to conduct weekly inspection of construction sites and maintain a log of these inspections. However, MDE does not have enough inspectors to review the logs. In order for MDE to assure compliance with the requirement for developers to conduct weekly inspection of construction sites, MDE acquired a grant from the Keith Campbell foundation to conduct a pilot program. MDE and Volunteer Maryland, an AmeriCorps program of the Governor's Office have developed a long-term volunteer program to focus on a region wide environmental need: the preservation of the Chesapeake Bay and Maryland's waterways. The Volunteer Enforcement Corps works with MDE to monitor and prevent sediment pollution caused by stormwater runoff. The Corps evaluates inspection logs of 20+ acre construction sites, to ensure the logs are in compliance and not allowing pollution into local waterways. The program uses online mapping systems that link various data sources and produce interpretive and interactive data displays. This process allows for swift enforcement action, remediation and the pollution reduction improves Maryland's waterways for humans, wildlife and the iconic blue crab. Partnerships are being built with local high school and college student which will satisfy educational service requirements. Volunteers may also include seniors and private citizens. In addition to the experience these college students are acquiring, MDE conducts training programs on environmental issues for volunteers. MDE uses this program to encourage college students to choose working in the environmental field and as a recruitment tool for future vacancies at MDE.

B. SUMMARY OF RESULTS

Incomplete Action from Round 1

There is one overarching action from round one, documenting assessed penalty calculations and final calculations. The specific SRF criteria requires documentation of the initial penalty calculation to include gravity and economic benefit components and to document the differences between the initial and final penalty calculation. All three programs found deficiencies in the documentation of penalties during the first file reviews and again during this review. The Region is recommending that MDE share with EPA the Department's penalty policy and to assure that penalties are documented consistently across each of the programs. MDE has shared that an internal audit identified penalty calculation as a weakness. In response to this audit, MDE has established a penalty change explanation form, a penalty tracking data base which includes all penalties and status changes, an SOP to assure that the new tools are being implemented and supervisor review and approval of penalties.

Incomplete Action from Round 1 Air -The recommendation titled "NSR Enforcement" is currently in "working" status. MDE has successfully pursued legislation changes to clarify the law regarding enforcement of NSR regulations. However, as of February 2009, the Public Service Commission (PSC) has not yet changed their law to allow MDE to enforce NSR violations at Power Plants.

Elements with Good Performance or No Improvement Needed

Air

Element 1 Data Completeness, Element 2 Data Accuracy, Element 3 Timeliness of Data Entry, Element 4, Completion of 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 Action, and Element 11 Penalty Calculation Method.

RCRA

Element 7 Identification of Alleged Violations, Element 9, Enforcement Actions Promote Return to Compliance, and Element 10, Timely and Appropriate Action.

Water

Element 3 Timeliness of Data Entry, 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 Action, and Element 12-2 Final Penalty Assessment and Collection.

Elements with Areas For State Attention

Air

None

RCRA

Element 2 Data Accuracy – 83% of the files reviewed met the criteria, there were a few minor discrepancies.

Element 4 Completion of Commitments – Due to lack of resources MDE did not meet its SQG

commitment, missed the LDF and TSD commitment by 1, but did exceed its LQG commitment.

Element 5 Incomplete Coverage – MDE did not meet the 5 year average national goal, we believe this may be due to problems with the universe count.

Element 6 Quality of Inspection or Compliance Evaluation Reports – All of the inspection reports were complete and provided sufficient documentation to determine compliance. There were some reports missing dates, which may it difficult to determine timeliness of reports, but there was nothing to suggest that is was not completed within the 50 day program goal.

Element 11 and 12 Penalty Documentation – No documentation in files to describe how penalties were calculated. However, an internal audit was conducted since the year of this review, citing the same problem. MDE has corrected the problem.

Water

Element 1 Data Completeness – Incorrect values for the universe of non-major individual and general permits due to improper coding/classification. MDE certified that the requested data fix was successful.

Element 6 Quality of Inspection or Compliance Evaluation Reports – Review team observed instances of what appears to be late reporting and also questionable compliance determinations.

Element 12-3 Final Penalty Assessment and Collection – Data was showing initial and stipulated penalties. The region worked with HQ to find the accurate way to report in ICIS. EPA provide MDE with proper codes, which they are now entering correctly.

Elements for State Improvement Requiring Recommendations

Air

Element 12

Finding: Four (4) of the 7 formal enforcement responses did not contain documentation for the rationale between the initial and the final assessed penalty.

Recommendation: MDE committed to implement the agreement reached between EPA and ECOS officials in discussion and resolution of EPA's White Paper. In addition, MDE has shared that an internal audit identified penalty calculation as a weakness. In response to this audit, MDE has established a penalty change explanation form, a penalty tracking data base which includes all penalties and status changes, an SOP to assure that the new tools are being implemented and supervisor review and approval of penalties.

RCRA

Element 1

Finding: Data is not entered into RCRAInfo, with the most significant data problem related to the consistent entry of SNC designations into the national data system.

Recommendation: We recommend MDE review and improve their internal process related to SNCE data entry into the national data system (RCRAInfo). We request that, by mid-year FY2010, MDE develop a written SOP to document their improved SNC data entry process.

Element 3

Finding: SNC designations are not consistently entered into RCRAInfo in a timely manner.

Recommendation: We recommend MDE review and improve their internal process related to SNC data entry into the national data system (RCRAInfo). We request that, by mid-year FY2010, MDE develop a written SOP to document their improved SNC data entry process.

Element 8

Finding: Data is not entered into RCRAInfo, with the most significant data problem related to the consistent entry of SNC designations into the national data system.

Recommendation: We recommend MDE review and improve their internal process related to SNC data entry into the national data system (RCRAInfo). We request that, by mid-year FY2010, MDE develop a written SOP to document their improved SNC data entry process.

Water

Element 2

Finding: There were several enforcement actions with absent or inaccurately coded data in ICIS.

Recommendation: MDE will develop and implement Quality Assurance/Quality Control procedures and provide Region 3 with a copy when complete.

Element 4

Finding: MDE did not conduct inspections at 100% of its major universe of NPDES permittees.

Recommendation: MDE shall develop and implement inspection/audit protocols for Phase I and Phase II MS4 permittees, including the frequency for each.

MDE shall attend the EPA Storm Water inspector training on May 21-22, 2009.

Element 5 same as #4 above.

Element 11

Finding: The review team did not observe documentation of gravity or economic benefit calculations in the penalty files reviewed.

Recommendation: Where applicable and in accordance with MDE's Enforcement Procedure and/or national policy, MDE needs to ensure that copies of the penalty matrices, penalty calculations and/or penalty justifications area included in the enforcement case files.

Element 12-1

Finding: The review team did not observe documentation in the files reviewed that would identify the differences between initial and final penalties in the file.

Recommendation: MDE needs to ensure that copies of the penalty matrices, calculations and/or penalty justifications are included in the enforcement case file.

See Section IV Findings and Recommendations which contains in-depth information regarding the findings from the review of the data and file reviews.

C. SIGNIFICANT CROSS-MEDIA FINDINGS AND RECOMMENDATIONS

There were two areas of concern that crossed over into more than one media. The Region identified concerns with data completeness in the RCRA and NPDES programs, and documenting penalty calculations was a concern in all three programs. Both of these issues were identified in the first state review. MDE should implement a system/procedures to assure minimum data requirements are being met as well as accuracy of the data in the program databases. All three programs found deficiencies in the documentation of penalties during the file reviews. The specific SRF criteria requires documentation of the initial penalty calculation to include gravity and economic benefit components and to document the differences between the initial and final penalty calculation. The Air program did find

some instances of penalty calculations in the file, but did not find documentation between the initial and final penalty. The RCRA program found no documentation of penalties. The NPDES program file review found a combination of files with initial penalty calculations, but no documentation between the initial and final penalty and some files with no documented penalty calculation. The Region is recommending that MDE share with EPA the Department's penalty policy and to assure that penalties are documented consistently across each of the programs. MDE responded that the Department's Enforcement Procedure for significant violations does provide for economic sanctions in the form of penalties and where possible recover economic benefit of not being in compliance and reflect gravity of the violation. The Enforcement procedure provides for the individual enforcement programs within the Department to assess penalties consistent with the specific factors provided in Maryland statute or regulation for each regulatory program. Maryland's statute does not require them to collect economic benefit. Further, MDE's IG office conducted an internal audit and cited their enforcement programs for not documenting penalty calculations. In response to this audit, MDE has established a penalty change explanation form, a penalty tracking data base which includes all penalties and status changes, an SOP to assure that the new tools are being implemented and supervisor review and approval of penalties.

BACKGROUND INFORMATION ON STATE PROGRAM AND REVIEW PROCESS

A. GENERAL PROGRAM OVERVIEW

Agency Structure: MDE has approximately 900 employees. Its main office is located in Baltimore, MD. MDE has eight field offices across the state. MDE's primary products and services include permitting/licensing and inspections for 89 functions and different regulatory facilities, extending financial assistance, overseeing environmental cleanups, technical assistance for compliance and pollution prevention, public education and outreach, and responding to emergencies.

MDE's workforce is primarily comprised of field inspectors, permit writers, engineers and scientists. MDE also has administrative, clerical, management, information technology and financial personnel, planners, lawyers, and other professionals.

MDE has three media-specific administrations: Air and Radiation Management Administration, Waste Management Administration, and Water Management Administration. There are two other major administrations that provide administrative and technical support to the air, water and waste management administrations.

MDE is divided into the following regions with managers assigned to each region:

Western Maryland region includes Allegany, Carroll, Frederick, Garrett, Montgomery, and Washington Counties. The Air and Radiation program has a main field office located in Frostburg, MD and a satellite office located in Hagerstown, MD. The Water program has a field office in Frostburg, MD and a satellite office in Hagerstown, MD.

Central Maryland region includes: Anne Arundel, Baltimore, Calvert, Charles, Harford, Howard, Prince George's, and St. Mary's Counties as well as Baltimore City. The Central Office includes the main office located in Baltimore, MD and a Field Operations Office located in Annapolis, MD.

Eastern Shore region includes: Caroline, Cecil, Dorchester, Kent, Queen Anne's, Talbot, Somerset, Wicomico, and Worcester Counties. The Air and Radiation Management Field Office, Water Management Field Office and Waste Management Field Office are located in Salisbury, MD. Water Management has another field office located in Cambridge, MD and Waste Management has an additional field office in Centreville, MD.

Compliance/Enforcement Program Structure

The compliance and enforcement programs are housed within the Air and Radiation Management Administration, Water Management Administration and Waste Management Administration.

MDE has an internal guidance document (MDE Enforcement Procedures) which sets forth the Department's civil and administrative enforcement and criminal referral procedures as it applies to addressing violations of any statutory, regulatory or permit requirement. The enforcement procedures document includes guidance on classification of violations, timely and appropriate enforcement response, initiation of a civil action, initiation of an administrative action, including penalties, the identification of significant non-compliance and timeframe for addressing and escalation of an enforcement matter including referring violations either to EPA Region III and to their criminal enforcement division of the Attorney General's Office

Data systems – each administration has its own tracking system for cases. The Department has a system in development EEMS enterprise environmental management system. TEMPO will upload to RCRAinfo, AFS, and ICIS. There have been problems with uploading the data into EPA data bases which has resulted in some double entry. Each enforcement program tracks inspections, cases in development, and penalties in data bases such as excel, access.

Air Quality Compliance/Enforcement Program Structure: The Air Quality Compliance Program (AQCP) of the Air and Radiation Management Administration (ARMA) is divided into four divisions and one office. They are the Process Compliance Division, Industrial Compliance Division, Field Services Division, Asbestos Division, and Compliance Services Office. The AQCP also has two regional offices, one in Salisbury and one in Frostburg.

The AQCP is responsible for ensuring compliance with air quality laws and regulations, inspecting air pollution sources, investigating and resolving public complaints about odors and air pollution, regulating asbestos, and taking appropriate enforcement action for failure to comply. The AQCP also maintains and tracks records of stationary sources of air pollution, including compliance and enforcement data.

Roles and responsibilities: MDE is delegated or approved to directly implement all aspects of the CAA Stationary Source permitting, compliance monitoring and enforcement program. MDE administers and enforces federal and state regulations that cover stationary sources in Maryland.

The Process Compliance Division, Industrial Compliance Division and the Field Services Division are responsible for most aspects of compliance monitoring and enforcement for MDE at stationary sources. The Compliance Services Office handles all compliance and enforcement data entered into the state and federal data systems. Legal support for administrative and civil enforcement actions is handled by the Maryland Office of the Attorney General.

MDE attempts to settle many violations administratively within MDE. When a violation is found a Notice of Violation (NOV) is sent to the violating source by the inspector. The inspector has the authority to sign the NOV. Where penalties are relatively low and significant attorney involvement may not be necessary, a Notice of Proposed Civil Penalty shortly follows the NOV with the directions to the violator regarding payment of the penalty, request for an informal meeting, and rights of appeal. If the violator is willing to meet, and negotiations are favorable, a Notice of Assessed Civil Penalty will be issued with the final penalty amount. Any corrective action necessary may be handled by a Corrective Order or Consent Order.

More complicated, larger cases are usually handled through civil action and are referred to the Attorney General's Office. Referrals are accomplished in writing, often including conversations between the Air Program Manager, the Director for the Air & Radiation Management Administration, and the Attorney General's Office. Before going to court, an Opportunity to Settle Letter is issued to the source in an attempt to avoid litigation. Negotiations are handled through the MDE attorney and the facility attorney. If negotiations fail the case will go to court. Criminal cases are handled by the Environmental Crimes Unit.

Addressing actions, for the purpose of the High Priority Violator (HPV) Policy, include the Notice of Assessed Civil Penalty and a civil referral made to the Attorney General's Office.

Resources: Funding for the Air Quality Compliance Program come from Title V fees and penalties collected. Title V fees and penalties go into the Maryland Clean Air Fund which is used to support ARMA operations. EPA Section 105 grant provides some funding, but use of these funds is limited to activities that are not covered under Title V. Other Maryland agencies also provide some revenue. For example, the Maryland Department of Transportation provides funding for Stage II and the Department of Natural Resources provides funding for power plant reviews.

Safety equipment is provided for all personnel as needed. Vehicles are also provided through MDE.

Staffing/Training: The Air Quality Compliance Program has 40 full time equivalent employees (FTEs). As of December 2008, there were seven vacancies, all of which were in the process of being filled. According to the Air Compliance Manager, there are fewer inspectors now than during the last SRF four years ago. Two inspector positions were lost in the Field Services Division, one was lost in the Process Compliance Division and one in the Industrial Compliance Division. Partially offsetting these losses is the addition of three new FTEs to the program as part of an environmental initiative of the Governor. Despite losing these positions, the workload has stayed the same, and possibly increased, with the addition of the Asbestos Division which has 6 positions.

To compensate for the loss of FTEs, as well as the loss of experienced staff, the Program Manager has been forced to make changes in the way he implements the program. Previously, MDE inspected major sources once every year. This was above what the federal Compliance Monitoring Strategy (CMS) required. Now, MDE inspects its major sources once every two years in accordance with the CMS policy. This is a decrease of state presence at major facilities. Additionally, the program has cut back its response to citizen complaints. That is not to say that they go unanswered, but rather the amount of work necessary to investigate complaints is greatly considered before an inspector performs an investigation. MDE should be commended for continuing to perform high quality inspections with a larger workload and reduced staffing.

The Air Quality Compliance Program has a Training Guide for new and existing employees. Each Division has different required training courses based upon the types of facilities they inspect. It is mandatory that all employees have health and safety training annually and receive a Visible Emission Certification every six months. The Supervisor of the Compliance Services Office is the training coordinator for the Air Quality Compliance Program. An annual training report is sent to the Human Resources office and the Program Manager. It provides details on every employee's training for the year. The Supervisor stated that necessary training is never denied.

The following is the Water Management Administration's resource distribution:

Central Division (located in Baltimore Office): 19 inspectors, 2 managers (division chief and district manager), 1 division secretary assisted by 2 additional program secretaries.

Eastern Division (located in Cambridge Office): 16 inspectors, 2 managers (division chief and district manager), 2 division secretaries.

Western Division (located in offices in Frostburg and Hagerstown): 14 inspectors, 2 managers (division chief in Frostburg and district manager in Hagerstown), 2 division secretaries (one in Frostburg, one in Hagerstown).

Enforcement Division (located in Baltimore Office): 4 enforcement coordinators, 2 managers (division chief and enforcement manager), 1 division secretary assisted by 2 additional program secretaries.

Resource Planning and Utilization Division (located in Baltimore Office): 3 staff for ICIS activities, 2 staff for computer support and data related activities, 1 staff for general permit and public information act activities, 1 manager (division chief), 1 division secretary assisted by 2 additional program secretaries.

The Water Management Administration does not have a defined core set of training classes. Training for new inspectors consists of an orientation session to give them an overview of MDE and Water Management Administration organization and functions, training in the field for a period of approximately six months with skilled and experienced inspectors, District Manager or Chiefs. There are regular monthly division level meetings and several full program staff meetings each year that also include training modules about various inspection, compliance and enforcement topics. MDE usually has an ‘inspector forum’ each year that provides a day of training and discussion for all inspectors. Staff members are encouraged to attend training provided by the Maryland Center for Environmental Technology (MCET) that includes numerous courses related to water and wastewater treatment, plant operation and maintenance and associated topics. When possible (based on location and funding availability) staff members also attend training provided by EPA, the Corps of Engineers and various other providers, such as health or environmental organizations.

Compliance Program inspectors are responsible for inspections related to numerous media that include: NPDES individual and general discharge permits, State groundwater discharge permits, erosion and sediment control, coal mining, non-coal mining, tidal and non-tidal wetlands, citizen complaints about water pollution, sewer overflows and other unauthorized discharges of pollutants to waters of the State. In past years inspectors average 400 to 450 inspections a year involving a cross-section of the various media depending on what is located in their geographical area of assignment. In July 2008 the Compliance Program changed from its failing Field Inspection Report (FIR) laptop inspection system to a TEMPO based TRIP laptop inspection system to facilitate collecting and sharing information throughout all of MDE.

In addition, from July through December 2008 the Compliance Program implemented new standard operating procedures for inspections and enforcement to line up with the MDE procedures developed in October 2007. The SOP establishes significant non-compliance (SNC) criteria for all the media we inspect and enforce that includes EPA’s NPDES SNC criteria. It also establishes inspection priorities, penalty determinations and time frames for referral of litigation packages to the Attorney General’s Office. Predictably, there has been a significant increase in the number of enforcement cases, but inspectors must devote more time to litigation package development, so the total number of inspections has been reduced.

The NPDES Compliance Program has experienced great support from MDE in filling inspector positions, but there has been a significant number of staff leaving for various reasons (retirements, other job opportunities, etc.). Resource constraints are a result of not having adequate funding and not able to maintain competitive salaries to recruit and maintain staff.

There is currently no formalized program specifically designed for hiring and maintaining qualified staff in the NPDES Compliance Program.

The following is the resource distribution for the RCRA program

The RCRA inspectors are required to have the following training:

- 80 hour hazmat personnel protection and safety course: Required by OSHA 1910 standard
- Miscellaneous courses (if available) through EPA or NEEP: Basic Inspector Training
- “On the job” training

There is currently no formalized program specifically designed for hiring and maintaining qualified staff in the RCRA Compliance Program.

There is no field office staff in the RCRA program in our field offices.

MDE’s compliance monitoring and enforcement staff is responsible for inspecting hazardous waste facilities, generators, transporters, tips and complaints. Under RCRA C Grant, 20 TSD facilities each grant year and 20% of the LQG universe (approximately 120 sites). The number of complaints always is variable.

Resource Constraints

There are a couple of issues affecting resource constraints in the RCRA program. Grant funding provided by EPA has been flat-lined for the last 10 years, very little general funds, and special funds are distributed in variety of ways. The number of inspectors has been reduced over time. With a limited number of inspectors, a complicated case could tie up an inspector resulting in that inspector conducting fewer inspections in that year.

Data reporting systems/architecture: MDE uses TEMPO to record field inspection reports conducted by the WMA Compliance Program's inspectors. TEMPO is an Oracle-based relational database management system that uses Sybase Powerbuilder multi-tier client/server based modules. The Compliance Program began using TEMPO for this purpose on July 1, 2008. Prior to this time, the Compliance Program used an SQL-based database to record field inspection reports. Data held in TEMPO includes regulated entity information, inspection date information, whether the site was in compliance with specific regulatory requirements applicable to the site, and a full inspection report. At the present time, TEMPO can be queried by inspector name, regulated entity, date, county, and other parameters. MDE's Information Technology group has the ability to add other reporting capabilities.

MDE is implementing a new multi-media system (TEMPO) to manage air environmental data. MDE is currently working on a project to allow air compliance and enforcement data to be transferred from TEMPO to EPA.

Currently however, ARMA is a direct user of the Air Facility System (AFS). The Compliance Services Office (CSO) is responsible for data flow and quality assurance. Each engineer or field inspector is responsible for submitting their compliance and enforcement activities to the CSO using the ARMA-34 report form by the 10th of each month. The supervisor of the CSO reviews the report forms for accuracy and makes necessary changes, if appropriate. The CSO will then indicate that the form has been checked for accuracy and is ready to be entered into AFS. The data is entered into AFS 2 to 3 times a week. A weekly or biweekly (based on the amount of data) report is run to evaluate and verify what has been entered into the system.

MDE's Compliance Program enters all NPDES inspections into ICIS through a separate process. Inspectors provide logs of NPDES inspections to our ICIS team, which enters the information. MDE maintains an Excel spreadsheet of enforcement actions under development for tracking purposes. This is updated regularly. When an enforcement action becomes final, MDE enters data into an SQL-based database for tracking, including for penalty payments. The Enforcement Division also provides the ICIS team with data sheets for each completed NPDES enforcement action, and the ICIS team enters this into ICIS.

B. MAJOR STATE PRIORITIES AND ACCOMPLISHMENTS

See Section A in the Executive Summary

C. PROCESS FOR SRF REVIEW

Review Period – FY2007

Key Dates: Kick-off letter to Sate Secretary September 19, 2008
Kick-off Meeting with MDE October 30, 2008

Key Dates Air:

- 1) Data pulled for preliminary data analysis (PDA) September 9, 2008
- 2) Files to be reviewed and file selection methodology sent to MDE – November 7, 2008
- 3) EPA met with MDE to discuss preliminary findings from PDA – November 18, 2008
- 4) File review conducted at MDE offices – December 2, 2008
- 5) EPA met with MDE to present initial draft report for them to review – March 12, 2009

Key Dates NPDES:

- 1) Date Metrics forwarded to MDE – September 12, 2008
- 2) PDA Opening Discussions – October 2, 2008
- 3) Transmittal of File Selection – December 30, 2008
- 4) File Review – February 3-5, 2009
- 5) Statement of Initial Findings provided to MDE – February 25, 2009
- 6) MDE response to Initial Findings – March 13, 2009

Key Dates RCRA:

- 1) Preliminary Data Pull September 9, 2008
- 2) Transmitted File Selection January, 2009
- 3) File Review January 29 & 30, 2009
- 4) Discussed preliminary findings with program, April, 2009

STATUS OF RECOMMENDATIONS FROM PREVIOUS REVIEW

Status	Due Date	Media	Title	Finding	E#	Element	Due
Completed	9/29/06	RCRA	Incomplete files	Some files did not contain inspection report	E2	Violations identified appropriately	
Completed	9/29/06	RCRA	Identifying compliance/ non-compliance	Narrative should clearly identify compliance	E2	Violations identified appropriately	
Completed	9/19/06	RCRA	Consistent narrative and checklist	Inspection report unclear and not consistent with checklist	E2	Violations identified appropriately	
Completed	10/25/05	RCRA	Identifying violations in data base	All violations identified in the data base	E4	SNC Accuracy	
Working	9/29/06	RCRA	Penalty Calculations	Failed to include gravity based and economic benefit calculations in file	E7, E8	Penalty calculations, penalties collected	X
Completed	9/30/05	CAA	Indicating compliance/ non-compliance	Unclear indication of compliance/non-compliance	E2	Violations identified appropriately	
Completed	9/29/05	CAA	Results code	Correct results code for inspections in data base	E2, E11	Violations identified appropriately, data accurate	
Completed	9/29/05	CAA	Date for FCE report	FCE reporting missing date	E3	Violations identified Timely	
Completed	9/29/05	CAA	Reporting compliance status	Reporting compliance status in AFS	E4	SNC accuracy	
Completed	9/24/05	CAA	Documenting HPV determinations	Document HPV determinations	E4, E6	SNC accuracy, timely and appropriate actions	
Working	9/29/05	CAA	NSR Enforcement	No enforcement authority for NSR violations	E6	Timely and appropriate actions	X
Completed	9/29/05	CAA	Penalties should include economic benefit	Civil penalties should include economic benefit	E7	Penalty Calculations	
Completed	9/29/05	CAA	Assessing economic benefit	Low economic benefit assessments	E7	Penalty Calculations	
Completed	9/29/05	CAA	Reporting PCEs	Reporting multiple PCEs together as on FCE	E10, E11	Data Timely and Accurate	
Completed	9/29/05	CAA	Revising National Guidance for Reporting Penalty to AFS	Revising EPA's 2003 draft National Guidance for Reporting to AFS	E8	Penalties Collected	

Completed	9/29/05	CAA	Indicating noncompliance for all violating sources	Not indicating noncompliance for all violating sources	E11	Data Accurate	
Completed	9/29/05	CAA	Entering results for FCEs and other inspections	Document the results of FCEs and evaluate the results codes for major, synthetic minor and area sources to ensure violations are discovered and reported timely and appropriately.	E11	Data Accurate	
Completed	9/29/05	CAA	Change compliance status in data base	Need to change compliance status in data base in violations found during a PCE, FCE or off-site file review.	E11	Data Accurate	
Completed	9/29/05	CAA	Notice of Assessed Penalty an addressing action	Using Notice of Assessed Penalty as an addressing action.	E11	Data Accurate	
Completed	9/29/05	CAA	Revise Draft Penalty Policy	EPA should revise Draft Penalty Policy	E11	Data Accurate	
Completed	9/29/05	CAA	Area MACT Source Inspections	Include Area MACT Sources to be inspected in CMS.	E12	Data Complete	
Completed	9/29/05	CWA	Include penalty information in files	Include penalty calculation in enforcement files	E6	Timely and appropriate actions	
Completed	9/29/05	CWA	Compliance and enforcement information in PCS	All compliance and enforcement activities in PCS	E8	Penalties Collected	

IV. FINDINGS and RECOMMENDATIONS

This section identifies the Findings from the review of the data and file metrics. Specifically, Table VI lists Findings that are either Areas of Concern or Significant Issues; whether the issues identified are simply being brought to the attention of MDE or require corrective measures; input from MDE on the Finding and Recommendation; and, if corrective measures are required, the actions agreed upon between the Region and MDE.

[CAA] Element 1 – Data Completeness		
Degree to which the Minimum Data Requirements are complete.		
Element + Finding Number	Finding	
		109 out of 280 MACT facilities with FCEs conducted after 10/01/05 did not have MACT subpart designations. However, all of the 109 facilities were minor sources not in the CMS universe and therefore not subject to MDR reporting.
1.1	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 (Recommendation Required)
	Explanation of the Finding	In November 2008, EPA provided MDE with a list of the 109 facilities and asked them to review the list and correct as appropriate. As indicated above, all of the 109 facilities were minor sources and therefore not subject to MDR reporting.
	Metric(s) and Quantitative Value	1c6 (CAA Subprogram Designation: Percent MACT facilities with FCEs conducted after 10/1/2005): National Goal – 100%; National Average – 89.4%; MDE Result – 61.1%
	Action(s)	As mentioned in the state response, all MACT subparts were subsequently entered, and will be entered in the future for all facilities including minor MACT facilities.
	State’s Response	MDE has addressed this issue by entering the MACT subparts. This was confirmed in a March 13, 2009 e-mail from MDE to the EPA review team. Going forward, MDE will ensure that the MACT subparts are entered for all future inspections.
	Region’s Response	None

[CAA] Element 1 – Data Completeness		
Degree to which the Minimum Data Requirements are complete.		
Element + Finding Number	Finding	
		All metrics under element 1 were found to be complete and conform to the minimum data requirements.

1.2	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 (Recommendation Required)
	Explanation of the Finding	All metrics under element 1 were found to meet the SRF program requirements (i.e., the Minimum Data Requirements were found to be complete). Although metric 1c6 was initially thought to be a problem, it was later found that this metric meets SRF program requirements. See finding 1.1 above for additional details.
	Metric(s) and Quantitative Value	See the PDA (appendix) for quantitative values for metrics included in element 1.
	Action(s)	None
	State's Response	None
	Region's Response	None

[CAA] Element 2 – Data Accuracy		
Degree to which data reported into the national system is accurately entered and maintained (example, correct codes used, dates are correct, etc.).		
Element + Finding Number	Finding	
		The majority of the data reviewed by the EPA review team was found to be accurately entered and maintained in AFS.
2.1	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 (Recommendation Required)
	Explanation of the Finding	Except for some minor inconsistencies between the files and AFS, the data was found to be accurately reflected in AFS. In addition MDE was found to be above the national average and at or near the national goal for all data metrics under this element.
	Metric(s) and Quantitative Value	2b1 (Stack Test Results at Federally-Reportable Sources - % Without Pass/Fail Results (1 FY)): National Goal – 0% ; National Average – 5.8%; MDE Result - 0%; 2c (MDR data accurately reflected in the national data system (AFS)): 100%

	Action(s)	None
	State's Response	None

[CAA] Element 3 - Timeliness of Data Entry		
Degree to which the Minimum Data Requirements are timely.		
Element + Finding Number	Finding	MDE enters an overwhelming majority of the data required under the MDRs in a timely manner.
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 (Recommendation Required)
	Explanation of the Finding	MDE is well above the national average and is near the national goal of 100% for all 3 data metrics under element 3.
	Metric(s) and Quantitative Value	3a (Percent HPVs Entered ≤ 60 Days After Designation, Timely Entry (1 FY): National Goal - 100%; National Average –24.8%; MDE Result – 90.8%; 3b1 (Percent Compliance Monitoring related MDR actions reported ≤ 60 Days After Designation, Timely Entry (1 FY): National Goal - 100%; National Average – 52.6%; MDE Result – 91.8%; 3b2 (Percent Enforcement related MDR actions reported ≤ 60 Days After Designation, Timely Entry (1 FY)): National Goal - 100%; National Average – 67.3%; MDE Result – 98.1%
	Action(s)	None
	State's Response	None

[CAA] 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 + Finding Number	Finding	
		All commitments in the Oct. 2005 Memorandum of Understanding (MOU) were completed by MDE in the review year (i.e., FY2007).
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 (Recommendation Required)
	Explanation of the Finding	MDE completed all of their commitments in its FY2007 CMS plan and all commitments specified in the Oct. 2005 MOU.
	Metric(s) and Quantitative Value	4a (Planned evaluations (FCEs, PCEs, investigations) completed for the review year pursuant to a negotiated CMS plan): 100% 4b (Planned commitments completed): 100%
	Action(s)	None
	State's Response	None

[CAA] Element 5 – Inspection Coverage		
Degree to which state completed the universe of planned inspections/compliance evaluations (addressing core requirements and federal, state and State priorities).		
Element + Finding Number	Finding	
		MDE met or exceeded all 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 (Recommendation Required)

	Explanation of the Finding	MDE met or exceeded all national goals for metrics within this element.
	Metric(s) and Quantitative Value	<p>5a1 (CMS Major Full Compliance Evaluation (FCE) Coverage (2 FY CMS Cycle)): National Goal - 100%; National Average – 90.5%; MDE Result – 100%</p> <p>5b1 (CAA Synthetic Minor 80% Sources (SM-80) FCE Coverage (5 FY CMS Cycle)): National Goal - 20%; National Average – 48.4%; MDE Result – 25.2%</p> <p>5e (Number of Sources with Unknown Compliance Status (Current): National Goal - NA; National Average – NA; MDE Result – 0</p> <p>5g (Review of Self-Certifications Completed (1 FY)): National Goal - 100%; National Average – 90.6%; MDE Result – 100%</p>
	Action(s)	None
	State's Response	None

[CAA] 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 + Finding Number	Finding	15 out of 15 CMRs reviewed included all elements required under § IX of the CMS.
6.1	Is this finding a(n) (select one):	<input checked="" type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement (Recommendation Required)
	Explanation of the Finding	The EPA Review Team considers MDE's CMRs as a Good Practice. In general, the CMRs were found to be complete, well written, and well beyond the minimum information required to document a CMR. The quality of the CMRs ensures that the compliance status of a facility is well documented, serves as an excellent source for future CMRs written at a given facility, and would serve as

		model CMRs for other states/local agencies to use. The Review Team believes this Best Practice is a result of MDE management oversight and concurrence of all MDRs, the identification and conduct of EPA training of MDE inspectors and first level management, and the continuity of senior staff.
	Metric(s) and Quantitative Value	6c (% of CMRs or facility files reviewed that provide sufficient documentation to determine compliance at the facility): 100%
	Action(s)	None
	State's Response	MDE works hard to ensure high quality CMRs and appreciates EPA's recognition of this work.

[CAA] 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 + Finding Number	Finding	13 of the 15 FCEs reviewed had documentation in the files to show that they contained all of the elements of the FCE, per the CMS.
6.2	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 (Recommendation Required)
	Explanation of the Finding	Two evaluations were misclassified as an FCE (i.e., should have been classified as a PCE). The 2 files did contain FCEs within one year of the PCE date. Therefore, the misclassified PCEs were not critical to making a compliance determination.
	Metric(s) and Quantitative Value	6a (Full Compliance Monitoring Reports reviewed): 15 6b (% of FCEs that meet the definition of an FCE per the CMS policy): 87%
	Action(s)	None
	State's Response	None

[CAA] 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 + Finding Number	Finding	MDE makes accurate compliance determinations and promptly reports the determinations in AFS.
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 (Recommendation Required)
	Explanation of the Finding	All violations reviewed were accurately and promptly reported in AFS. In addition, MDE exceeded the national goals for the data metrics that are used as review indicators (i.e., 7c1 and 7c2).
	Metric(s) and Quantitative Value	7a (Accuracy of compliance determinations): 100% 7b (Timely reporting of violations of non-HPVs): 100% 7c1 (Percent facilities in noncompliance that have had an FCE, stack test, or enforcement (1 FY)): National Goal - > ½ Nat'l average ; National Average – 18.7; MDE Result – 19.6% 7c2 (Percent facilities that have had a failed stack test and have noncompliance status (1 FY)): National Goal - > ½ Nat'l average; National Average – 33.0%; MDE Result – 33.3%
	Action(s)	None
	State's Response	None

[CAA 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 + Finding Number	Finding	MDE does an adequate job in making HPV determinations and entering that data them into AFS 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 (Recommendation Required)
	Explanation of the Finding	The Preliminary Data Analysis (PDA) (i.e., Metrics 8a, 8b, 8c, and 8d) had indicated a potential problem in identifying HPVs and applying the HPV Policy to violations discovered by MDE. Supplemental files were reviewed that enabled the Review Team to conclude that all violations were appropriately classified. Because 100% of the files reviewed had the correct HPV determinations (Metric 8f), EPA Region 3 does not believe that MDE has a problem in identifying HPVs and applying the HPV Policy to violations discovered by MDE.
	Metric(s) and Quantitative Value	3a (Percent HPVs Entered ≤ 60 Days After Designation, Timely Entry (1 FY): National Goal - 100%; National Average -24.8%; MDE Result - 90.8%; 8a (High Priority Violation Discovery Rate - Per Major Source (1 FY)): National Goal - > ½ Nat'l average; National Average - 9.2%; MDE Result - 5.9% 8b (High Priority Violation Discovery Rate - Per Synthetic Minor Source (1 FY)): National Goal - > ½ Nat'l average; National Average - 1.5%; MDE Result - 0.6% 8c (Percent Formal Actions With Prior HPV - Majors (1 FY)): National Goal - > ½ Nat'l average; National Average - 72.8%; MDE Result - 59.5% 8d (Percent Informal Enforcement Actions Without Prior HPV - Majors (1 FY)): National Goal - < ½ Nat'l average; National Average - 39.7%; MDE Result - 57.9% 8e (Percent Failed Stack Test Actions that received HPV listing - Majors and Synthetic Minors (2 FY)): National Goal - > ½ Nat'l average; National Average - 24.3%; MDE Result - 50.0% 8f (% of violations in files reviewed that were accurately determined to be HPV): 100%
	Action(s)	None
	State's Response	None

[CAA] 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 + Finding Number	Finding	MDE includes corrective actions in formal enforcement responses where appropriate.
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 (Recommendation Required)
	Explanation of the Finding	Five (5) formal responses contained the documentation that required the facilities to return to compliance. These five (5) responses were either administrative (3 total) or judicial (2 total) orders that contained a compliance schedule. The files contained sufficient documentation to ascertain that the compliance schedules were currently on schedule or had reached closure. Finally, note that there were an additional two (2) formal responses that were penalty-only orders. Both facilities had returned to compliance prior to the execution of the penalty-only orders. The files contained sufficient documentation to demonstrate both facilities returned to compliance prior to the execution of the penalty-only orders.
	Metric(s) and Quantitative Value	9a (# of formal enforcement responses reviewed): Seven files reviewed. Two of the files were penalty only orders and did not require injunctive relief. 9b (Formal enforcement responses that include required corrective action (i.e., injunctive relief or other complying actions) that will return the facility to compliance in a specified time frame (HPVs and non HPVs): 100%
	Action(s)	None
	State's Response	None

[CAA] 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 + Finding Number	Finding	MDE well exceeds the national average in taking timely and appropriate enforcement actions in accordance with the HPV policy.
--------------------------	---------	---

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 (Recommendation Required)
	Explanation of the Finding	MDE significantly exceeds the national average in addressing HPVs in a timely manner (metric 10a). In addition, the files reviewed indicated MDE takes appropriate enforcement actions for HPVs.
	Metric(s) and Quantitative Value	10a (Percent HPVs not meeting timeliness goals (2 FY)): National Goal - None; National Average – 40.8%; MDE Result – 3.6% 10b (Enforcement responses at HPVs (formal & Informal) taken in a timely manner as documented in the enforcement files reviewed): 83% 10c (Enforcement responses for HPVs that are appropriate to the violations): 100%
	Action(s)	None
	State's Response	None

[CAA] 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 + Finding Number	Finding	MDE includes both gravity and economic benefit calculations in initial penalty calculations.
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 (Recommendation Required)
	Explanation of the Finding	All 8 files containing penalty calculations included calculations for both gravity and economic benefit.

	Metric(s) and Quantitative Value	11a (% of reviewed penalty calculations that consider and include where appropriate gravity and economic benefit): 100%
	Action(s)	None
	State's Response	None

[CAA] 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.		
Element + Finding Number	Finding	Four (4) of the 7 formal enforcement responses did not contain documentation for the rationale between the initial and the final assessed penalty.
12.1	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 (Recommendation Required)
	Explanation of the Finding	Only 4 of 7 enforcement responses reviewed contained documentation for the rationale between the initial and the final assessed penalty. Currently, MDE does not have formal procedures for documenting the rationale between the initial and final assessed penalties. The EPA Penalty Policy requires documentation of how adjustments were made to the preliminary deterrence amount so that enforcement attorneys, program staff and their managers learn from each other's experience and promote the fairness required by the Penalty Policy. MDE should institute similar procedures.
	Metric(s) and Quantitative Value	12c- (% of penalties reviewed that document the difference and rationale between the initial and final assessed penalty): 57%
	Action(s)	MDE committed to implement the agreement reached between EPA and ECOS officials in discussion and resolution of EPA's White Paper.
	State's Response	Controls were strengthened to ensure that the basis for reductions in penalty fees are documented and maintained for future reference. A new SOP was implemented in March, 2009 that required a penalty change explanation form be completed and maintained in Administrative program files for all penalty reductions and be reviewed and approved by appropriate supervisory

		personnel. In addition, the MDE Internal Audit Services conduct periodic reviews of penalty reductions to ensure compliance with SOP and also that reductions are proper.
--	--	---

[CAA] 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.		
Element + Finding Number	Finding	
		MDE's files contain adequate documentation for the collection of penalties.
12.2	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 (Recommendation Required)
	Explanation of the Finding 12.2	In the 7 files reviewed with penalties collected, there was a copy of both the invoice and the check from the company.
	Metric(s) and Quantitative Value	12d (% of files that document collection of penalty): 100%
	Action(s)	None
	State's Response	None

RCRA Findings

[RCRA] Element 1 – Data Completeness

Degree to which the Minimum Data Requirements are complete.

Element + Finding Number	Finding 1.1	Data is not entered into RCRAInfo, with the most significant data problem related to the consistent entry of SNC designations into the national data system.
	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 (Recommendation Required)
	Explanation of the Finding	We see improvement in this area compared to the findings in the first round of the SRF, however, continued improvement is called for in this area. We recommend MDE review and improve their internal process related to SNC data entry into the national data system (RCRAInfo).
	Metric(s) and Quantitative Value	1e1 (number of new SNCs detected in last FY) State metric 2 1e2 (number of sites in SNC status in last FY) State metric 5
	Action(s)	We recommend MDE review and improve their internal process related to SNC data entry into the national data system (RCRAInfo). We request that, by mid-year FY2010, MDE develop a written SOP to document their improved SNC data entry process.
	State's Response	(Comments by State on the Region's findings.)

[RCRA] Element 2 – Data Accuracy

Degree to which data reported into the national system is accurately entered and maintained (example, correct codes used, dates are correct, etc.).

Element + Finding Number	Finding 2.1	The review team reviewed 30 files, 4 files had one minor data discrepancy each.
--------------------------	-------------	---

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 (Recommendation Required)
Explanation of the Finding	<p>- It appears that when the State inspects a facility that is both a TSD and generator (typically these facilities are LQGs), the State enters two inspection records into RCRAInfo. Sometimes one report will be prepared, sometimes two will be prepared (one specifically addressing TSD issues, one specifically related to LQG issues). We believe that the State has adopted this practice to assure that they are able to claim proper credit (under their grant work plan commitments) for TSD and LQG inspection coverage.</p> <p>- We found one inspection where violations were discovered and corrected during an inspection. The violations were correctly entered into RCRAInfo, but were not labeled as RTC (returned to compliance).</p> <p>- We found one inspection where an inspection record was misidentified in RCRAInfo (entered as FUI, but should have been listed as NRR). In addition, a name change of the facility was noted during the inspection, but this information was not updated in RCRAInfo.</p> <p>- We found one facility where a follow up inspection was not entered into RCRAInfo, and documented RTC (return to compliance) related to two violations were not entered into RCRAInfo.</p> <p>- We found one inspection which was not entered into RCRAInfo.</p>
Metric(s) and Quantitative Value	2c (percent of files reviewed where mandatory data are accurately reflected in the national data system) State metric 83%
Action(s)	State should continue to implement QA/QC procedures as appropriate.
State's Response	(Comments by State on the Region's findings.)

[RCRA] Element 3 - Timeliness of Data Entry		
Degree to which the Minimum Data Requirements are timely.		
Element Finding Number +	Finding 3.1	SNC designations are not consistently entered into RCRAInfo in a timely manner.
	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 (Recommendation Required)

	Explanation of the Finding	This metric (3a1) measures the “lag” between the date of SNC determination and the actual reporting of the SNC determination into RCRAInfo. One of the two SNCs entered by the State into RCRAInfo appear to have been entered after this 60-day period.
	Metric(s) and Quantitative Value	3a1 (percent of SNCs that are entered into RCRAInfo more than 60 days after the determination) State metric 50%
	Action(s)	Recommend MDE review and improve their internal process related to SNC data entry into the national data system (RCRAInfo). We request that, by mid-year FY2010, MDE develop a written SOP to document their improved SNC data entry process.
	State’s Response	(Comments by State on the Region’s findings.)

[RCRA] 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 Finding Number +	Finding 4.1	Not every grant work plan commitment was met.
	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 (Recommendation Required)
	Explanation of the Finding	- Federal TSD inspections: 6 completed (commitment of 6) - State and local TSD inspections: 3 completed (commitment of 3) - Private TSD inspections: 4 completed (commitment of 5) - LDF inspections: 2 completed (commitment of 3) - LQG inspections: 122 completed (commitment of 109) - SQG inspections: 5 completed (commitment of 20) - Take enforcement action in accordance with Enforcement Response Policy (see Element 10) - Staff will participate in RCRA Inspector Workshop (done) - Perform site visits focusing specifically on compliance assistance (9 completed, commitment of 4)

	Metric(s) and Quantitative Value	4a (planned inspections completed) 4b (planned commitments completed)
	Action(s)	No action required. The shortfall in LDF and SQG inspections are due to turnover of inspectors. The state did exceed the number of LQG inspections.
	State's Response	(Comments by State on the Region's findings.)

[RCRA] Element 5 – Inspection Coverage		
Degree to which state completed the universe of planned inspections/compliance evaluations (addressing core requirements and federal, state and State priorities).		
Element + Finding Number	Finding 5.1	The data suggests that the State is not meeting the national program goals for LQG inspections.
	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 (Recommendation Required)
	Explanation of the Finding	Combined State/EPA coverage for annual LQG inspections is 18.9%, and combined EPA/State coverage for five-year LQG coverage is 66.3%, which is above the national average. We believe there may be issues with the universe count. The State met their grant commitments for LQG inspections in FY07 (see element 4).
	Metric(s) and Quantitative Value	5a1 (inspection coverage for operating TSDFs) State metric 92.3%; national average 89.0%; national goal 100% 5a2 (annual inspection coverage for LQGs) State metric 17.8%; national average 23.8%; national goal 20% 5a3 (five year inspection coverage for LQGs) State metric 56.4%; national average 64.7%; national goal 100%
	Action(s)	State has identified numerous episodic LQGs and is developing an inspection strategy that takes this into consideration.
	State's Response	(Comments by State on the Region's findings.)

[RCRA] 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 + Finding Number	Finding 6.1	All inspection reports were found to be complete and provided sufficient documentation to determine compliance. In a few instances, reports were not completed with 50 days of the inspection.
	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 (Recommendation Required)
	Explanation of the Finding	<p>- We found that all inspection reports were complete and provided sufficient documentation to determine compliance.</p> <p>- State inspection reports are not always dated. Of the 29 files review, we identified 12 instances where the reports appear to have been completed within 50 days of the field work, and 2 instances where they did not appear to meet this 50 day goal. In the other instances, we could not determine how quickly after the inspection field work the report was written, but there was nothing to suggest that it was not completed within the 50 day goal. In general, it appears that inspection reports are normally completed within a few days of the inspection.</p>
	Metric(s) and Quantitative Value	<p>6b (percent of inspection reports reviewed that are complete and provide sufficient documentation to determine compliance at the facility) State metric 100%</p> <p>6c (percent of timely inspection reports reviewed) State metric between 41% and 93%</p>
	Action(s)	State should implement a practice that indicates the timeliness of inspection reports.
	State's Response	(Comments by State on the Region's findings.)

[RCRA] 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 Finding Number +	Finding 7.1	All compliance determinations appear accurately made and promptly reported to RCRAInfo.
	Is this finding a(n) (select one):	<input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Good Practice <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement (Recommendation Required)
	Explanation of the Finding	- We found no instances where compliance determinations were not accurate. - All violation determinations were made and entered into the national database in a timely manner.
	Metric(s) and Quantitative Value	7a (percent of inspection reports reviewed that led to accurate compliance determinations) State metric 100% 7b (percent of violation determinations in the files reviewed that are reported timely to the national database) State metric 100%
	Action(s)	
	State's Response	(Comments by State on the Region's findings.)

[RCRA] 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 + Finding Number	Finding 8.1	Data is not entered into RCRAInfo, with the most significant data problem related to the consistent entry of SNC designations into the national data system.
	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 (Recommendation Required)
	Explanation of the Finding	While we see improvement in this area compared to the findings in the first round of the SRF, continued improvement is called for in this area. We recommend MDE review and improve their internal process related to SNC data entry into the national data system (RCRAInfo).
	Metric(s) and Quantitative Value	8a (SNC identification rate) State metric 1.9%; national average 3.8%; goal is ½ national average 8c (SNC reporting indicator) State metric 50.0%; national average 53.8%; goal is ½ national average 8d (verify that facilities with violations are accurately determined to be SNC) State metric 62%; goal is 100%
	Action(s)	Recommend MDE review and improve their internal process related to SNC data entry into the national data system (RCRAInfo). Request that, by mid-year FY2010, MDE develop a written SOP to document their improved SNC data entry process.
	State's Response	(Comments by State on the Region's findings.)

[RCRA] 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 + Finding Number	Finding 9.1	State enforcement actions include corrective action that will return facilities to compliance in a specific time frame, as appropriate.
	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 (Recommendation Required)
	Explanation of the Finding	<p>- In all but five cases, facilities in significant noncompliance returned to compliance before the State's enforcement response was finalized. In those five cases, all five of the enforcement actions contained injunctive requirements to assure a return to full compliance.</p> <p>- In all but two cases, facilities with secondary violations had returned to compliance before the State's enforcement response was finalized. In those two cases, both enforcement actions contained injunctive requirements to assure a return to full compliance.</p>
	Metric(s) and Quantitative Value	9b (percent of enforcement responses that have returned or will return a facility in SNC to compliance) State metric 100% 9c (percent of enforcement responses that have or will return secondary violators to compliance) State metric 100%
	Action(s)	
	State's Response	(Comments by State on the Region's findings.)

[RCRA] 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 + Finding Number	Finding 10.1	All State enforcement actions are appropriate and nearly all are taken 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 (Recommendation Required)
Explanation of the Finding	<p>- Of the 10 enforcement actions reviewed, 9 were taken in a timely manner. Regarding the tenth facility [MD-07], at the time of file review, settlement negotiations on a formal enforcement action were still underway. However, since the initial settlement offer was made 10 months after identification of the violations, the timeliness goals of the RCRA ERP (which requires that unilateral or initial orders be issued by Day 240) will not have been met with final settlement reached. In this case, a revised settlement offer was made 11 months after the identification of the violations, and settlement had not been reached at the time of the file review (17 months after identification of the violations; the RCRA ERP timeliness guidelines require entry into a final order with the violator by Day 360).</p> <p>- The reviewer found that eleven of eleven enforcement actions were appropriate to the violations identified. In addition, we found no cases of violations which should have been addressed by enforcement action but were not. In other words, we found that the State took appropriate action in response to each violation found.</p>
Metric(s) and Quantitative Value	<p>10c (percent of enforcement responses reviewed that are taken in a timely manner) State metric 90%</p> <p>10d (percent of enforcement responses reviewed that are appropriate to the violations) State metric 100%</p>
Action(s)	
State's Response	(Comments by State on the Region's findings.)

[RCRA] 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 + Finding Number	Finding 11.1	There was no documentation in the files on how penalties were calculated.
	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 (Recommendation Required)
	Explanation of the Finding	The reviewers found no documentation in the files to describe or explain how penalties were calculated. We could not determine to what extent calculations included both gravity and economic benefit components.
	Metric(s) and Quantitative Value	11a (penalty calculations reviewed that consider and include, where appropriate, gravity and economic benefit) State metric 0%
	Action(s)	MDE’s IG office conducted an internal audit and cited their enforcement programs for not documenting penalty calculations. In response to this audit, MDE has established a penalty change explanation form, a penalty tracking data base which includes all penalties and status changes, an SOP to assure that the new tools are being implemented and supervisor review and approval of penalties.
	State’s Response	An internal audit identified penalty calculation as a weakness. In response to this audit, MDE has established a penalty change explanation form, a penalty tracking data base which includes all penalties and status changes, an SOP to assure that the new tools are being implemented and supervisor review and approval of penalties.

[RCRA] 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.		
Element + Finding Number	Finding 12.1	There was no documentation in the files on how penalties were calculated.

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 (Recommendation Required)
Explanation of the Finding	The reviewers found no documentation in the files to describe or explain how penalties were calculated. We could not determine, for those cases where there was a difference between initial and final penalties, if these reductions were consistent with national policy. However, in most instances, there was documentation in the file demonstrating penalty payment.
Metric(s) and Quantitative Value	12a (document the rationale for the initial and final assessed penalty) State metric 0% 12b (percent of enforcement files reviewed that document the collection of penalty) State metric 83%
Action(s)	MDE's IG office conducted an internal audit and cited their enforcement programs for not documenting penalty calculations. In response to this audit, MDE has established a penalty change explanation form, a penalty tracking data base which includes all penalties and status changes, an SOP to assure that the new tools are being implemented and supervisor review and approval of penalties.
State's Response	An internal audit identified penalty calculation as a weakness. In response to this audit, MDE has established a penalty change explanation form, a penalty tracking data base which includes all penalties and status changes, an SOP to assure that the new tools are being implemented and supervisor review and approval of penalties.

[CWA] Element 1 – Data Completeness		
Degree to which the Minimum Data Requirements are complete.		
Element Finding Number +	Finding	Review of the data metrics show that incorrect values are represented for the universes of non-major individual permits and non-major general permits.
	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 (Recommendation Required)
	Explanation of the Finding	In 2006, when MDE migrated from PCS to ICIS, non-major general permit facilities were migrated into the wrong data family (non-major general permits). This was due to improper coding/classification of the non-major general permit families. As of August 18, 2009 there are 1,894 non-major general permits and 700 non-major individual permits reflected in ICIS. Currently the universe of non-major individual permits is reported as 2,594, which is the combined total of the two permit categories.

Metric(s) and Quantitative Value	1a As of August 18, 2009, MDE certified and reported that the non-major individual permits is 700; and 1,894 non-major general permits. Headquarters transferred and corrected the Master General Permit files.
Action(s)	On October 23, 2008, MDE forwarded the corrected data file to EPA HQs for a “data fix.” HQ has advised that the data fix will be completed as time and resources allow.
State’s Response	In a written statement dated August 18, 2009, MDE certified that the requested data fix was successful.
Region’s Response	EPA HQ completed the data fix in April 2009. EPA HQ inquired into MDE’s satisfaction with the data fix. EPA HQ requested that MDE verify the accuracy of the two universes.

[CWA] Element 2 – Data Accuracy		
Degree to which data reported into the national system is accurately entered and maintained (example, correct codes used, dates are correct, etc.).		
Element + Finding Number	Finding 2	There were several enforcement actions with absent or inaccurately coded data in ICIS.
	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 (Recommendation Required)
	Explanation of the Finding	Discovery of absent penalty data for one facility, incorrectly coded enforcement actions at 1 or more NPDES permittees. The review team communicated the data discrepancies directly to MDE during the review. Immediate action was taken to remedy the deficiencies.
	Metric(s) and Quantitative Value	2b-79%
	Action(s)	MDE will develop and implement Quality Assurance/Quality Control procedures and provide Region 3 with a copy by April 30, 2010.
	State’s Response	MDE will implement monthly reviews of enforcement action information in ICIS to verify accuracy.

[CWA] Element 3 - Timeliness of Data Entry		
Degree to which the Minimum Data Requirements are timely.		
Element + Finding Number	Finding	MDE has done a good job maintaining its data entry percentages.
	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 (Recommendation Required)
	Explanation of the Finding	The review team observed that timeliness was a critical issue particularly for DMR nonreceipt. Enforcement Actions and Compliance Milestone data appeared to be current.
	Metric(s) and Quantitative Value	3a – 2%
	Action(s)	Upon finalization of the QA/QC SOP, Region III expects to see better than average percentages, particularly where DMR nonreceipt is concerned.
	State's Response	

[CWA] 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 + Finding Number	Finding	MDE did not conduct inspections at 100% of its major universe of NPDES permittees.

	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 (Recommendation Required)
	Explanation of the Finding	The federal CMS, PCS Policy Statement, MOU and 106 Grant Work Plan requires annual inspection at majors. Inspection reports for 11 MS4 individual majors were not observed in the data system or central files. The review team was informed that these inspections are no conducted annually; rather MDE evaluates their performance based upon each county's submission of annual program implementation plans
	Metric(s) and Quantitative Value	4b 88%
	Action(s)	<p>MDE shall develop and implement inspection/audit protocols for Phase I and Phase II MS4 permittees, including the frequency for each by April 30, 2010.</p> <p>MDE shall attend the EPA Storm Water inspector training on May 21-22, 2009.</p>
	State's Response	MDE does, in fact, evaluate municipal stormwater programs by reviewing annual reports. The latest annual report produced for each of the eleven permit holders can be found on MDE's webpage. Also, various programs are evaluated under State law. For example, compliance with the erosion and sediment control law is judged according to a required frequency. Because ICIS is not conducive to narrative permit conditions, reporting has been problematic. Currently, MDE will develop standard operating procedures to be used to determine how best to evaluate all aspects of permit compliance and, more importantly, what to do when significant noncompliance is encountered.

[CWA] Element 5 – Inspection Coverage		
Degree to which state completed the universe of planned inspections/compliance evaluations (addressing core requirements and federal, state and State priorities).		
Element + Finding Number	Finding	MDE did not conduct inspections at 100% of its major universe of NPDES permittees.
	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 (Recommendation Required)

	Explanation of the Finding	The federal CMS, PCS Policy Statement, MOU and 106 Grant Work Plan requires annual inspection at majors. Inspection reports for 11 MS4 individual majors were not observed in the data system or central files. The review team was informed that these inspections are not conducted annually; rather MDE evaluates their performance based upon each county's submission of annual program implementation plans.
	Metric(s) and Quantitative Value	5a 88%
	Action(s)	MDE shall develop and implement inspection/audit protocols for Phase I and Phase II MS4 permittees, including the frequency for each by April 30, 2010. MDE shall attend the EPA Storm Water inspector training on May 21-22, 2009.
	State's Response	MDE does, in fact, evaluate municipal storm water programs by reviewing annual reports. The latest annual report produced for each of the eleven permit holders can be found on MDE's webpage. Also, various programs are evaluated under State law. For example, compliance with the erosion and sediment control law is judged according to a required frequency. Because ICIS is not conducive to narrative permit conditions, reporting has been problematic. Currently, MDE will develop standard operating procedures to be used to determine how best to evaluate all aspects of permit compliance and, more importantly, what to do when significant noncompliance is encountered.

[CWA] 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 + Finding Number	Finding	The review team observed instances of what appears to be late reporting and also questionable compliance determinations
	Is this finding a(n) (select one):	Good Practice Meets SRF Program Requirements <input checked="" type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement (Recommendation Required)
	Explanation of the Finding	Inspection reports are considered untimely due to failure to provide a final signature date, in accordance with Appendix A of the CWA Inspection Report Evaluation Guidance. In July 2008, MDE adopted a new inspection report tool (TRIP) that now captures the required elements that were lost under the previous inspection report tool (FIR). The TRIP is a computer in the field with a form that will automatically capture the date of the inspection and enter into their data base in real time. In addition, MDE has procedures in place for management review and/or approval of inspection reports. A determination

		in the accuracy of compliance determinations is reflected in the inspection reports reviewed that document 2 facilities with non-compliant laboratory issues and another facility that was shuttered for the season.
	Metric(s) and Quantitative Value	6c-92%; 6d-47%
	Action(s)	Failure to provide the final signature date for more than half of the reports reviewed made it difficult to determine that inspection reports were completed in a timely manner. The new tool TRIP, was not available during the review year. The region is confident that use of this new tool should alleviate this problem.
	State's Response	

[CWA] 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 + Finding Number	Finding	The review team identified instances of SNC in the inspection files that were not reported to the national database. Overall, MDE has a solid command for identification of noncompliance in the field and documents a descriptive assessment of the occurrences within their inspection reports.
	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 (Recommendation Required)
	Explanation of the Finding	There were 14 out of 17 inspection files reviewed that had accurate compliance determinations. One of the three inspection files the review team could not make a compliance determination was a file for a facility that was closed for the season. The remaining two files were for non-complaint laboratory issues. The report documented the issues with a recommendation for a follow-up inspection to verify remediation.
	Metric(s) and Quantitative Value	82% of the files contained enough information to make a compliance determination.

	Action(s)	
	State's Response	

[CWA 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 + Finding Number	Finding	The review team observed that one SEV was entered into the national database. However, it was outside the scope of the review.
	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 (Recommendation Required)
	Explanation of the Finding	MDE maintains an online database of reported sanitary sewer overflows and bypasses. Although this data is not recorded in ICIS, this CSO/Bypass/SSO data could be considered SEV.
	Metric(s) and Quantitative Value	8c- 0.08%
	Action(s)	MDE should consider identifying SSOs and bypasses that are considered SEVs and enter them into ICIS.
	State's Response	MDE's public web site provides CSO/Bypass/SSO data. MDE plans to enter this data eventually into its TEMPO database that may be capable of interfacing with ICIS. MDE does not have sufficient resources to perform additional and duplicative SEV data entry for SSOs into ICIS at this time.

--	--	--

[CWA] 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 + Finding Number	Finding	MDE's enforcement responses include corrective action measures that have or will return these sources to compliance.
	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 (Recommendation Required)
	Explanation of the Finding	MDE's prompt attention to NPDES permittees in SNC results in appropriate enforcement responses. MDE utilizes various enforcement tools to attain a return to compliance as expeditiously as possible, including the assessment of penalties and stipulated penalties, incorporating compliance milestones and supplemental environmental projects.
	Metric(s) and Quantitative Value	9b-100%
	Action(s)	
	State's Response	

[CWA] 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 + Finding Number	Finding	The review indicates that responses addressing SNC are taken timely. MDE typically responds to SNC with an enforcement order.
	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 (Recommendation Required)
	Explanation of the Finding	11 of 12 enforcement responses addressed SNC and were taken timely. Two untimely enforcement responses may be justified as per criteria documented in Section V., Part C of the July 1998, Enforcement MOA. Two actions were delayed due to the cases being large facilities and they took more time to document. MDE remains aggressive and effective in its approach to compliance and enforcement through the issuance of various enforcement tools that assess up-front penalties in addition to stipulated penalties. MDE has often experience NPDES Watch List quarters without any SNC data captured.
	Metric(s) and Quantitative Value	10b-75%
	Action(s)	
	State's Response	

[CWA] 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 + Finding Number	Finding	The review team did not observe documentation of gravity or economic benefit calculations in the penalty files reviewed.

	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 (Recommendation Required)
	Explanation of the Finding	Maryland state law does not require that MDE collect economic benefit. However, MDE's Enforcement Procedure provides that they will collect any economic benefit of noncompliance where possible. The enforcement files should contain copies of penalty calculations.
	Metric(s) and Quantitative Value	11a-0%
	Action(s)	Where applicable and in accordance with MDE's Enforcement Procedure and/or national policy, MDE needs to ensure that copies of the penalty matrices, penalty calculations and/or penalty justifications are included in the enforcement case files.
	State's Response	MDE has established a new penalty tracking database that lists all penalties and status of resolution, including explanation for changes in original assessed penalty amounts. Files now contain penalty matrices, calculations and other justification in accordance with MDE's penalty policy and penalty guidance documents.

[CWA] 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.		
Element + Finding Number	Finding 12-1	The review team did not observe documentation in the files reviewed that would identify the differences between initial and final penalties in the file.
	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 (Recommendation Required)
	Explanation of the Finding	Of the 5 penalty reviews conducted, one documented a 35% penalty reduction and another documented an initial penalty and an assessed penalty. A rationale for either of these was not identified in the file.

	Metric(s) and Quantitative Value	12a - 0%
	Action(s)	MDE needs to ensure that copies of the penalty matrices, calculations and/or penalty justifications are included in the enforcement case files.
	State's Response	Controls were strengthened to ensure that the basis for reductions in penalty fees are documented and maintained for future reference. A new SOP was implemented in march 2009 that required a Penalty Change Explanation form be completed and maintained in Administrative program files for all penalty reductions and be reviewed and approved by appropriate supervisory personnel. In addition, the MDE Internal Audit Services conduct periodic reviews of penalty reductions to ensure compliance with the SOP and also that reductions are proper.

[CWA] 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.		
Element + Finding Number	Finding 12-2	The review team observed copies of paid invoices in the files.
	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 (Recommendation Required)
	Explanation of the Finding	The invoices identified are generated through FMIS; a state database used to track issued and paid penalties.
	Metric(s) and Quantitative Value	12b -100%
	Action(s)	
	State's Response	See State Response at Metric 11-1 above.

[CWA] 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.		
Element + Finding Number	Finding 12-3	The penalty data reviewed in ICIS is a combination of the initial collected penalty amount and stipulated penalties collected.
	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 (Recommendation Required)
	Explanation of the Finding	It was understood that the File Selection Tool speaks to initial, upfront penalties collected. Having opted to review several of the penalty categories, the file review revealed that the penalty number retrieved from the FST reflected initial penalties <i>and</i> stipulated penalties. It was difficult to discern which amounts are relative to which penalty category. Often, the initial penalty amount collected was outside of the scope of the review (FY'2008), but the stipulated penalty was not.
	Metric(s) and Quantitative Value	
	Action(s)	EPA discussed this finding with MDE at the time of the review. Region 3 contacted EPA HQ for insight on how to adapt this issue to the new ICIS database. HQs methodology is as follows: Initial, upfront penalties collected will be documented using the appropriate national codes and entered into the proper field. Stipulated penalties collected shall be documented in the comments field.
	State's Response	EPA has provided codes for entry of enforcement actions. MDE will continue to enter enforcement actions and penalty assessments into ICIS, as appropriate.

V. 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. 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 full PDA is available in Appendix A of this report.

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 contains every metric positive, 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.

The following table includes metrics from the PDA chart that were found to be “exemplary”.

Clean Air Act

TABLE I

Original Data generated from Online Tracking Information System (OTIS) on 9/9/08; other data is generated from AFS on dates indicated in drilldown sheets							EPA Preliminary Analysis
Metric	Metric Description	Metric Type	Agency	National Goal	National Average	MDE Metric	Initial Findings
3A-S	Percent HPVs Entered ≤ 60 Days After Designation, Timely Entry (1 FY)	Goal	State	100%	24.8%	90.9%	Even though MDE did not achieve the goal of 100%, they are well above the national average.
3B1-S	Percent Compliance Monitoring related MDR actions reported ≤ 60 Days After Designation, Timely Entry (1 FY)	Goal	State	100%	52.6%	91.8%	Even though MDE did not achieve the goal of 100%, they are well above the national average.
3B2-S	Percent Enforcement related MDR actions reported ≤	Goal	State	100%	67.3%	98.1%	Even though MDE did not achieve the goal of 100%, they are well above the national average.

	60 Days After Designation, Timely Entry (1 FY)						
5E	Number of Sources with Unknown Compliance Status (Current)	Review Indicator	State	0		0	No facilities with an unknown compliance status. Historically, MDE rarely has facilities reverting to "Unknown Compliance Status"
10A-S	Percent HPVs not meeting timeliness goals (2 FY)	Review Indicator	State		40.8%	3.6%	State is > 10x better than the national average.

The following table includes metrics from the PDA chart where the initial findings indicated problems, potential problems, or areas where supplemental files were selected.

Clean Air Act

TABLE II

Original Data generated from Online Tracking Information System (OTIS) on 9/9/08; other data is generated from AFS on dates indicated in drilldown sheets							EPA Preliminary Analysis
Metric	Metric Description	Metric Type	Agency	National Goal	National Average	MDE Metric	Initial Findings
1C6-S	CAA Subprogram Designation: Percent MACT facilities with FCEs conducted after 10/1/2005	Data Quality	State		89.4%	61.9%	Well below the national average. Significant # of facilities (i.e., 109) that do not have subpart designations.
8A-S	High Priority Violation Discovery Rate - Per Major Source (1 FY)	Review Indicator	State	> ½ Nat'l Average	9.2%	5.9%	Although above half the national average for HPV identification and percent formal actions with prior HPVs at majors (Metric 8C-S), the state is below the national average. In addition, the state is > than the national average for percent informal enforcement actions without prior HPVs at majors (Metric 8D-S). These metrics indicate a problem could exist in applying the HPV definition to violations the state has discovered. In SRF Round 1, there was a recommendation to "better document HPV determinations whenever a violation is determined". Additional files at non-HPV facilities with enforcement actions will be randomly selected to examine whether the

							state is applying the national HPV definition appropriately.
8B-S	High Priority Violation Discovery Rate - Per Synthetic Minor Source (1 FY)	Review Indicator	State	> ½ Nat'l Average	1.5%	0.6%	The state is below half of the national average for HPV identification at SM sources. Additional files at non-HPV SM facilities with enforcement actions will be randomly selected to examine whether the state is applying the national HPV definition appropriately.
8C-S	Percent Formal Actions With Prior HPV - Majors (1 FY)	Review Indicator	State	> ½ Nat'l Average	72.8%	54.5%	See metric 8A-S
8D-S	Percent Informal Enforcement Actions Without Prior HPV - Majors (1 FY)	Review Indicator	State	< ½ Nat'l Average	39.7%	57.9%	See metric 8A-S

Clean Water Act
Original Data Pulled From Online Tracking System (OTIS)

EPA PRELIMINARY ANALYSIS

Original Data Pulled From Online Tracking System (OTIS)	Metric Description	Metric Type	Agency	National Goal	National Avg	MarylandMetric	Discrepancy Explanation	Initial Findings
Original Data Pulled From Online Tracking System (OTIS)	Active facility universe: NPDES non-major individual permits (Current)	Data Quality	Combined			1225	798 general permits in HQ initial retrieval; review only minors with DMRs, there are 427.	MDE reports that the NPDES non-major individual permit universe is 427. This is perhaps related to an outstanding issue with PCS data migration into ICIS.

P01A4C	Active facility universe: NPDES non-major general permits (Current)	Data Quality	Combined			0		MDE reports that the NPDES non-major general permit universe is 798. This may be an outstanding issue with PCS data migration into ICIS.
P01B1C	Major individual permits: correctly coded limits (Current)	Goal	Combined	>=; 95%	0.7	0.662	MDE believes that data migration is the culprit and/or pipe start and end dates are.	There may be several issues concerning the correct coding of limits This concept has been discussed with MDE, they are researching the issue.
P01C1C	Non-major individual permits: correctly coded limits (Current)	Informational Only	Combined			0.339	MDE believes that data migration may be the culprit and/or pipe start and end date problems are.	There may be several issues concerning the correct coding of limits This concept has been discussed with MDE, they are researching the issue.
P01E3S	Informal actions: number of non-major facilities (1 FY)	Data Quality	State			1		For such a large universe of non-majors, the issuance of one informal enforcement action during a fiscal year is magnified.
P01E4S	Informal actions: number of actions at non-major facilities (1 FY)	Data Quality	State			1		For such a large universe of non-majors, the issuance of one informal enforcement action during a fiscal year is magnified.

C01C2C	Non-major individual permits: DMR entry rate based on DMRs expected (1 Qtr)	Informational Only	Combined			0.598		There may be several issues concerning the correct coding of limits This concept has been discussed with MDE, they are researching the issue.
C01C3C	Non-major individual permits: percent with permit limits and DMR data (1 FY)	Informational Only	Combined			0.429		There may be several issues concerning the correct coding of limits This concept has been discussed with MDE, they are researching the issue.
P01G1S	Penalties: total number of penalties (1 FY)	Data Quality	State			2		Appears as if there is an assessed/collected penalty at a major that has not been accounted for in the data system
P05A0S	Inspection coverage: NPDES majors (1 FY)	Goal	State	1	0.646	0.817		MDE reports that while MS4 inspections have been conducted, they have not been entered. This is in addition to one (1) major ind permit also
P05B1C	Inspection coverage: NPDES non-major individual permits (1 FY)	Goal	Combined			0.117		In accordance with the CMS, inspections at non-major individuals should be conducted 1 each 5 years.
P05A0S	Inspection coverage: NPDES majors (1 FY)	Goal	State	1	0.646	0.817		Inspection data for 11 MS4 permittee inspections are not identified in ICIS.

Preliminary Data Analysis RCRA

Metric	Metric Description	Metric Type	Agency	National Goal	National Average	Maryland Metric	Initial Findings
R01E1S	SNC: number of sites with new SNC (1 FY)	Data Quality	State			2	SNC identification rate less than half the national average. This same issue was identified during round I. See metric R08A0S.
R01G0S	Total amount of assessed penalties (1 FY)	Data Quality	State			\$10,000	\$10,000 in total penalties related to three non-final enforcement actions (MD RCRAInfo Code 251). Appears to be issues related to data entry or interpretation.
R02B0S	Number of sites in violation for greater than 240 days	Data Quality	State			10	Maryland's practice is to leave SNC determinations and violations (?) open until all injunctive relief is completed, which may account for these open violations. Further discussion and/or file review may be appropriate.
R05B0S	Inspection coverage for LQGs (1 FY)	Goal	State	20%	23.8%	17.8%	Review commitments and accomplishments under the grant work plan. Combined State/EPA LQG coverage rate is 18.9%
R05C0S	Inspection coverage for LQGs (5 FY)	Goal	State	100%	64.7%	56.4%	Review commitments and accomplishments under the grant work plan. Combined State/EPA LQG five-year coverage rate is 66.3%. There may be issues with universe count.
R08A0S	SNC identification rate at sites with inspections (1 FY)	Review indicator	State	> ½ National average	3.8%	1.9%	State's results are half the national average. SNC identification was identified as a concern in SRF Round I, and will be further examined during the file review.
R08C0S	Percent of formal (initial and final) actions taken	Review indicator	State	> ½ National	53.8%	50.0%	Four of eight formal actions addressed designated SNC, the other four actions

	that received a prior SNC listing (1 FY)			average			addressed non-SNC violations. We will examine this further during the file review.
R12A0S	No activity indicator - penalties (1 FY)	Review indicator	State			\$10,000	No penalties associated with single final enforcement action.
R12B0S	Percent of final formal actions with penalty (1 FY)	Review indicator	State	> ½ National average	85.5%	0%	No penalties associated with single final enforcement actions.

VI. File Selection

EPA followed the SRF File Selection Protocol when selecting the listed files, and used the web-based file selection tool available to EPA and state users (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.

The following is the file selection process and files selected for the CAA program:

A. File Selection Process

There were 1,672 compliance/enforcement records in FY2007. From the Table on page 2 in the SRF File Selection Protocol Version 2.0 (September 30, 2008), the range of facilities to select for review is from 25 to 40. **Twenty (20)** files were selected because the current universe of major sources is 143 sources, and the current universe of synthetic minor sources is 175 sources. It is believed that a significant number of the 1,672 compliance/enforcement records are related to minor sources. Finally, 18 files were reviewed during Round 1 and the universe of major and synthetic minor sources has not changed significantly since Round 1.

Breakdown of representative files selected.

Following SRF Round 1 methodology, 80% of the sources will be major sources (i.e., 16 sources) and the remaining 20% will be synthetic minor sources (i.e., 4 sources).

Major Sources (16 sources total):

- 1) Sources that rose to the level of an HPV: **4**
- 2) Sources with violations that did not rise to the level of an HPV: **4**
- 3) Sources with Compliance Monitoring activity without enforcement: **8**

Synthetic Minor Sources (4 sources total):

- 1) Sources with that rose to the level of an HPV: **1**
- 2) Sources with violations that did not rise to the level of an HPV: **1**
- 3) Sources with Compliance Monitoring activity without enforcement: **2**

Supplemental File Selection (5 files)

Supplemental files are used to ensure that the region has enough files to look at to understand whether a potential problem pointed out by data analysis is in fact a problem. The preliminary data analysis showed the following 4 data metrics of potential concern:

Data Metric No.	DESCRIPTION
A08A0S	High Priority Violation Discovery Rate - Per Major Source (1 FY)
A08B0S	High Priority Violation Discovery Rate - Per Synthetic Minor Source (1 FY)
A08C0S	Percent Formal Actions With Prior HPV - Majors (1 FY)
A08D0S	Percent Informal Enforcement Actions Without Prior HPV - Majors (1 FY)

Data Metric No.s A08A0S, A08C0S, and A08D0S measure a state's ability to apply the HPV definition to violations that the state has discovered at major sources. In addition, there was a

recommendation from SRF round 1 to “better document HPV determinations whenever a violation is determined”. Therefore an additional **three** major sources with violations that did not rise to the level of an HPV will be chosen.

Data Metric No. A08B0S measure a state’s ability to apply the HPV definition to violations that the state has discovered at synthetic minor sources. Therefore an additional **two** synthetic minor with violations that did not rise to the level of an HPV will be chosen.

File #	File Selection Category (*)	f_state	FCE	PCE	Violation	Stack Test Failure	Title V Deviation	HPV	Informal Action	Formal Action	Penalty	Universe
1	1 (*)	MD	1	8	12	0	1	1	1	1	30,000	MAJR
2	1 (*)	MD	1	20	20	1	0	1	1	0	0	MAJR
3	1 (*)	MD	0	2	4	0	0	1	1	0	0	MAJR
4	1 (*)	MD	0	2	0	0	0	1	0	0	0	MAJR
5	2 (*)	MD	0	19	0	0	0	0	0	1	83,000	MAJR
6	2 (*)	MD	1	6	8	0	0	0	0	1	25,000	MAJR
7	2 (*)	MD	0	6	10	0	1	0	1	0	0	MAJR
8	2 (*)	MD	1	4	6	0	1	0	1	0	0	MAJR
9	3 (*)	MD	1	4	0	0	0	0	0	0	0	MAJR
10	3 (*)	MD	1	3	0	0	0	0	0	0	0	MAJR
11	3 (*)	MD	1	3	0	0	0	0	0	0	0	MAJR
12	3 (*)	MD	1	3	0	0	0	0	0	0	0	MAJR
13	3 (*)	MD	1	2	0	0	0	0	0	0	0	MAJR
14	3 (*)	MD	1	3	0	0	0	0	0	0	0	MAJR
15	3 (*)	MD	1	1	0	0	0	0	0	0	0	MAJR
16	3 (*)	MD	1	5	0	0	0	0	0	0	0	MAJR
17	4 (*)	MD	0	6	3	0	1	1	1	0	0	SM80
18	5 (*)	MD	0	6	3	0	0	0	1	1	0	SM80
19	6 (*)	MD	1	3	0	0	0	0	0	0	0	SM80
20	6 (*)	MD	1	1	0	0	0	0	0	0	0	SM80
21	7 (*)	MD	0	12	16	0	1	0	2	0	0	MAJR
22	7 (*)	MD	0	12	24	0	1	0	1	0	0	MAJR
23	7 (*)	MD	0	7	8	0	0	0	1	0	0	MAJR
24	8 (*)	MD	1	0	8	0	0	0	0	0	0	SM80
25	8 (*)	MD	0	1	2	0	0	0	1	0	0	SM80

- (*) (1) Major Sources that rose to the level of an HPV (4 total)
- (2) Major Sources with violations that did not rise to the level of an HPV (4 total)
- (3) Major Sources with Compliance Monitoring activity without enforcement (8 total)
- (4) Synthetic Minor Sources that rose to a level of an HPV (1 total)
- (5) Synthetic Minor Sources with violations that did not rise to the level of an HPV (1 total)
- (6) Synthetic Minor Sources with Compliance Monitoring activity without enforcement (2 total)
- (7) Major Sources with violations that did not rise to the level of an HPV (3 total)
- (8) Synthetic Minor Sources with violations that did not rise to the level of an HPV (2 total)

FILE SELECTION DATA NPDES

Fi	f_state	f_zip	Permit Component	Inspection	Violation	Single Event Violation	SNC	Informal Action	Formal Action	Penalty	Universe	Select
MDL021814	MD	21403	BIO PRE	0	4	0	0	0	0	0	Minor	accepted_representative
MDG343044	MD			1	2	0	0	0	0	0	Minor	accepted_representative
MD0052825	MD	21921	POT	2	1	0	0	1	0	0	Minor	accepted_representative
MD0021628	MD	20715	POT	3	0	0	0	0	0	0	Major	accepted_representative
MD0021571	MD	21803	PRE POT	23	19	0	3	0	1	0	Major	accepted_representative
MDG490361	MD			1	5	0	0	0	0	0	Minor	accepted_representative
MD0054348	MD	21550	POT	0	11	0	1	0	1	0	Minor	accepted_representative
MD0066613	MD	21853		2	9	0	1	0	0	0	Minor	accepted_representative
MD0020681	MD	21921	POT PRE	3	18	0	1	0	2	3,000	Major	accepted_representative
MD0060071	MD	21562	POT	1	9	0	4	0	0	0	Minor	accepted_representative
MD0021776	MD	21740	POT PRE	2	1	0	0	0	1	700	Major	accepted_representative
MD0021750	MD	21078	POT PRE	3	5	0	0	0	0	0	Major	accepted_representative
MD0059617	MD	21830	POT	11	6	0	0	0	0	0	Minor	accepted_representative
MDG520513	MD			1	1	0	0	0	0	0	Minor	accepted_representative
MD0000531	MD	21078		0	0	0	0	0	1	11,250	Minor	accepted_representative
MD0023957	MD	21740		1	3	0	0	0	0	0	Major	accepted_representative
MD0067482	MD	20771		2	9	0	0	0	0	0	Minor	accepted_representative
MD0021652	MD	21114	POT PRE	2	0	0	0	0	0	0	Major	accepted_representative
MD0000965	MD	21862		1	0	0	0	0	0	0	Major	accepted_representative
MD0020613	MD	21903	POT	3	11	0	3	0	2	0	Major	accepted_representative
MDG491365	MD	20770		1	5	0	0	0	0	0	Minor	accepted_representative
MD0064530	MD	21758	POT	0	9	0	2	0	1	8,265	Minor	accepted_representative
MD0057525	MD	20664		1	14	0	0	0	0	0	Minor	accepted_representative
MD0022993	MD	21871	POT	0	7	0	0	0	1	1,250	Minor	accepted_representative
MD0020052	MD	20640	POT	1	8	0	2	0	1	0	Minor	accepted_representative
MD0001457	MD	21226		1	7	0	0	0	1	0	Minor	accepted_representative
MDG852150	MD	21521		9	1	0	0	0	0	0	Minor	accepted_representative
MD0021741	MD	20772	POT PRE	1	1	0	0	0	4	0	Major	accepted_representative

File Selection Data – RCRA

A. File Selection Process (RCRA)

Using the EPA OTIS SRF file selection templates, we chose all of the facilities which met any of the following criteria for our representative sample:

- Identified in SNC status during FY07
- Identified as having formal State enforcement action during FY07
- Identified as having violations discovered during FY07
- Identified as having more than one State inspection during FY07

In order to have approximately 30 facilities for review, the Region rounded out the representative sample with nine supplemental selections, each of which was selected randomly from facilities which had been inspected once by the State during FY07, but did not meet any of the other criteria listed above.

ID	Evaluation	Violation	SNC	Informal action	Formal action	Penalty	Universe	Select
MD-01	3	0	0	0	3	0	NON	accepted representative
MD-02	2	0	0	0	0	0	TSD(LDF)	accepted representative
MD-03	1	0	0	0	0	0	OTH	accepted supplemental
MD-04	1	2	0	0	0	0	LQG	accepted representative
MD-05	2	3	0	0	1	5,000	TSD(TSF)	accepted representative
MD-06	1	16	1	2	0	0	LQG	accepted representative
MD-07	1	5	0	0	0	0	LQG	accepted representative
MD-08	1	0	0	0	0	0	TSD(TSF)	accepted supplemental
MD-09	1	3	0	0	1	2,000	TSD(COM)	accepted representative
MD-10	1	12	0	0	1	3,000	LQG	accepted representative
MD-11	1	2	0	0	0	0	LQG	accepted representative
MD-12	1	5	0	0	1	0	LQG	accepted representative
MD-13	1	1	0	0	0	0	LQG	accepted representative
MD-14	1	8	1	1	1	0	SQG	accepted representative
MD-15	1	0	0	0	0	0	TSD(LDF)	accepted supplemental
MD-16	1	0	0	0	0	0	LQG	accepted supplemental
MD-17	2	0	0	0	0	0	TSD(TSF)	accepted representative
MD-18	2	0	0	0	0	0	TSD(TSF)	accepted representative
MD-19	2	3	0	2	0	0	SQG	accepted representative
MD-20	1	7	0	1	0	0	SQG	accepted representative
MD-21	1	0	0	0	0	0	LQG	accepted supplemental
MD-22	2	0	0	0	0	0	TSD(TSF)	accepted representative
MD-23	1	0	0	0	0	0	SQG	accepted supplemental
MD-24	2	0	0	0	0	0	TSD(LDF)	accepted representative
MD-25	1	0	0	0	0	0	LQG	accepted supplemental
MD-26	2	0	0	0	0	0	TSD(TSF)	accepted representative
MD-27	2	0	0	0	0	0	TSD(TSF)	accepted representative
MD-28	2	0	0	0	0	0	TSD(COM)	accepted representative
MD-29	1	0	0	0	0	0	LQG	accepted supplemental
MD-30	1	0	0	0	0	0	OTH	accepted supplemental

VI. FILE REVIEW ANALYSIS CHART

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. 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 VI 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.

File Analysis Chart CAA

Name of State: Maryland Department of the Environment (MDE) **Review Period:** FY2007

CAA Metric #	CAA File Review Metric Description:	Metric Value	Initial Findings
Metric 2c	% of files reviewed where MDR data are accurately reflected in AFS.	100%	Of the 25 files reviewed, only a few were found to have minor inconsistencies with AFS. Overall, MDE's AFS data qualities has been found to be very good over the years.
Metric 4a	Confirm whether all commitments pursuant to a traditional CMS plan (FCE every 2 yrs at Title V majors; 3 yrs at mega-sites; 5 yrs at SM80s) or an alternative CMS plan were completed. Did the state/local agency complete all planned evaluations negotiated in a CMS plan? Yes or no? If a state/local agency implemented CMS by following a traditional CMS plan, details concerning evaluation coverage are to be discussed pursuant to the metrics under Element 5. If a state/local agency had negotiated and received approval for conducting its compliance monitoring program pursuant to an alternative plan, details concerning the alternative plan and the S/L agency's implementation (including evaluation coverage) are to be discussed under this Metric.	100%	The state committed to conducting a traditional CMS plan that includes FCEs at 100% of the major sources over two years and 100% of SM sources over 5 years. The state committed to conducting 139 FCEs at major sources over the FY2006 - 2007 CMS cycle. The state completed 100% of the FCEs based on the data provided in Data Metric 5a1. For SM-80 sources, FY2007 was the first year of the 5 year cycle. Therefore, the state was required to complete 20% of the SM-80 sources through FY2007. Data metric 5b1 shows that the state completed > 20% of the SM-80 FCEs.
Metric 4b	Delineate the air compliance and enforcement commitments for the FY under review. This should include commitments in PPAs, PPGs, grant agreements, MOAs, or other relevant agreements. The compliance and enforcement commitments should be delineated.	NA	MDE successfully completed all commitments specified in the Oct. 2005 Memorandum of Understanding (MOU).
Metric 6a	# of files reviewed with FCEs.	15	15 FCEs were reviewed
Metric 6b	% of FCEs that meet the definition of an FCE per the CMS policy.	87%	13 of the 15 FCEs reviewed had documentation in the files to show that they contained all of the elements of the FCE, per the CMS. The two files that were missing documentation, were misclassified as an FCE (i.e., should have been classified as a PCE). The 2 files did contain FCEs within one year before or after the PCE reviewed. Therefore, the misclassified PCEs were not critical to making a compliance determination..
Metric 6c	% of CMRs or facility files reviewed that provide sufficient documentation to determine compliance at the facility.	100%	The EPA Review Team considers MDE's CMRs as a Good Practice. In general, the CMRs were found to be complete and well written and well beyond the minimum information required to document a CMR. The quality of the CMRs ensures that the compliance status of a facility is well documented, and serves as an excellent source for future CMRs written at a given facility and would serve as model CMRs for other agencies to use.. The Review Team believes this Good Practice is a result of MDE management oversight and concurrence of all MDRs, the identification and conduct of EPA training of MDE inspectors and first level management ,and the continuity of senior staff.
Metric 7a	% of CMRs or facility files reviewed that led to accurate compliance determinations.	100%	All 25 files reviewed led to an accurate compliance determination.
Metric 7b	% of non-HPVs reviewed where the compliance determination was timely reported to AFS.	100%	All 12 non-HPVs' compliance determinations were reported to AFS in a timely manner.
Metric 8f	% of violations in files reviewed that were accurately determined to be HPV.	100%	All 13 files that included violations had the correct HPV determinations. However, in the future, EPA strongly recommends that MDE shares non-HPV decisions regarding potential discretionary HPVs with EPA at T & A meetings.
Metric 9a	# of formal enforcement responses reviewed.	7	7 enforcement responses were reviewed.
Metric 9b	% of formal enforcement responses that include required corrective action (i.e., injunctive relief or other complying actions) that will return the facility to compliance in a specified time frame.	100%	The 5 formal actions with injunctive relief contained the documentation that required the facilities to return to compliance. These five responses were either administrative (3 total) or judicial (2 total) orders that contained a compliance schedule. The files contained sufficient documentation to document that the compliance are or have been met. 2 of the responses were only a penalty order to a facility that documented that it had returned to compliance prior to the execution of the penalty-only order.

CAA Metric #	CAA File Review Metric Description:	Metric Value	Initial Findings
Metric 10b	% of formal enforcement responses for HPVs reviewed that are addressed in a timely manner (i.e., within 270 days).	83%	5 of the 6 HPVs were addressed in a timely manner. The one facility that was not is currently unaddressed. It is a state-owned facility where the state is currently negotiating an SEP with the facility. Because it is a state-only facility, no penalty will be assessed and the facility will be "returned to state" once the SEP is agreed to.
Metric 10c	% of enforcement responses for HPVs appropriately addressed.	100%	5 of the 6 HPVs were addressed with a formal enforcement response. 1 HPV was addressed with an informal enforcement response. 2 of those orders were penalty-only orders since the facility had already returned to compliance prior to the execution of the orders. 3 of the orders contained appropriate injunctive and a penalty. 2 of the 3 orders were judicial orders that were in response to referrals to the AG's office. The remaining order was an administrative order. The lone HPV not addressed with a formal enforcement action was returned to state. This HPV was the result of a "paperwork" violation and occurred at a county-owned facility. While informal responses to HPVs are not considered appropriate, the informal response had the effect returning the facility to compliance. Therefore, 6 of the 6 HPVs were appropriately addressed.
Metric 11a	% of reviewed penalty calculations that consider and include where appropriate gravity and economic benefit.	100%	All 8 files with penalty calculations included calculations for both gravity and economic benefit.
Metric 12c	% of penalties reviewed that document the difference and rationale between the initial and final assessed penalty.	57%	Only 4 of 7 enforcement responses reviewed contained documentation for the rationale between the initial and the final assessed penalty. Currently, MDE does not have any formal procedures for documenting the rationale between the initial and final assessed penalties.
Metric 12d	% of files that document collection of penalty.	100%	In all of the 7 files reviewed with penalties collected, there was a copy of both the invoice and the check.

File Analysis Chart NPDES

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.	79%	23 of 29 files reviewed had accurate data in the national database (ICIS). 2 MS4 permittees did not have data in ICIS, 3 had inaccurately documented enforcement actions, 1 was documented as an inspection, but an inspection was not conducted.
Metric 4a	% of planned inspections completed. Summarize using the Inspection Commitment Summary Table in the CWA PLG.	88%	All major inspections were completed during FY'2007, with the exception of 11 MS4 major NPDES permittees.

Metric 4b	Other Commitments. Delineate the commitments for the FY under review and describe what was accomplished. This should include commitments in PPAs, PPGs, grant agreements, MOAs, or other relevant agreements. The commitments should be broken out and delineated.	N/A	FY 2007 Grant Work plan Commitments and Accomplishments include completion of planned inspections at 94 majors; submission of the annual calendar year summary report for non-major permittees; 7 CSO annual inspections conducted; Major permittee DMR entry rates are above the National goal and average; percent major permits with permit limits and DMR data are on-line with the National average
Metric 6a	# of inspection reports reviewed.	59%	17 of 29 case files were selected for inspection report review
Metric 6b	% of inspection reports reviewed that are complete.	0%	In accordance with Appendix A, CWA Inspection Report Evaluation Guide, 0 of the inspection reports were complete. During FY'2007, many of the qualifying factors/data fields were not available in MDE's Field Inspection Report (FIR) system. In July 2008, FIR was superseded by the Tempo Remote Inspection Process (TRIP). TRIP logs the entry/exit time, facility contact information, facility type, hours/days of operation, sampling data, state and federal regulatory citations and photo logs. It is highly likely that any future inspection reports developed in TRIP will be administratively complete in accordance with the SRF guidance at Appendix A.
Metric 6c	% of inspection reports reviewed that provide sufficient documentation to lead to an accurate compliance determination.	92%	14 inspection reports reviewed contain ample information to make an accurate compliance determination. 1 file review had an inaccurately documented inspection is a seasonal operation and was closed at the time inspection was attempted. MDE does not conduct inspection of its MS4 storm water management program. MDE reviews annual reports submitted by the county. 2 county annual reports were reviewed, and rated by MDE as having an "acceptable storm water management program in accordance with Code of Maryland, Title 4, Subtitle 2.
Metric 6d	% of inspection reports reviewed that are timely.	47%	8 of 17 inspection reports (including the 2 MS4 Annual Reports) were timely. Those deemed untimely failed to provide a final signature date, in accordance with Appendix A, CWA Inspection Report Evaluation Guidance.
Metric 7e	% of inspection reports or facility files reviewed that led to accurate compliance determinations.	71%	14 of 17 inspection records reviewed (including the 2 MS4 Annual Reports) documented accurate compliance determinations. Those that aren't reflected as having accurate compliance determinations include 2 with obvious laboratory issues and 1 facility having seasonal operating hours and was closed.
Metric 8b	% of single event violation(s) that are accurately identified as SNC or Non-SNC.	0%	During the review period, one (1) Single Event Violations (SEVs) was identified in the national database. However, during FY'2008 MDE began entry of SEVs into ICIS.

Metric 8c	% of single event violation(s) identified as SNC that are reported timely.	0%	One (1) Single Event Violations (SEVs) was identified in the national database during FY'2007. The SEV was reported timely.
Metric 9a	# of enforcement files reviewed	41%	12 of 29 files reviewed were enforcement related. 5 of 12 were formal penalty actions and 7 were formal actions (w/o penalty).
Metric 9b	% of enforcement responses that have returned or will return a source in SNC to compliance.	100%	All (12) of the enforcement responses reviewed contain a SEP, injunctive relief, compliance milestones and/or stipulated penalty provisions, that have or will return sources to compliance.
Metric 9c	% of enforcement responses that have returned or will returned a source with non-SNC violations to compliance.	0%	The 12 enforcement responses were initiated as a result of significant noncompliance. These responses were issued to both major and minor sources.
Metric 10b	% of enforcement responses reviewed that address SNC that are taken in a taken in a timely manner.	25%	9 of 12 enforcement responses addressed SNC and were taken timely. 2 untimely enforcement responses may be justified as per criteria documented in Section V., Part C. of the July 1988, Enforcement MOA.
Metric 10c	% of enforcement responses reviewed that address SNC that are appropriate to the violations.	100%	12 formal enforcement responses were initiated as a result of SNC. At a minimum, these responses sought either injunctive relief and/or penalties
Metric 10d	% of enforcement responses reviewed that appropriately address non-SNC violations.	0%	12 enforcement actions were reviewed. These responses were initiated as a result of significant noncompliance. The review team did not identify enforcement responses that were initiated due to non-SNC violations.
Metric 10e	% enforcement responses for non-SNC violations where a response was taken in a timely manner.	0%	12 enforcement files were reviewed. The responses were initiated as a result of significant noncompliance. The review team did not identify enforcement responses that were initiated due to non-SNC violations.
Metric 11a	% of penalty calculations that consider and include where appropriate gravity and economic benefit.	0%	MDE has provided that they don't collect economic benefit, as MD law does not require they do. MDE's Enforcement Procedure does document they will collect economic benefit of noncompliance where possible. The enforcement files were lacking penalty matrices to support this. Further, the file selection criteria were for penalty (initial) actions. Our review resulted in review of stipulated penalties collected in FY'2007.

Metric 12a	% of penalties reviewed that document the difference and rationale between the initial and final assessed penalty.	0%	Of the 5 penalty reviews conducted, the team observed that one documented a 35% reduced penalty amount and another documented an initial penalty and an assessed penalty. A rationale for either was not identified in the file.
Metric 12b	% of enforcement actions with penalties that document collection of penalty.	100%	Each of the 5 penalty reviews contained "paid" invoices in the case file. Paid invoices are generated through "FMIS", a state database that MDE uses to track issued and paid penalties.

File Analysis Chart RCRA

Name of State: Maryland

Review Period: FY07 (10/1/06 - 9/30/07)

RCRA Metric #	RCRA File Review Metric Description	Metric Value	Initial Findings
Metric 2c	% of files reviewed where mandatory data are accurately reflected in the national data system	83%	<p>Some data discrepancies were observed:</p> <ul style="list-style-type: none"> - It appears that when the State inspects a facility that is both a TSDF and generator (typically these facilities are LQGs), the State enters two inspection records into RCRAInfo. Sometimes one report will be prepared, sometimes two will be prepared (one specifically addressing TSD issues, one specifically related to LQG issues). We believe that the State has adopted this practice to assure that they are able to claim proper credit (under their grant work plan commitments) for TSD and LQG inspection coverage. - We found one inspection [MD-11] where violations were discovered and corrected during an inspection. The violations were correctly entered into RCRAInfo, but were not labeled as RTC (returned to compliance). - We found one inspection [MD-12] where an inspection record was misidentified in RCRAInfo (entered as FUI, but should have been listed as NRR). In addition, a name change of the facility was noted during the inspection, but this information was not updated in RCRAInfo. - We found one facility [MD-19] where a follow up inspection was not entered into RCRAInfo, and documented RTC (return to compliance) related to two violations were not entered into RCRAInfo. - We found one inspection [MD-23] which was not entered in RCRAInfo.
Metric 4a	Planned inspections completed (based on grant commitments)		<ul style="list-style-type: none"> - Federal TSD inspections: 6 completed (commitment of 6) - State and local TSD inspections: 3 completed (commitment of 3) - Private TSD inspections: 4 completed (commitment of 5) - LDF inspections: 2 completed (commitment of 3) - LQG inspections: 122 completed (commitment of 109) - SQG inspections: 5 completed (commitment of 20)
Metric 4b	Planned commitments completed (grant non-inspection commitments)		<ul style="list-style-type: none"> - Take enforcement action in accordance with Enforcement Response Policy (see Element 10) - Staff will participate in RCRA Inspector Workshop (done)

			- Perform site visits focusing specifically on compliance assistance (9 completed, commitment of 4)
Metric 6a	# of inspection reports reviewed	46	
Metric 6b	% of inspection reports reviewed that are complete and provide sufficient documentation to determine compliance at the facility	100%	We found that all inspection reports were complete and provided sufficient documentation to determine compliance.
Metric 6c	% of timely inspection reports reviewed	Between 41% and 93%	State inspection reports are not always dated. Of the 29 files review, we identified 12 instances were the reports did not appear to be completed within 50 days of the field work, and 2 instances were they did not appear to meet this 50 day goal. In the other instances, we could not determine how quickly after the inspection field work the report was written, but there was nothing to suggest that it was not completed within the 50 day goal. In general, it appears that inspection reports are normally completed within a few days of the inspection.
Metric 7a	% of inspection reports reviewed that led to accurate compliance determinations	100%	We found no instances where compliance determinations were not accurate.
Metric 7b	% of violation determinations in the files reviewed that are reported timely to the national database (within 150 days)	13/13	All violation determinations were made and entered into the national database in a timely manner.
Metric 8d	% of violations in files reviewed that were accurately determined to be SNC	62%	The State identified 8 facilities in SNC status. The reviewer identified an additional 5 facilities which we believe should also be considered to have violations which meet the SNC definition: 1. Facility MD-05 was the subject of a State formal enforcement action, including assessment of a penalty. EPA normally considers violations which are serious enough to be addressed by a penalty action to be violations which should be considered as in SNC status. 2. Facility MD-07 was the subject of settlement negotiations with the State (pre-filing negotiations) with the State, including discussion of penalties as part of settlement. EPA normally considers violations which are serious enough to be addressed by a penalty action to be violations which should be considered as in SNC status. 3. Facility MD-09 was the subject of a State formal enforcement action, including assessment of a penalty. EPA normally considers violations which are serious enough to be addressed by a penalty action to be violations which should be considered as in SNC status. 4. Facility MD-10 was the subject of a State formal enforcement action, including assessment of a penalty. EPA normally considers violations which are serious enough to be addressed by a penalty action to be violations which should be considered as in SNC status. 5. Facility MD-12 was the subject of a State formal enforcement action, including assessment of a penalty. EPA normally considers violations which are serious enough to be addressed by a penalty action to be violations which should be considered as in SNC status.
Metric 9a	# of enforcement responses reviewed	16	
Metric 9b	% of enforcement responses that have returned or will return a facility in SNC to compliance	100%	In all but five cases, facilities in significant noncompliance returned to compliance before the State's enforcement response was finalized. In those five cases, all five of the enforcement actions contained injunctive requirements to assure a return to full compliance.
Metric 9c	% of enforcement responses that have or will return Secondary Violators (SVs) to compliance	100%	In all but two cases, facilities with secondary violations had returned to compliance before the State's enforcement response was finalized. In those two cases, both enforcement actions contained injunctive requirements to assure a return to full compliance.
Metric 10c	% of enforcement responses reviewed that are taken in a timely manner	90%	Of the 10 enforcement actions reviewed, 9 were taken in a timely manner. Regarding the tenth facility [MD-07], at the time of file review, settlement negotiations on a formal enforcement action were still underway. However, since the initial settlement offer was made 10 months after identification of the violations, the timeliness goals of the RCRA ERP (which requires that unilateral or initial orders by issued by Day 240) will not have been met with final settlement is reached. In this case, a revised settlement offer was made 11 months after the identification of the violations, and settlement had not been reached at the time of the file review (17 months after identification of the violations; the RCRA ERP timeliness guidelines require entry into a final order with the violator by Day 360).
Metric 10d	% of enforcement responses reviewed that are appropriate to the violations	100%	The reviewer found that eleven of eleven enforcement actions were appropriate to the violations identified. In addition, we found no cases of violations which should have been addressed by enforcement action but were not. In other words, we found that the State took appropriate action in response to each violation found.
Metric 11a	% of penalty calculations reviewed that	0%	While some enforcement actions described the statutory factors considered in determining the penalty

	consider and include, where appropriate, gravity and economic benefit		amount, there was no documentation in the file on how each penalty was calculated.
Metric 12a	% of formal enforcement responses reviewed that document the difference and rationale between the initial and final assessed penalty	0%	There was no documentation in the file on how penalties were calculated. There was one enforcement action with no difference between the proposed and final penalty.
Metric 12b	% of enforcement files reviewed that document the collection of penalty	83%	For 5 of 6 formal enforcement actions (with penalty assessed), the file contained documentation demonstrating that the penalty had been paid. No documentation was found related to the sixth enforcement action, although there was nothing to indicate that the penalty had not been paid. There was one additional facility where the penalty was deferred by the State.

APPENDICES

Appendix A. Corrected CAA PDA Worksheet - FY07 Data Metrics Results for Maryland Department of the Environment

Original Data Pulled from Online Tracking Information System (OTIS) on 9/9/08.

Metric	Metric Description	Measure Type	Agency	National Goal	National Average	Maryland Metric	Count	Universe	Not Counted	State Data Source	Discrepancy Explanation
A01B2C	Source Count: NESHAP Minors (Current)	Data Quality	Combined			2	NA	NA	NA	AFS	2403388002 is not a state regulated facility. EPA recommends archiving this facility.

Metric	Metric Description	Measure Type	Agency	National Goal	National Average	Maryland Metric	Count	Universe	Not Counted	State Data Source	Discrepancy Explanation
A01G1S	HPV: Number of New Pathways (1 FY)	Data Quality	State			11	NA	NA	NA	AFS	<p>Corrected Data Accepted. Severstal Sparrows Point LLC (Key Action No. 412) and Mirant Dickerson have Day Zeros in 1999 and 2000 respectively. Both HPVs were originally entered into AFS as Federal Lead Day Zero and were resolved well before FY2007. However, in FY2007, it was discovered that both HPVs should have been state lead HPVs. Subsequently, both HPVs corrected in AFS as state day zeros. EPA believes that both of these HPVs should not be part of this SRF. Note that other metrics will be affected by this revised metric and are noted below.</p>
A01G2S	HPV: Number of New Sources (1 FY)	Data Quality	State			9	NA	NA	NA	AFS	

Metric	Metric Description	Measure Type	Agency	National Goal	National Average	Maryland Metric	Count	Universe	Not Counted	State Data Source	Discrepancy Explanation
A01H1S	HPV Day Zero Pathway Discovery date: Percent DZs reported after 10/01/2005 with discovery	Data Quality	State	100%	45.3%	100%	11	11	0	AFS	See Metric A01G1S
A01H2S	HPV Day Zero Pathway Violating Pollutants: Percent DZs reported after 10/01/2005	Data Quality	State	100%	67.2%	100%	11	11	0	AFS	See Metric A01G1S
A01H3S	HPV Day Zero Pathway Violation Type Code(s): Percent DZs reported after 10/01/2005 with HPV Violation Type Code(s)	Data Quality	State	100%	57.4%	100%	11	11	0	AFS	See Metric A01G1S
A03A0S	Percent HPVs Entered ≤ 60 Days After Designation, Timely Entry (1 FY)	Goal	State	100%	24.8%	90.90%	10	11	1	AFS	See Metric A01G1S
A03B1S	Percent Compliance Monitoring related MDR actions reported ≤ 60 Days After Designation, Timely Entry (1 FY)	Goal	State	100%	52.6%	91.80%	302	329	27	AFS	Corrected Data Accepted. Action type 'CB' (Title V certification received by State) is not an MDR but is showing up in the metric as an MDR. The revised numbers eliminate all entries with action type 'CB'.
A08A0S	High Priority Violation Discovery Rate - Per Major Source (1 FY)	Review Indicator	State	> 1/2 National Avg	9.2%	5.90%	8	143	135	NA	See Metric A01G1S

Appendix A. NPDES Corrected Preliminary Data Analysis Worksheet
FY'07 Data Metrics Results

Metric	Metric Description	Metric Type	Agency	National Goal	National Average	Maryland Metric	Count	Universe	Not Counted	State Data Source	Discrepancy Explanation
	Active facility universe: NPDES non-major individual permits (Current)	Data Quality	Combined			1,225	NA	NA	NA	DMR Log Book; PCS/ICIS	here are 427 individual minors with DMRs. The metric represented is due to a PCS to ICIS migration problem with data family linkages. MDE forwarded to HQ on October 23, 2008 the correct data family linkages for correction.
P01A4C	Active facility universe: NPDES non-major general permits (Current)	Data Quality	Combined			0	NA	NA	NA	ICIS	There are 798 general permits. The metric represented is due to a PCS to ICIS migration problem with data family linkages. MDE forwarded to HQ on October 23, 2008 the correct data family linkages for correction.
P01B1C	Major individual permits: correctly coded limits (Current)	Goal	Combined	>=; 95%	70.00%	66.20%	53	80	27	ICIS	Not evaluated as per HQ memo dated October 22, 2008
P01C1C	Non-major individual permits: correctly coded limits (Current)	Informational Only	Combined			33.90%	410	1,210	800	ICIS	Not evaluated as per HQ memo dated October 22, 2008
P01E3S	Informal actions: number of non-major facilities (1 FY)	Data Quality	State			1	NA	NA	NA	ICIS and TEMPO	MDE documents their informal actions or "NOVs" in accordance with their enforcement policy. "Settlement Letters" or "Settlement Agreements are entered into the state database and are considered "NOVs".

P01E3E	Informal actions: number of mom-major facilities (1 FY)	Data Quality	EPA			0	NA	NA	NA	ICIS and TEMPO	MDE documents their informal actions or "NOVs", which in accordance with their enforcement policy is a Settlement Letter or Settlement Agreement into a state database.
P01G3S	Penalties: total collected pursuant to civil judicial actions (3 FY)	Data Quality	State			\$107,200	NA	NA	NA	ICIS	MD0021571 does not have penalty data associated with this metric. This data has been entered.
P05A0S	Inspection coverage: NPDES majors (1 FY)	Goal	State	100%	64.60%	81.70%	76	93	17	ICIS	Inspection data for the 11 MS4 permits are not in the national data system.

Appendix B. Preliminary Data Analysis Worksheet – FY07 Data Metrics Results

Metric	Metric Description	Metric Type	Agency	National Goal	National Average	MarylandMetric	Count	Universe	Not Counted	State Discrepancy (Yes/No)	State Data Source
P01A1C	Active facility universe: NPDES major individual permits (Current)	Data Quality	Combined			94	NA	NA	NA	No	N/A
P01A2C	Active facility universe: NPDES major general permits (Current)	Data Quality	Combined			0	NA	NA	NA	No	N/A
P01A3C	Active facility universe: NPDES non-major	Data Quality	Combined			1,225	NA	NA	NA	Yes	DMR Log Book; PCS/ICIS

	individual permits (Current)										
P01A4C	Active facility universe: NPDES non-major general permits (Current)	Data Quality	Combined			0	NA	NA	NA	Yes	ICIS
P01B1C	Major individual permits: correctly coded limits (Current)	Goal	Combined	>=; 95%	70.00%	66.20%	53	80	27	Yes	ICIS
C01B2C	Major individual permits: DMR entry rate based on DMRs expected (1 Qtr)	Goal	Combined	>=; 95%	89.60%	98.70%	464	470	6	No	N/A
C01B3C		Goal	Combined	>=; 95%	85.90%	85.00%	68	80	12	No	N/A
P01B4C	Major individual permits: manual RNC/SNC override rate (1 FY)	Data Quality	Combined			0.00%	0	18	18	No	N/A
P01C1C	Non-major individual permits: correctly coded limits (Current)	Informational Only	Combined			33.90%	410	1,210	800	No	N/A

C01C2C	Non-major individual permits: DMR entry rate based on DMRs expected (1 Qtr)	Informational Only	Combined			59.80%	1,348	2,256	908	No	N/A
C01C3C	Non-major individual permits: percent with permit limits and DMR data (1 FY)	Informational Only	Combined			42.90%	519	1,210	691	No	N/A
P01D1C	Violations at non-majors: noncompliance rate (1 FY)	Informational Only	Combined			74.30%	910	1,225	315	No	N/A
C01D2C	Violations at non-majors: noncompliance rate in the annual noncompliance report (ANCR)(1 FY)	Informational Only	Combined			32.30%	628	1,945	1,317	No	N/A
P01D3C	Violations at non-majors: DMR non-receipt (3 FY)	Informational Only	Combined			2	NA	NA	NA	No	N/A
P01E1S	Informal actions: number of	Data Quality	State			0	NA	NA	NA	No	N/A

	major facilities (1 FY)										
P01E1E	Informal actions: number of major facilities (1 FY)	Data Quality	EPA			0	NA	NA	NA	No	N/A
P01E2S	Informal actions: number of actions at major facilities (1 FY)	Data Quality	State			0	NA	NA	NA	No	N/A
P01E2E	Informal actions: number of actions at major facilities (1 FY)	Data Quality	EPA			0	NA	NA	NA	No	N/A
P01E3S	Informal actions: number of non-major facilities (1 FY)	Data Quality	State			1	NA	NA	NA	Yes	ICIS
P01E3E	Informal actions: number of non-major facilities (1 FY)	Data Quality	EPA			0	NA	NA	NA	Yes	ICIS
P01E4S	Informal actions: number of actions at non-major facilities (1 FY)	Data Quality	State			1	NA	NA	NA	No	N/A
P01E4E	Informal actions: number of actions at non-major facilities	Data Quality	EPA			0	NA	NA	NA	No	N/A

	(1 FY)										
P01F1S	Formal actions: number of major facilities (1 FY)	Data Quality	State			5	NA	NA	NA	No	N/A
P01F1E	Formal actions: number of major facilities (1 FY)	Data Quality	EPA			0	NA	NA	NA	No	N/A
P01F2S	Formal actions: number of actions at major facilities (1 FY)	Data Quality	State			9	NA	NA	NA	No	N/A
P01F2E	Formal actions: number of actions at major facilities (1 FY)	Data Quality	EPA			0	NA	NA	NA	No	N/A
P01F3S	Formal actions: number of non-major facilities (1 FY)	Data Quality	State			2	NA	NA	NA	No	N/A
P01F3E	Formal actions: number of non-major facilities (1 FY)	Data Quality	EPA			0	NA	NA	NA	No	N/A
P01F4S	Formal actions: number of actions at non-major facilities	Data Quality	State			2	NA	NA	NA	No	N/A

	(1 FY)										
P01F4E	Formal actions: number of actions at non-major facilities (1 FY)	Data Quality	EPA			0	NA	NA	NA	No	N/A
P01G1S	Penalties: total number of penalties (1 FY)	Data Quality	State			2	NA	NA	NA	Yes	ICIS
P01G1E	Penalties: total number of penalties (1 FY)	Data Quality	EPA			0	NA	NA	NA	No	N/A
P01G2S	Penalties: total penalties (1 FY)	Data Quality	State			\$42,620	NA	NA		No	N/A
P01G2E	Penalties: total penalties (1 FY)	Data Quality	EPA			\$0	NA	NA	NA	No	N/A
P01G3S	Penalties: total collected pursuant to civil judicial actions (3 FY)	Data Quality	State			\$107,200	NA	NA	NA	No	N/A
P01G3E	Penalties: total collected pursuant to civil judicial actions (3 FY)	Data Quality	EPA			\$0	NA	NA	NA	No	N/A
P01G4S	Penalties: total collected pursuant to administrative actions (3 FY)	Informational Only	State			\$632,340	NA	NA	NA	No	N/A

P01G4E	Penalties: total collected pursuant to administrative actions (3 FY)	Informational Only	EPA			\$0	NA	NA	NA	No	N/A
P01G5S	No activity indicator - total number of penalties (1 FY)	Data Quality	State			\$101,781	NA	NA	NA	No	N/A
P01G5E	No activity indicator - total number of penalties (1 FY)	Data Quality	EPA			\$0	NA	NA	NA	No	N/A
P02A0S	Actions linked to violations: major facilities (1 FY)	Data Quality	State	>=; 80%		11.10%	1	9	8	No	N/A
P02A0E	Actions linked to violations: major facilities (1 FY)	Data Quality	EPA	>=; 80%		0 / 0	0	0	0	No	N/A
P05A0S	Inspection coverage: NPDES majors (1 FY)	Goal	State	100%	64.60%	81.70%	76	93	17	Yes	ICIS
P05A0E	Inspection coverage: NPDES majors (1 FY)	Goal	EPA	100%	6.40%	2.20%	2	93	91	No	N/A
P05A0C	Inspection coverage: NPDES majors (1 FY)	Goal	Combined	100%	67.70%	81.70%	76	93	17	No	N/A
P05B1S	Inspection coverage: NPDES non-major individual permits (1 FY)	Goal	State			11.70%	143	1,222	1,079	No	N/A

P05B1E	Inspection coverage: NPDES non-major individual permits (1 FY)	Goal	EPA			0.00%	0	1,222	1,222	No	N/A
P05B1C	Inspection coverage: NPDES non-major individual permits (1 FY)	Goal	Combined			11.70%	143	1,222	1,079	No	N/A
P05B2S	Inspection coverage: NPDES non-major general permits (1 FY)	Goal	State			0 / 0	0	0	0	No	N/A
P05B2E	Inspection coverage: NPDES non-major general permits (1 FY)	Goal	EPA			0 / 0	0	0	0	No	N/A
P05B2C	Inspection coverage: NPDES non-major general permits (1 FY)	Goal	Combined			0 / 0	0	0	0	No	N/A
P05C0S	Inspection coverage: NPDES other (not 5a or 5b) (1 FY)	Informational Only	State			3.60%	2	56	54	No	N/A
P05C0E	Inspection coverage: NPDES other (not 5a or 5b) (1 FY)	Informational Only	EPA			0.00%	0	56	56	No	N/A
P05C0C	Inspection coverage: NPDES other (not 5a or 5b)	Informational Only	Combined			3.60%	2	56	54	No	N/A

	(1 FY)										
P07A1C	Single-event violations at majors (1 FY)	Review Indicator	Combined			2	NA	NA	NA	No	N/A
P07A2C	Single-event violations at non-majors (1 FY)	Informational Only	Combined			2	NA	NA	NA	No	N/A
P07B0C	Facilities with unresolved compliance schedule violations (at end of FY)	Data Quality	Combined		32.00%	0.00%	0	5	5	No	N/A
P07C0C	Facilities with unresolved permit schedule violations (at end of FY)	Data Quality	Combined		31.90%	0.00%	0	3	3	No	N/A
P07D0C	Percentage major facilities with DMR violations (1 FY)	Data Quality	Combined		56.80%	38.30%	36	94	58	No	N/A
P08A1C	Major facilities in SNC (1 FY)	Review Indicator	Combined			18	NA	NA	NA	No	N/A
P08A2C	SNC rate: percent majors in SNC (1 FY)	Goal	Combined		22.80%	19.10%	18	94	76	No	N/A
P10A0C	Major facilities without timely action (1 FY)	Goal	Combined	< 2%	10.70%	0.00%	0	94	94	No	N/A

Appendix D: ACRONYMS

AFS	Air Facility System
APD	Air Protection Division
AQCP	Air Quality Compliance Program
ARMA	Air and Radiation Management Administration
BEN	Economic Benefit of Noncompliance
CAA	Clean Air Act
CWA	Clean Water Act
CBI	Confidential Business Information
CEM	Continuous Emission Monitor
CFR	Code of Federal Regulations
CMR	Compliance Monitoring Report
CMS	Compliance Monitoring Strategy
CSO	Compliance Service Office
ECHO	Enforcement & Compliance History On-line
ECOS	Environmental Council of States
EPA	Environmental Protection Agency
FCE	Full Compliance Evaluation
FIR	Field Instruction Report

FOIA	Freedom of Information Act
FTE	Full-Time Equivalent
FY	Fiscal Year
HAP	Hazardous Air Pollutant
HPV	High Priority Violator
IDP	Individual Development Plan
ICIS	Integrated Compliance Information System
MACT	Maximum Achievable Control Technology
MARAMA	Mid-Atlantic Regional Air Management Association
MDE	Maryland Department of the Environment
MDR	Minimum Data Requirement
MOU	Memorandum of Understanding
NESHAPS	National Emission Standards for Hazardous Air Pollutants
NOV	Notice of Violation
NO _x	Nitrous Oxide
NPDES	National Pollution Discharge Elimination System
NSPS	New Source Performance Standards
NSR	New Source Review
OECEJ	Office of Enforcement, Compliance and Environmental

	Justice
OEPR	Office of Enforcement & Permits Review
OTIS	On-line Tracking Information System
PCE	Partial Compliance Evaluation
PDA	Preliminary Data Analysis
PM10	Particulate Matter
PSC	Public Service Commission
PSD	Prevention of Significant Deterioration
RACT	Reasonable Available Control Technology
RCRA	Resource Conservation and Recovery Act
SOP	Standard Operating Procedure
SEV	Single Event Violation
SEPs	Supplemental Environmental Projects
SIPs	State Implementation Plans
SM-80	80% Synthetic Minor
SOPs	Standard Operating Procedures
SO _x	Sulfur Dioxide
SRF	State Review Framework
T&A	Timely and Appropriate

TRIP

Tempo Remote Inspection Process

VOC

Volatile Organic Compound