

**U.S. EPA – Region 1 Review of New Hampshire Department of
Environmental Services (NH DES) - Federal Fiscal Year 2008**
September 30, 2010

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I. EXECUTIVE SUMMARY

The Environmental Protection Agency, Region 1 (EPA), used the State Review Framework to assess the New Hampshire Department of Environmental Service's (NH DES) operation and administration of the compliance and enforcement programs for Clean Air Act stationary sources, the Clean Water Act NPDES and Resource Conservation and Recovery Act hazardous waste.

The State Review Framework (SRF) is a program designed to ensure that EPA conducts oversight of state compliance and enforcement programs in a nationally consistent and efficient manner. Reviews look at 12 program elements covering: data (completeness, timeliness, and quality); inspections (coverage and quality); identification of violations, enforcement actions (appropriateness and timeliness); and penalties (calculation, assessment and collection). Reviews are conducted in three phases: analyzing information from the national data systems; reviewing a limited set of state files; and developing 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 capture information and agreements developed during the review process in order to facilitate program improvements. They 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

NOTE: The Priorities and Accomplishments below were provided by NH DES. EPA included this information in this report without edits or other changes

Priorities

The NH DES remains committed to a fully integrated approach to compliance assurance, including education and outreach, technical assistance, on-site inspections, and formal enforcement as needed to ensure compliance.

Due to the on-going challenge of shrinking budgets and staff, the NH DES is working to replace a traditional regulatory approach in programs that can no longer be fully funded with a focus on fostering stewardship so as to reduce the need for traditional regulatory activities. Specifically, the NH DES is increasing its emphasis on ensuring that regulated communities and the public at large understand the importance of environmental laws, and understand the personal impacts -- as well as the environmental, public health, and economic implications -- when those laws are violated.

Another priority for the NH DES is to continue to streamline its operations using Lean techniques.

Accomplishments

Highlights of DES accomplishments over the past few years include the following:

- The DES Strategic Plan is planned for release in November 2010. The Plan includes a number of goals and actions related to streamlining agency operations, improving customer service, increasing focus on environmental outcomes and improving public reporting of such outcomes, building a stronger environmental stewardship ethic amongst the regulated community and the general public, and enhancing internal and external communication and coordination.
- DES created a 9-member DES Lean Team, which has been in place for about a year. The Lean Team provides assistance across the department to programs interested in undertaking a Lean project.
- At least 32 program staff and managers have participated in either a 2-hour Lean Briefing for Managers class, a 3-day Lean workshop, or a full 5-day Lean workshop.
- Several Lean projects have been completed or are in-process, both at the program and the department-wide level. At least two projects specifically address inspection/enforcement-related processes.
- DES is participating in the New Hampshire Ongoing Customer Service Initiative (CSI), a multi-agency effort to ensure that projects needing a permit or other approval from more than one state agency will be handled in a collaborative and coordinated manner. As part of the CSI, designated points of contact have been identified in the primary environmental permitting/authorization agencies, and a CSI blog has been developed to facilitate improved inter-agency communications and coordination.
- DES continues to enhance the DES Website. The DES website has been redesigned and now has more than 10,000 pages of deep content for the agency's diverse constituents to browse. Most of the department's major programs are well represented on the site, and, more than ever, the regulated community has convenient access to a host of program information to help them better understand what is required. DES believes that if the regulated community is better informed regarding the laws and rules that apply, higher rates of compliance can be achieved.
- DES continues to implement ERP and ERP-like programs, including the Small Quantity Generator Self-Certification Program, Full Quantity Generator Hazardous Waste Coordinator Certification, and Green Yards Self-Certification Program (for auto salvage facilities).
- DES continues to implement its two-tiered Environmental Leadership Initiative. The first tier of the ELI is the Aspiring Leaders program, and the advanced tier is the Green Leaders program (designed to mimic the now-defunct EPA Performance Track Program). The ELI is available to companies that want to commit to beyond-compliance outcomes.
- DES continues to reward and recognize positive behaviors through the Governor's Pollution Prevention Awards Program, the NH Occupational Safety and Health Program's "SHARP" Program, and similar recognition programs around the department.
- DES continues to work on its Innovative Permitting Initiative (IPI), a State Innovation Grant-funded effort to evaluate, streamline, and integrate DES's land resources management programs (wetlands, shoreland protection, alteration of terrain, subdivision/septic systems, and public drinking water), to offer a coordinated permitting process to developers willing to commit to enhanced environmental

results (*e.g.*, developing near community centers, implementing advanced best management practices for stormwater management, and use of proactive, green building practices).

Element 13 – NH DES is not submitting information under Element 13 at this time.

B. Summary of Results

NOTE: EPA has not authorized the NH DES to implement the Clean Water Act (CWA) NPDES Programs. NH DES implements a state authorized water enforcement program that is similar to the CWA NPDES enforcement program. Region 1 implements CWA enforcement in New Hampshire. Region 1 reviewed the NH DES water enforcement program as part of this review. Because NH DES is not implementing the CWA, Region 1 has adapted the SRF Elements and Metrics to apply to the operational procedures, activities and outcomes of the NH DES Water Enforcement Program.

- Recommendations from Round 1 – Region 1 identified 13 recommendations from Round 1, and all are considered complete as of the start of Round 2.
- Overall Round 2 Accomplishments and Best Practices
 - CAA
 - The NH DES should be commended for keeping meticulous files and thoroughly documenting all aspects of Full Compliance Evaluations and corresponding compliance determination.
 - The NH DES completes a federal HPV checklist in every enforcement case file, whether or not the case is a federal HPV. EPA believes that this is a best practice as NH goes through the HPV analysis for every case and documents the decision in every case file.
 - Water
 - NH DES inspections exceed the current federal Compliance Monitoring Strategy inspection target frequency of once every second year for major and once every five years for minor facilities with an individual or a general permit.
 - All inspection reports are complete and timely. NH DES mails each report package to the facility and sends a copy to EPA within 30 days of the inspection.
 - NH DES' practice of using inspection checklists helps assure and verify that complete and thorough inspections are conducted. The inspection checklists are reviewed annually and revised as necessary.
 - RCRA
 - The NH DES Hazardous Waste Management Bureau (HWMB) met or far exceeded its planned commitments for FY08.
 - The Full Quantity Generator (FQG) hazardous waste coordinator certification program informs the regulated community of requirements that must be met in order to comply with state and federal regulations. The SQG Self-Certification Program forces thousands of federal CESQGs to self-assess their compliance, to propose compliance schedules to address any discovered discrepancies, and to self-certify compliance. Both programs

help to focus limited resources on violating generators that should know better after having completed FQG coordinator certification sessions or SQG Self-Certifications.

- The HWMB generates timely, accurate and quality inspection checklists that serve as the backbone for accurate compliance evaluations.
- HWMB informal and formal enforcement responses consistently require corrective actions that return facilities to compliance.
- HWMB maintains, as part of a facility's compliance record, a confidential file that clearly documents all aspects of penalty calculation, adjustment and collection.

- CAA Round 2 Review Results

- *Areas with No Issues or Only Minor Issues –*

- Completion of Commitments (Element 4), Quality of Inspection or Compliance Evaluation Reports (Element 6), Identification of SNC and HPV (Element 8), Enforcement Actions Promote Return to Compliance (Element 9), Penalty Calculation Method (Element 11), Final Penalty Assessment and Collection (Element 12)

- *Areas for State Attention –*

- Data Completeness (Element 1), Inspection Coverage (Element 5), Timely and Appropriate Action (Element 10)

- *Areas for State Action*

- Element 2 – Data Accuracy
 - Finding - Many of the inspection files (7 of 20) reflected a different compliance status than did the OTIS detailed facility report.
- Element 3 - Timeliness of Data Entry
 - Finding - NH DES is not entering HPV, inspection and enforcement data into AFS in a timely manner.
- Element 7 - Identification of Alleged Violations
 - Finding - The compliance status was not consistently updated in AFS.

- CWA Round 2 Results

- *Areas with No Issues or Only Minor Issues*

- Data Accuracy (Element 2), Completion of Commitments (Element 4), Enforcement Actions Promote Return to Compliance (Element 9), Penalty Calculation Method (Element 11)

- *Areas for State Attention*

- None

- *Areas for State Action*

- Element 10 – Timely and Appropriate Action

- Timely and appropriateness of enforcement actions is an area for State improvement.
 - Element 12 - Final Penalty Assessment and Collection
 - NH DES did not issue any formal enforcement actions to address SNC in FY2008.
- RCRA Round 2 Results
 - *Areas with No Issues or Only Minor Issues*
 - Timeliness of Data Entry (Element 3), Completion of Commitments (Element 4), Quality of Inspection or Compliance Evaluation Reports (Element 6), Enforcement Actions Promote Return to Compliance (Element 9), Final Penalty Assessment and Collection (Element 12)
 - *Areas for State Attention*
 - Data Accuracy (Element 2), Inspection Coverage (Element 5), Identification of Violations (Element 7), Identification of SNC and HPV (Element 8), Penalty Calculation Method (Element 11),
 - *Areas for State Action*
 - Element 1 – Data Completeness
 - Finding 1.1 - A majority of the minimum data requirements are entered into EPA’s RCRAInfo national system. However, there appears to be a data transcription discrepancy between the state’s handler data base (HZWIMS) and RCRAInfo.
 - Finding 1.2 - The minimum data elements for the number of new SNCs and the number of total number of sites in SNC during FY08 were not reflected accurately in RCRAInfo.
 - Element - Completion of Commitments.
 - Finding 4.3 - Although FY08 commitments were met, similar accomplishments in subsequent fiscal years are jeopardized due to current staffing levels within the HWMB.
 - Element 6 – Quality of Inspection or Compliance Evaluation Reports
 - Finding 6.1 - The FY08 HWMB inspection reports meet the SRF requirements. SRCIS inspection reports need to be improved to clearly document hazardous waste investigation findings and violation disposition.
 - Element 10 – Timely and Appropriate Action in accordance with policy relating to specific media.
 - Based on the file review, the HWMB takes appropriate actions against SV and SNC violators. Informal actions against SV and SNC violators were timely. Formal enforcement taken against SNC violators was not timely.

C. Significant Cross-Media Findings and Recommendations

Region 1 did not observe any significant cross-media findings.

Implementing the Review

NH DES hosted a kick-off meeting to begin the review on May 29, 2009 at its Headquarters in Concord. The NH DES Commissioner and managers and senior staff from Region 1 and NH DES participated in the meeting. After the kick-off meeting, state and federal staff worked out their own schedules for data examinations, file reviews and meetings. All file reviews took place at NH DES's Concord office. File reviews began immediately after the kick-off meeting.

II. BACKGROUND INFORMATION ON STATE PROGRAM AND REVIEW PROCESS

NOTE: The Background Information provided below was provided by NH DES. EPA included this information in this report without edits or other changes. While this review examines NH DES activities in Federal Fiscal Year 2008, this section includes budget and resource information for State Fiscal Year 2009 (July 1, 2008 through June 30, 2009).

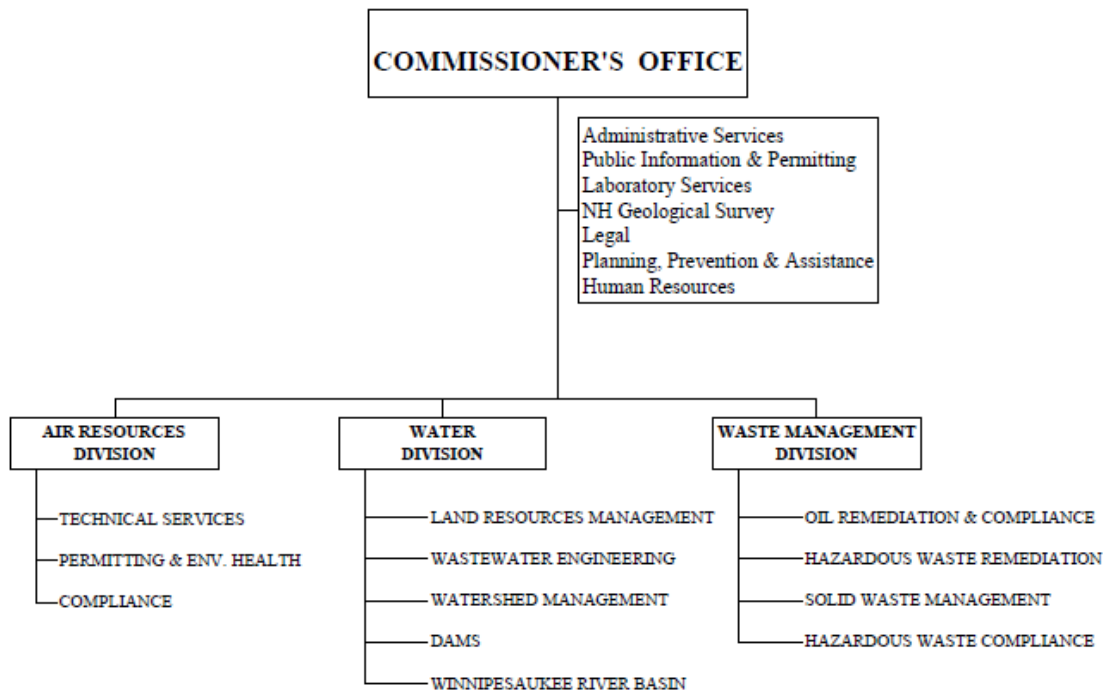
A. NH DES ORGANIZATION AND FUNCTIONS

Overview

The protection and wise management of the state of New Hampshire's environment are the most important goals of the NH Department of Environmental Services (NH DES). The Department's many responsibilities include balancing ecological and economic interests while protecting and restoring the high quality of surface waters and groundwater for water supplies and recreation; managing land development activities, including impacts to wetlands and protected shorelands; regulating emissions of air pollutants; fostering proper management of solid and hazardous waste; and managing water resources for future generations.

NH DES was legislatively created as of January 1987 (*ref.* NH RSA 21-O) through the consolidation and reorganization of four previously-separate state agencies: the Air Resources Commission, the Office of Waste Management, the Water Supply and Pollution Control Commission, and the Water Resources Board. As part of establishing the NH DES, the common administrative, financial, and personnel management support functions were consolidated in the Office of the Commissioner. In 1996, a further consolidation and reorganization resulted in the three current divisions: the Air Resources Division, the Waste Management Division, and the Division of Water. The Office of the Commissioner continues to provide administrative and financial support, including coordinating and supporting activities such as planning, enforcement, rulemaking, permitting, public information, laboratory services, geologic services, information resources, and personnel management.

The organizational structure of the NH DES is shown in the chart below.



The main offices for NH DES are in Concord, the state capital. NH DES also maintains several regional offices to accommodate the public’s need for various services, and operates a regional wastewater treatment facility and training center based in Franklin, which is administered by the Winnepesaukee River Basin Program in the Division of Water.

NH DES maintains regional offices at the Pease International Tradeport in Portsmouth and in the North Country in Gorham. The Portsmouth office is staffed to address issues relating to septic systems, wetlands, coastal watershed management (including shellfish), waste management (including spill response, complaint investigation, and the hazardous waste transporter program), and watershed assistance. The Gorham office is staffed to address issues relating to land development, septic systems, wetlands, and small business assistance. NH DES also has a small regional office in Grantham serving the septic system and waste management programs, and regional inspectors for the septic system program.

The FY 2009 budget for DES was approximately \$155 million, including \$33.5 million in general fund, \$51.5 million in federal funds, and \$70.0 million in other funds (*e.g.*, fees). For FY 2009, DES had 540 authorized positions. For FY 2010, DES’s budget totaled approximately \$257 million, including \$25.6 million in general funds, \$97.7 million in federal funds, and \$133.7 million in other funds. Included in the FY 2010 budget are 542 authorized positions, of which 12 General-Fund positions are not funded. The significant increase in DES’s budget (\$102 million) results primarily from a \$90 million increase in the CWSRF and DWSRF loan budgets. The increase reflected the anticipated increase in demand as a result of the ARRA funds availability. The balance of the increase is for additional contracts and federal grants (\$10 million) plus normal salary & benefit and operating cost increases (\$2 million).

Office of the Commissioner

Through its various units, the NH DES Office of the Commissioner carries out a number of department-wide support functions, including accounting, human resources, laboratory services, legal support, public information, planning/assistance, and geological services.

The Administrative Services Unit is responsible for all accounting functions, federal grants, purchasing, budgets, property records, payroll, and financial reporting for all of the components of NH DES. The Human Resources Unit provides leadership and services supporting employee and organizational success, being responsible for all HR functions, including organizational and employee development, employment, compensation and benefits and employee relations. The HR Unit also works in close partnership with the NH Division of Personnel on state-wide initiatives to embrace the adoption of best practices and expand the level of collaboration within HR among state agencies.

The Laboratory Services Unit provides analytical testing services of water, wastes, hazardous materials, soils and other chemical matrices for all components of NH DES, as well as for many other state agencies and individual citizens. The NH DES lab is a National Environmental Laboratory Accreditation Program (NELAP) accredited laboratory.

The Legal Unit provides legal and administrative support for all enforcement and rulemaking undertaken by NH DES, and provides legal guidance to NH DES staff on interpretations of statutes and rules and proposed legislation. The Legal Unit does not serve as general counsel to NH DES; that role remains with the NH Attorney General's Office.

The Public Information and Permitting (PIP) Unit serves as the centralized clearinghouse for public information and permitting for all of DES. The PIP Unit includes the NH DES public information center (PIC), a file review section, and a media center. Services provided by the PIP Unit include access to free and for fee publications, public relations and customer service, media relations, review of agency records, pre-application meetings and permit coordination of major projects with environmental or public health impacts, policy support services, coordination of education and outreach initiatives, coordination of legislative activities, and DES web page management.

The Planning, Prevention, and Assistance (PPA) Unit was formed in 2006 by consolidating the Commissioner's Office Planning Unit with assistance and pollution prevention programs from other parts of the NH DES. The PPA Unit supports three free and confidential technical assistance programs focused mainly on helping small businesses comply with environmental and safety regulations: the NH Pollution Prevention Program (NHPPP), the Small Business Technical Assistance Program (SBTAP), and the OSHA Consultation Program. NH DES planning functions overseen by the PPA Unit include Strategic Planning and the Quality Assurance System (QAS), which is designed to ensure that the data relied on by the NH DES when carrying out its mission is scientifically-defensible and that its quality is appropriate for its intended uses. The PPA Unit also implements other NH DES initiatives, such as the Green Leaders program (recognizing companies' beyond-compliance efforts) and Responsible Growth in NH, and leads efforts to improve NH DES processes through LEAN practices.

The Office of the Commissioner also hosts the New Hampshire Geological Survey (NHGS). The Survey's mission is to collect data and perform research on the land, mineral, and water resources of the state, and

disseminate the findings to the public through maps, reports, and other publications. Major activities of the NHGS include providing state agencies, local governments, planning commissions, the private sector, and the general public with geologic information to meet their scientific, educational, and business needs; mapping New Hampshire's bedrock and surficial geology, mineral deposits, and stratified-drift aquifers; producing geologic publications based on the mapping; maintaining statewide databases of well completion records, water use information and surface water features; overseeing a statewide network of observation wells to monitor ground water levels; assessing hazards posed by natural events such as floods, landslides, and earthquakes; assessing the availability of water resources at the statewide, regional, and local level; preserving New Hampshire's geologic and geophysical data; and providing earth science education and outreach information.

Air Resources Division

The Air Resources Division (ARD) within NH DES is responsible for implementing and ensuring compliance with state statutes regulating outdoor air quality, and promotes cost-effective, sensible strategies and control measures to address the many complex and inter-related air quality issues facing the state. These issues include, but are not limited to, ground level ozone, small particle pollution, regional haze (visibility), mercury contamination, climate change, acid deposition, and air toxics. The components of New Hampshire's Air Quality Program are designed to respond to the many complex air quality issues through such tools as local, regional and national collaborations, data gathering, analysis, and control efforts.

ARD regulates and limits air emissions from a variety of stationary sources within New Hampshire through a Statewide Permitting Program. The permitting program ensures that new and existing sources of air pollution abide by a wide range of state and federal air pollution control regulations. The Compliance Program is responsible for ensuring that entities in New Hampshire are in compliance with all air pollution laws, rules and permits. Major activities of the compliance program include on-site inspections, compliance assistance, compliance stack testing, asbestos management and licensing, compiling air emission inventories, and enforcement. The Air Toxics Control Program is designed to promote public health by controlling and regulating releases of toxic air pollutants to the ambient air, thus reducing human exposure to these toxic chemicals. The Atmospheric Science and Analysis Program simulates the flow of air pollution in the atmosphere and is used to predict health and environmental impacts of air pollution from in-state and upwind sources.

ARD also operates a network of Air Quality Monitoring Stations throughout the state to measure meteorological parameters and levels of ozone, sulfur dioxide, nitrogen oxides, carbon monoxide, small particle pollution, and other pollutants of concern in the outdoor (ambient) air. ARD uses monitoring and meteorological data, in conjunction with regional modeling results, to forecast daily air quality conditions and issue air quality alerts to the public as appropriate.

The Energy/Climate Change Program in ARD includes broad incentive-based efforts, such as energy efficiency/conservation and emission reductions trading programs, to address a range of emissions, especially greenhouse gases, across large geographical areas.

The Mobile Sources Program is engaged in a number of strategies and control programs to reduce air pollution from mobile sources (cars, trucks, buses). Many activities are related to regulatory programs, such

as vehicle inspection/maintenance programs and land use/ transportation planning. The mobile source program also includes numerous voluntary, collaborative pollution prevention initiatives, such as the Granite State Clean Cities Coalition, the Granite State Clean Cars Program, and clean school bus anti-idling campaign.

The Environmental Health Program within ARD promotes health and quality of life in New Hampshire by investigating, preventing, and reducing illnesses and diseases that are related to interactions between people and their environment. Activities include health risk assessment, air toxics control, indoor air quality education, radon awareness and testing, environmental toxicology evaluation, and chemical emergency preparedness.

Waste Management Division

The Waste Management Division (WMD) within NH DES has two parts: one that regulates the management, transportation, and disposal of solid waste and hazardous waste (Waste Management Programs), and one that regulates activities related to petroleum storage and oversees the remediation of contaminated sites (Site Remediation Programs). The Waste Management Programs implement most of the federal RCRA Subtitle C (hazardous waste generator) and RCRA Subtitle D (solid waste landfills) programs in New Hampshire, along with analogous (but broader) state-based hazardous and solid waste programs. The Site Remediation Programs implement the federal RCRA Subtitle I (underground storage tanks) program in New Hampshire, and also regulate above-ground storage tanks and oversee all federal- and state-site remediation activities, including an extensive Brownfields program.

Water Division

New Hampshire is blessed with numerous lakes, ponds, and rivers, as well as valuable groundwater. NH DES's Water Division (WD) conducts a variety of programs designed to ensure the protection of these waters.

The WD oversees the operation of approximately 125 municipal public water systems (PWS), 500 residential PWS (condominiums, apartment buildings, and manufactured housing parks), and over 1,100 PWS that provide water for restaurants, motels, and campgrounds. Consistent with criteria of the federal Safe Drinking Water Act, the WD conducts engineering reviews of all proposals to develop or expand PWS, and conducts regular water quality sampling and water facility inspections. Additionally, the WD licenses PWS facility operators and offers educational programs and technical assistance. The WD also administers a source water protection program, which includes a grant program for protecting lands surrounding surface water supplies as well as groundwater protection activities, including various planning and hydrogeological studies and a statewide wellhead protection program.

The WD also undertakes wastewater control activities on both the public/municipal level, relating to wastewater treatment facilities and associated infrastructure (WWTF program), and on the individual level, relating to individual sewage disposal systems (ISDS) for residential and non-residential uses that do not have access to public sewers (ISDS program). As part of the WWTF program, the WD reviews engineering designs for such facilities and ensures their proper construction and operation, including implementing an industrial wastewater pretreatment program. The WD also oversees an extensive loan and state grant program for the facilities and operates the wastewater treatment plant serving eight communities around

Lake Winnepesaukee (Winnepesaukee River Basin Program). The WRBP serves as a model in state and local cooperative pollution control efforts. The ISDS program involves establishing and implementing standards for ISDS through licensing ISDS designers and installers, reviewing proposed ISDS designs, and inspecting installed ISDS.

The WD works to protect surface water quality, including at public beaches, through active lakes and rivers monitoring programs (which includes volunteer monitoring programs and biological and chemical testing), an acid rain monitoring program, and a program of surveying and reporting on the quality of over 14,000 miles of rivers every two years. The WD implements the state's programs for protecting wetlands and shorelands, which are much more comprehensive than the federal wetlands program. The WD also regulates terrain alteration activities to protect the quality of surface water and groundwater and to encourage infiltration and low-impact development activities.

An additional responsibility of the WD is managing and planning for water resources for the present and future generations of the state. Efforts undertaken in this arena include the construction, maintenance, and operation of state-owned dams and other water conservation projects throughout the state. The WD operates 100 dams, maintains a total of 230 state-owned dams, and conducts periodic inspections of all dams that may affect public safety. Efforts also include the WD aquifer mapping program conducted with the US Geological Survey, a well inventory program involving a computerized data base, and a water user registration and reporting program begun in 1987.

The WD also regulates public pools and spas and youth recreation camps, and supports the activities of the NH Water Well Board which licenses well contractors and pump installers.

B. NH DES COMPLIANCE AND ENFORCEMENT

Approach

NH DES is committed to a consistent, predictable, and appropriate compliance assurance program, which protects public health and the environment while creating a credible deterrent against future violations. NH DES believes that compliance with environmental laws is best ensured by using a multi-tiered, multi-media approach which includes education and outreach, compliance assistance, compliance monitoring, and, where appropriate, formal enforcement. This approach is explained in more detail in the NH DES Compliance Assurance Response Policy (CARP), available at <http://des.nh.gov/organization/commissioner/legal/carp/index.htm>.

As noted in the CARP, NH DES seeks to prevent violations of environmental laws and their associated impacts on the environment and protect public health through education and outreach. Such activities include preparing and distributing printed materials, conducting and participating in conferences and trade fairs, providing information through radio and television interviews and public service announcements, and maintaining an active and up-to-date web site. NH DES also offers extensive site-, activity-, and facility-specific technical assistance through a variety of mechanisms, and offers or coordinates financial assistance for certain types of activities. If violations do occur, NH DES has a variety of options for addressing them. The desired outcome for NH DES in every case includes current and future compliance with applicable requirements and remediation of any harm to the environment. Which action is chosen in any particular case depends on many factors. The list of factors and types of actions available are described in the CARP.

Roles and Responsibilities

Compliance and enforcement activities are handled initially by program staff of NH DES, who conduct routine inspections and complaint investigations. If non-compliance is discovered, program staff will initiate some form of action to address it. Most programs handle cases in which no harm has occurred and no penalty is warranted (frequently first-time violations) directly, by working with the responsible party to achieve compliance and then documenting the non-compliance in case problems arise in the future. Cases that are not resolved at the program level and cases that initially warrant a higher-level response are discussed with the Administrator or Compliance and Enforcement (C&E) Attorney from the Legal Unit, either on an as-needed basis or at regularly-scheduled meetings with the C&E Attorney and attorneys from the NH Department of Justice, Office of the Attorney General (NH AGO). At such meetings, a consensus is developed regarding how to best handle a case. At the regularly-scheduled meetings, the status of pending cases also can be discussed.

Administrative enforcement actions that can be taken directly by NH DES include issuing administrative orders to require compliance and/or remediation, issuing proposed fines, and initiating actions to suspend or revoke a license, permit, or certification that has been issued. Administrative orders can be appealed administratively to one of the four Councils associated with NH DES; if an order is not appealed or if it is upheld on appeal, the order is enforceable through judicial action if necessary. If a fine or license action is proposed and the case is not settled, an adjudicative hearing is held before an administrative hearing officer assigned by the Commissioner. Decisions issued in such cases can be appealed to the NH Supreme Court; if a decision is not appealed or is upheld on appeal, the decision also can be enforced through judicial action if necessary.

Cases that cannot be resolved administratively and/or that warrant a higher monetary penalty than can be imposed administratively are referred to the NH AGO for civil judicial action. Such cases are handled by attorneys in the NH AGO, Environmental Protection Bureau (AGO-EPB). The AGO-EPB also handles the investigation and prosecution of criminal cases, often with the assistance of investigators from EPA's Criminal Investigation Division.

C. PRIORITIES AND ACCOMPLISHMENTS

Priorities

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Accomplishments

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III. STATUS OF OUTSTANDING RECOMMENDATIONS FROM PREVIOUS REVIEWS

During the first SRF review of NH DES's compliance and enforcement programs, Region 1 and NH DES identified a number of actions to be taken to address issues found during the review. The table below shows the actions that have not been completed at the time of the current SRF review. (Appendix A contains a comprehensive list of completed and outstanding actions for reference.)

NONE

IV. OVERALL FINDINGS AND RECOMMENDATIONS

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

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

Clean Air Act

[CAA] Element 1 – Data Completeness - Degree to which the Minimum Data Requirements are complete.		
1.1	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input checked="" type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement (Recommendation Required)
	Finding	The data metrics (preliminary data analysis) identify a minor problem with MACT subpart identification in AFS. The file review metrics indicate that there were no issues regarding the completeness of minimum data requirements (MDRs); however, there are some issues with accuracy that will be discussed in Element 2.
	Explanation. (If Area for State Attention,, describe why action not required, if Area for Improvement,, provide recommended action.)	According to the preliminary data analysis, NH DES was not identifying the MACT subpart for every facility subject to MACT regulations. However, NH DES has since modified their database so they are now able to send subpart information to AFS. This problem should be fixed and no further action is necessary by NH DES.
	Metric(s) and Quantitative Value	7 sources out of 8 had the MACT subpart, which is slightly below the national average
	State Response	
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	

[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.).

2.1	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input checked="" type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement (Recommendation Required)
	Finding	Many of the inspection files (7 of 20) reflected a different compliance status than did the OTIS detailed facility report.
	Explanation. (If Area for State Attention,, describe why action not required, if Area for Improvement,, provide recommended action.)	<p>The data metrics (preliminary data analysis) indicate no issues with data accuracy. The file review metrics indicate that there are data accuracy issues. Many of the data inconsistencies were minor (e.g., SIC codes, street addresses, and zip codes not matching up between the OTIS detailed facility report and the NH DES inspection file). However, there was one major issue regarding compliance status inconsistencies. Many of the inspection files reflected a different compliance status than the OTIS detailed facility report.</p> <p>The primary issue here is that NH DES has not been manually entering compliance status changes under the appropriate AFS air program codes.</p> <p>The accurate reporting of compliance status is an issue that many states and EPA regions struggle to maintain. One of the goals of AFS modernization is to automate the changes in compliance status. Currently, the reporting of compliance status in AFS often requires manual data entry. Furthermore, the difference between a facility’s compliance with regulations and case resolved as defined by the HPV policy complicates the issue. There are cases where a formal enforcement action may return a facility to compliance with regulations but if there are outstanding issues (such as a SEP) the HPV Policy requires that the compliance status of the facility remain “in violation.”</p> <p>To address some of the inaccuracy in compliance status reporting, an agenda item will be added to the monthly HPV call to review the compliance status of ongoing cases.</p>
	Metric(s) and Quantitative Value	A total of 10 out of 20 files reviewed, or 50%, of the files reviewed had some type of data inconsistency when compared to the corresponding OTIS detailed facility reports. A total of 7 out of 20 files reviewed, or 35%, had compliance status inconsistencies when compared to the corresponding OTIS detailed facility reports. The remaining 3 files had minor data inconsistencies.
	State Response	
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	

[CAA] Element 3 - Timeliness of Data Entry - Degree to which the Minimum Data Requirements are timely.

3.1	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)
	Finding	NH DES is not entering HPV, inspection and enforcement data into AFS in a timely manner.
	Explanation. (If Area for State Attention,, describe why action not required, if Area for Improvement,, provide recommended action.)	<p>The data metrics indicate that NH DES is below the national average for having HPV data entered into AFS in a timely manner (within 60 days of identification of an HPV). Several factors may be contributing to the delayed entry of NH HPVs. The NH DES provides EPA with High Priority Violator (HPV) forms as NH discovers the HPV so that EPA can enter the HPV data into AFS. So, the transaction time associated with NH DES discovering a HPV, filling out the form, sending the form to EPA and then EPA entering the HPV into AFS may take longer than 60 days in some cases. At other times, NH's quarterly reporting of data to AFS (as opposed to every 60 days) could be delaying HPV data entry. Only 4 out of 12 (33.3%) HPVs were entered in AFS within 60 days; this is consistent with the national average of 33%.</p> <p>Only about 31.6% of NH inspections were entered in AFS within 60 days. This is below the national average of 59.1%. However, of the 81 actions that were reported late, 40 were annual compliance certifications, which are only reported annually. Another 23 of the actions were stack tests. NH is currently working on a new standard operating procedure for entering stack test data that should address the late reporting issue. Finally, a few of the inspections were entered late because the data was not entered after the inspection and it was only realized during a routine QA check of the inspection report.</p> <p>Only 56.0% of NH enforcement actions were entered in AFS within 60 days. This is below the national average of 70.3%. Many of the enforcement actions that were reported late were a result of NH's quarterly reporting of data (as opposed to reporting every 60 days). All but 3 of the late enforcement actions were reported within 90 days.</p>
	Metric(s) and Quantitative Value	33.3% of HPVs, 31.6% of inspections and 56.0% of enforcement actions were entered in AFS within 60 days.
	State Response	
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	By 9/30/10 NH will report data to AFS every 60 days.

[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.

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)
	Finding	Both the data metrics (preliminary data analysis) and the file review metrics indicate that there were no issues regarding the completion of commitments.
	Explanation. (If Area for State Attention,, describe why action not required, if Area for Improvement,, provide recommended action.)	
	Metric(s) and Quantitative Value	
	State's Response	
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	

[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).

5.1	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input checked="" type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement (Recommendation Required)
	Finding	The data metrics (preliminary data analysis) indicate a minor issues regarding inspection coverage. The file review metrics indicate that there were no issues regarding the inspection coverage.
	Explanation. (If Area for State Attention,, describe why action not required, if Area for Improvement,, provide recommended action.)	<p>NH DES conducted inspections at 32 of its 43 (81.4%) major sources within the most recent 2 year period. This is very close to the national average of 82.2%.</p> <p>It is significant, however, that 4 of the sources are closed, one source was recently added to the CMS, one source is a Title V source but not a major source (landfill) and EPA conducted 3 inspections for NH DES.</p> <p>Therefore, NH DES only missed 2 sources in the most recent 2 years. Furthermore, NH's CMS cycle is FY2008 and FY2009.</p>
	Metric(s) and Quantitative Value	NH DES conducted inspections at 32 of its 43 (81.4%) major sources within the most recent 2 year period.
	State Response	
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	No action required.

[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.

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)
	Finding	NH DES should be commended for writing very comprehensive and well organized inspection reports.
	Explanation. (If Area for State Attention,, describe why action not required, if Area for Improvement,, provide recommended action.)	<p>Of the 20 files reviewed by EPA, 16 of the files indicated that FCEs were done in federal fiscal year 2008. Inspection reports were found in the files for each of the 16 FCEs conducted. The inspection reports or compliance monitoring reports (CMRs) were found to be comprehensive and properly documented observations noted during the inspections. EPA’s review revealed that NH DES inspectors were making accurate compliance determinations.</p> <p>In regards to completing inspection reports in a timely manner, it should be noted that EPA’s Region I Air Technical Unit has a general policy that inspection reports should be completed within 30 days of completion of an FCE or PCE (full/partial compliance inspection). Of the 16 inspection reports completed by the NH DES and reviewed by EPA as part of this SRF, 10 out of the 16 reports were completed within a month. A total of 4 inspection reports were completed more than two months after the FCE and 2 were completed more than 3 months after completion of the FCE.</p> <p>The NH DES should be commended for keeping meticulous files and thoroughly documenting all aspects of an FCE and corresponding compliance determination.</p>
	Metric(s) and Quantitative Value	Of the 20 files reviewed, 16 indicated that a full compliance inspection was conducted in FFY 2008. A complete inspection report was included in each of the 16 files.
	State Response	
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	

[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).

7.1	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input checked="" type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement (Recommendation Required)
	Finding	The compliance status was not consistently updated in AFS.
	Explanation. (If Area for State Attention,, describe why action not required, if Area for Improvement,, provide recommended action.)	<p>Despite making accurate compliance determinations based on inspections, stack test observations, and various report reviews (e.g., Title V annual compliance certifications, final stack test reports, CEM reports, semiannual monitoring and deviation reports, etc.), the preliminary data analysis indicates that of the 59 formal or informal enforcement actions, NH updated the compliance status for only 9 sources.</p> <p>See Element #2 for recommendation regarding data accuracy, especially as it relates to compliance status.</p>
	Metric(s) and Quantitative Value	As already reported in Element #2, a total of 7 out of 20 files reviewed, or 35% of the files had compliance status inconsistencies when compared to the corresponding OTIS detailed facility reports.
	State Response	
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	

[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.

8.1	Is this finding a(n) (select one):	<input checked="" 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)
	Finding	The PDA indicates that none of the failed stack tests have an HPV.
	Explanation. (If Area for State Attention,, describe why action not required, if Area for Improvement,, provide recommended action.)	<p>EPA obtained information on the failed stack tests and determined that in all cases, the failed stack test did not warrant federal HPV status. The sources are: DG Whitefield, Sprague Energy, Plymouth College, and Quality Wood Priming.</p> <p>DG Whitefield and Plymouth College both failed ammonia slip testing, which is a state only requirement and therefore the violation does not warrant federal HPV status. Sprague Energy is no longer a Title V facility and therefore the stack test failure does not warrant federal HPV status. Quality Wood Priming is a synthetic minor source and the state determined that the violation did not affect the synthetic minor status of the source.</p> <p>NH DES completes a federal HPV checklist in every enforcement case file, whether or not the case is a federal HPV. EPA believes that this is a best practice as NH goes through the HPV analysis for every case and documents the decision in every case file.</p>
	Metric(s) and Quantitative Value	Of the 4 failed stack tests in 2008, none warranted a federal HPV.
	State Response	
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	No action required

[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.

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)
	Finding	NH DES seeks injunctive relief, where necessary, in its informal and formal enforcement actions, includes clear and concise descriptions of the injunctive relief necessary. In addition, NH DES sets a timeframe for achieving compliance, so that facilities with violations return to compliance expeditiously.
	Explanation. (If Area for State Attention,, describe why action not required, if Area for Improvement,, provide recommended action.)	
	Metric(s) and Quantitative Value	In 100% of the applicable files reviewed, the NH DES required the necessary injunctive relief to return a facility to compliance within a specified timeframe to ensure a violating facility returned to compliance expeditiously.
	State Response	
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	

[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.		
10.1	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input checked="" type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement (Recommendation Required)
	Finding	NH DES did not take formal enforcement action at 3 of 4 HPV files.
	Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	<p>The PDA indicates that NH DES addressed 10 of 19 HPVs within 270 days, which is above the national average. Of the 4 HPV enforcement files reviewed, NH DES addressed 3 within the appropriate time frame of 270 days, as required by EPA’s “Timely and Appropriate” guidance.</p> <p>Formal enforcement was taken at only 1 HPV for which enforcement files were reviewed, and this was the only case to require more than 270 days to address. A total of 3 of the HPV files that were reviewed were cases where the facility has low actual emissions of VOC but high potential emissions of VOC (over the 50 ton per year major source threshold). In accordance with the 1998 Guidance on the Appropriate Injunctive Relief for Violations of Major New Source Review Requirements, NH DES issued these three facilities a synthetic minor cap. NH DES used enforcement discretion to issue only informal enforcement in these cases and did not require the facilities to install LAER controls.</p> <p>EPA and NH had a discussion in February, 2010 with permitting and enforcement personnel to discuss implementation and enforcement of New Source Review regulations as it applies to cases such as these.</p>
	Metric(s) and Quantitative Value	4 federal HPV files were reviewed. Three of the 4 HPV cases used informal enforcement to resolve the violation.
	State Response	
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	

[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.

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)
	Finding	The file review metrics indicates that there were no issues regarding the calculation of penalties.
	Explanation. (If Area for State Attention,, describe why action not required, if Area for Improvement,, provide recommended action.)action.)	
	Metric(s) and Quantitative Value	5 of the cases reviewed contained enforcement where penalties were assessed.
	State Response	
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	

[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.

12.1	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement (Recommendation Required)
	Finding	Both the data metrics (preliminary data analysis) and the file review metrics indicate that there were no issues regarding final penalty assessment and collection.
	Explanation. (If Area for State Attention,, describe why action not required, if Area for Improvement,, provide recommended action.)	
	Metric(s) and Quantitative Value	Of the 4 penalty files reviewed, all contained justification of a reduction in penalty (if appropriate) and copies of the check.
	State's Response	
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	

Clean Water Act

[CWA] Element 1 – Data Completeness - Degree to which the Minimum Data Requirements are complete.		
1.1	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement (Recommendation Required)
	Finding	EPA is responsible for ICIS data entry and is working to remedy any data issues.
	Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	EPA has not authorized the NH DES to implement the Clean Water Act (CWA) NPDES Programs. NH DES implements a state authorized water enforcement program that is similar to the CWA NPDES enforcement program. Region 1 implements CWA enforcement in New Hampshire. Region 1 and NH DES have a work sharing arrangement for activities such as inspections and document review. While NH DES maintains its own compliance tracking databases, Region 1 is responsible for maintaining ICIS. OECA will review Region 1's implementation of the CWA water enforcement program in New Hampshire in 2010. Region 1 reviewed the NH DES water enforcement program as part of this review. Because NH DES is not implementing the CWA, Region 1 has adapted the SRF Elements and Metrics to apply to the operational procedures, activities and outcomes of the NH DES Water Enforcement Program.
	Metric(s) and Quantitative Value	
	State Response	
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	

[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.).

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)
	Finding	EPA is responsible for ICIS data entry and is working to remedy any data issues.
	Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	<p>EPA has not authorized the NH DES to implement the Clean Water Act (CWA) NPDES Programs. NH DES implements a state authorized water enforcement program that is similar to the CWA NPDES enforcement program. Region 1 implements CWA enforcement in New Hampshire. Region 1 and NH DES have a work sharing arrangement for activities such as inspections and document review. While NH DES maintains its own compliance tracking databases, Region 1 is responsible for maintaining ICIS. OECA will review Region 1’s implementation of the CWA water enforcement program in New Hampshire in 2010. Region 1 reviewed the NH DES water enforcement program as part of this review. Because NH DES is not implementing the CWA, Region 1 has adapted the SRF Elements and Metrics to apply to the operational procedures, activities and outcomes of the NH DES Water Enforcement Program.</p> <p>NH DES provides documentation to EPA in a timely manner for input into the ICIS database. NH DES provides a copy of the federal Water Compliance Inspection Report Form 3560-3 to EPA within 30 days of performing a NPDES inspection. EPA then enters the inspection data into the ICIS database for tracking.</p>
	Metric(s) and Quantitative Value	
	State Response	
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	

[CWA] Element 3 - Timeliness of Data Entry - Degree to which the Minimum Data Requirements are timely.

3.1	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 type="checkbox"/> Area for State Improvement (Recommendation Required)
	Finding	EPA is responsible for ICIS data entry and is working to remedy any data issues.
	Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	EPA has not authorized the NH DES to implement the Clean Water Act (CWA) NPDES Programs. NH DES implements a state authorized water enforcement program that is similar to the CWA NPDES enforcement program. Region 1 implements CWA enforcement in New Hampshire. Region 1 and NH DES have a work sharing arrangement for activities such as inspections and document review. While NH DES maintains its own compliance tracking databases, Region 1 is responsible for maintaining ICIS. OECA will review Region 1's implementation of the CWA water enforcement program in New Hampshire in 2010. Region 1 reviewed the NH DES water enforcement program as part of this review. Because NH DES is not implementing the CWA, Region 1 has adapted the SRF Elements and Metrics to apply to the operational procedures, activities and outcomes of the NH DES Water Enforcement Program.
	Metric(s) and Quantitative Value	
	State Response	
Action(s) (Include any uncompleted actions from Round 1 that address this issue.)		

[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.

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)
	Finding	NH DES met its Performance Partnership Agreement CWA inspection commitments in FY2008.
	Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	No incomplete commitments were identified through this review.
	Metric(s) and Quantitative Value	<p>4a-NH DES met its Performance Partnership Agreement CWA inspection commitments in FY2008. NH DES planned and completed NPDES inspections at 99 facilities in FY2008. Specifically, State inspections were performed at 54 (40 municipal and 14 industrial) of the 55 major facilities (EPA inspects the Winnepesaukee River Basin Program WWTF, a State-operated major facility) and at 29 (15 municipal and 14 industrial) of the 44 minor facilities with individual NPDES permits; and at 17 (6 water treatment, 3 ground water remediation and 8 non-contact cooling water) of the minor facilities with general permits.</p> <p>NH DES inspects each major facility regulated by individual permits and four major facilities regulated by general permits (i.e. Allentown NHG580714, Hanover NHG580099, Newington NHG5801141, Plymouth NHG580242) each year, and inspects each minor facility with an individual permit or general permit (excluding storm water facilities where there is no equivalent State authority) at least once every two years. New Hampshire's inspection coverage policies surpass the National goals and achievements. NH DES routinely completes 100% of its NPDES major facility coverage inspections, which far exceeds the National Average of 57.6%. The majority of NH DES inspections are unannounced, sampling inspections.</p>
	State's Response	
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	

[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).		
5.1	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)
	Finding	All inspection commitments were completed.
	Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	NH DES inspects each major facility regulated by individual permits and four major facilities regulated by general permits (i.e., Allenstown NHG580714, Hanover NHG580099, Newington NHG581141 and Plymouth NHG580242) each year. EPA inspects the state-operated Winnepesaukee River Basin Program WWTF (NH0100960). NH DES inspects each minor facility with an individual or general permit (excluding storm water facilities where there is no equivalent State authority) at least once every two years. NH DES inspections exceed the current federal Compliance Monitoring Strategy inspection target frequency of once every second year for major and once every five years for minor facilities with an individual or a general permit. In FY2008, NH DES conducted inspections at 99 facilities (54 major, 27 minor, and 18 minor general).
	Metric(s) and Quantitative Value	4a-NH DES met its Performance Partnership Agreement CWA inspection commitments in FY2008. New Hampshire’s inspection coverage policies surpass the National goals and achievements. NH DES routinely completes 100% of its NPDES major facility coverage inspections, which far exceeds the National Average of 57.6%. In FY2008, NH DES inspected 66% of its minor NPDES facilities and exceeded the 41.5% National Average. The majority of NH DES inspections are unannounced sampling inspections.
	State Response	
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	

[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.

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)
	Finding	100% of the inspection reports were complete and timely.
	Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	<p>All inspection reports are complete and timely. NH DES mails each report package to the facility and sends a copy to EPA within 30 days of the inspection. Although a facility description is not included in the report package as required by the file review checklist, this information is not considered necessary by Region 1 because the facilities are inspected frequently, and the information is on file and is available to the public upon request. The report package includes: a letter summarizing any deficiencies, repeat deficiencies, and other inspection observations/recommendations; a copy of the federal Water Compliance Inspection Report Form 3560-3; a 12-month summary of discharge monitoring report (“DMR”) violations; and any sampling inspection laboratory results. If deficiencies are noted, a written response is required and a response deadline is specified. If repeat deficiencies were identified, a Letter of Deficiency (“LOD”) is issued and corrective action is required. In FY2008, NH DES issued 28 LODs resulting from inspection findings.</p> <p>NH DES’ practice of using inspection checklists helps assure and verify that complete and thorough inspections are conducted. The inspection checklists are reviewed annually and revised as necessary.</p>
	Metric(s) and Quantitative Value	<p><u>6a</u>-No. of inspection reports reviewed. Value: of 18 facility files reviewed (seven majors and 11 minors), 16 of the facilities were inspected by DES in FY2008.</p> <p><u>6b</u>-Inspection reports are complete.</p> <p><u>6c</u>-The compliance status of each of the 16 facilities inspected was thoroughly evaluated and well documented in the files reviewed. NH DES issued LODs to six of the 16 facilities based on inspection observations.</p> <p><u>6d</u>-All inspection reports were mailed to the facility (and to EPA) within 30 days of the inspection.</p>
	State Response	
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	

[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).-

7.1	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 type="checkbox"/> Area for State Improvement (Recommendation Required)
	Finding Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	<p>EPA is responsible for ICIS data entry and is working to remedy any data issues.</p> <p>EPA has not authorized the NH DES to implement the Clean Water Act (CWA) NPDES Programs. NH DES implements a state authorized water enforcement program that is similar to the CWA NPDES enforcement program. Region 1 implements CWA enforcement in New Hampshire. Region 1 and NH DES have a work sharing arrangement for activities such as inspections and document review. OECA will review Region 1's implementation of the CWA water enforcement program in New Hampshire in 2010. Region 1 reviewed the NH DES water enforcement program as part of this review. Because NH DES is not implementing the CWA, Region 1 has adapted the SRF Elements and Metrics to apply to the operational procedures, activities and outcomes of the NH DES Water Enforcement Program.</p> <p>NH DES has developed and maintains: (1) the Track2000 violations database to track permit violations, single event violations ("SEVs") such as sanitary sewer overflows and bypasses, and State and Federal enforcement action compliance; (2) the Inspection Tracking spreadsheet to track inspection commitments and inspection follow-up activities through conclusion; (3) the DMR Tracking spreadsheet to track monitoring and reporting violations, and effluent violations by facility; (4) the Violations by Facility tracking system; and (5) the Significant Non-Compliance ("SNC") Violations spreadsheet. NH DES' compliance tracking systems are updated as information is received and are accurate. EPA and the NH DES discuss the contents of these databases during quarterly enforcement coordination meetings.</p>
	Metric(s) and Quantitative Value	7e-100% of the inspection reports and facility files reviewed lead to an accurate CWA compliance determination.
	State Response	
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	

[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.

8.1	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 type="checkbox"/> Area for State Improvement (Recommendation Required)
	Finding	EPA is responsible for ICIS data entry and is working to remedy any data issues. The ICIS database is designed to “flag” significant noncompliance with NPDES Permit effluent limitations and monitoring requirements as defined in 40 C.F.R. § 123.45.
	Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	<p>EPA has not authorized the NH DES to implement the Clean Water Act (CWA) NPDES Programs. NH DES implements a state authorized water enforcement program that is similar to the CWA NPDES enforcement program. Region 1 implements CWA enforcement in New Hampshire. Region 1 and NH DES have a work sharing arrangement for activities such as inspections and document review. OECA will review Region 1’s implementation of the CWA water enforcement program in New Hampshire in 2010. Region 1 reviewed the NH DES water enforcement program as part of this review. Because NH DES is not implementing the CWA, Region 1 has adapted the SRF Elements and Metrics to apply to the operational procedures, activities and outcomes of the NH DES Water Enforcement Program.</p> <p>As noted in the findings to Element 7, the NH DES has developed and maintains various compliance tracking databases that are discussed with EPA during quarterly enforcement coordination meetings. The databases focus on SNC, SEV, self-monitoring and reporting violations and inspections follow-up tasks. EPA and the NH DES will continue to attempt to reconcile the NH DES’ databases with ICIS.</p>
	Metric(s) and Quantitative Value	
	State Response	
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	

[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.

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)
	Finding	NH DES compliance actions return facilities to compliance.
	Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	No NH DES formal enforcement actions were reviewed for FY2008, but prior year actions met the criteria. Of the 18 randomly selected NPDES facilities, EPA reviewed one State enforcement file. NH DES' Administrative Order by Consent ("AOC") # WD 06-006 required Franklin Pierce, a minor facility, to upgrade its wastewater treatment facility and redirect its discharge from the pond to subsurface disposal. This AOC was issued in 2006 and was concluded and the NPDES permit was terminated in 2009.
	Metric(s) and Quantitative Value	<u>9b</u> - NH DES did not issue any formal enforcement actions in FY2008 to address SNC, but prior year actions returned the sources in SNC to compliance. <u>9c</u> - This metric pertains to minor facilities and to major facilities where the violation is not SNC. Of the 18 files reviewed, NH DES inspected 16 facilities in FY2008, issued 10 inspection letters and six LODs to the facilities and the sources returned to compliance with the non-SNC deficiencies identified during the inspections.
	State Response	
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	

[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.

10.1	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input checked="" type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement (Recommendation Required)
	Finding	Timely and appropriateness of enforcement actions is an area for State improvement.
	Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	<p>EPA has not authorized the NH DES to implement the Clean Water Act (CWA) NPDES Programs. NH DES implements a state authorized water enforcement program that is similar to the CWA NPDES enforcement program. Region 1 implements CWA enforcement in New Hampshire. Region 1 and NH DES have a work sharing arrangement for activities such as inspections and document review. OECA will review Region 1’s implementation of the CWA water enforcement program in New Hampshire in 2010. Region 1 reviewed the NH DES water enforcement program as part of this review. Because NH DES is not implementing the CWA, Region 1 has adapted the SRF Elements and Metrics to apply to the operational procedures, activities and outcomes of the NH DES Water Enforcement Program.</p> <p>Although the NH DES has enforcement authorities under State law that are comparable to EPA’s and has established a Compliance Assurance Response Policy (“CARP”) that provides guidance for evaluating violations and addressing violations, the NH DES has not utilized the full array of enforcement options by escalating its enforcement response to chronic violations. In FY2008 and FY2009, EPA initiated the enforcement response to five of the 18 randomly selected facilities reviewed which included the issuance of two Consent Decrees (Lebanon and Portsmouth) and three AOs (Farmington, Newport and Whitefield). NH DES has fully supported EPA’s formal enforcement actions through inspections, case development, and with follow-up activities such as interim effluent limits compliance tracking, report review and comment, and other tasks that are critical to the success of the program.</p> <p>In FY2008, NH DES initiated the formal enforcement response to address SNC violations by Newport, NH. When the Town failed to sign the AOC in December 2008, NH DES referred the case to EPA in January 2009 and also provided the negotiated wastewater treatment facility upgrade compliance schedule and interim effluent limits to EPA. EPA issued the AO to Newport in March 2009.</p>
	Metric(s) and Quantitative Value	
	State Response	
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	

[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.

11.1	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 type="checkbox"/> Area for State Improvement (Recommendation Required)
	Finding	CARP Chapter VI, includes program-specific penalty policies, penalty calculation methods and required documentation to support the calculations.
	Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	<p>NH DES did not issue any formal enforcement actions in FY2008 that included upfront penalties. Of the 18 randomly selected files, prior years' enforcement documented the NH DES' collection of stipulated penalties from Franklin Pierce College as specified in the AOC issued in 2006. In FY2008, NH DES issued one AOC with stipulated penalties to Troy, NH to address persistent DMR reporting violations. The two-year AOC contained stipulated penalties to provide added incentive to Troy to accurately report effluent data. DMR errors have not occurred since the AOC was issued. Upfront penalties should be calculated where appropriate pursuant to the CARP. Refer to Element 10.1.</p> <p>NH DES has recently filled the Compliance Supervisor position that had been vacant for more than year and a half. EPA expects that this will lead to more enforcement activity in the future.</p>
	Metric(s) and Quantitative Value	
	State Response	
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	

[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.

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 type="checkbox"/> Area for State Improvement (Recommendation Required)
	Finding	NH DES did not issue any formal enforcement actions to address SNC in FY2008.
	Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	Refer to Element 11.1. As in previous years, NH DES should initiate formal enforcement actions to address SNC including penalty assessment and collection where appropriate.
	Metric(s) and Quantitative Value	
	State's Response	
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	

Resource Conservation and Recovery Act

(RCRA) Element 1 – Data Completeness - Degree to which the Minimum Data Requirements are complete.		
1.1	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input checked="" type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement (<i>Recommendation Required</i>)
	Finding	A majority of the minimum data requirements are entered into EPA’s RCRAInfo national system. However, there appears to be a data transcription discrepancy between the state’s handler data base (HZWIMS) and RCRAInfo.
	Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	<p>The minimum data requirements that are incomplete correspond to the number of small quantity generators (SQGs) and the number of ‘all other active sites’ (e.g., conditionally exempt small quantity generators (CESQGs)) in RCRAInfo. There appears to be a data transfer issue from the state handler system (HZWIMS) to the federal system (RCRAInfo). Since data is regularly transcribed from the state system to the federal system, there should be consistency. The state’s HZWIMS data is maintained regularly to reflect the real-time universe sizes of the LQG, SQG and CESQG universes. Given that this data is automatically transcribed from HZWIMS into RCRAInfo, the two data bases should reflect the same numbers.</p> <p>NH DES’ Hazardous Waste Management Bureau (HWMB) has agreed to work with NH DES and Region 1 data experts to identify the causes of this interagency data translation problem and to resolve the identified problems by September 30, 2011.</p>
	Metric(s) and Quantitative Value	Data metric for the SQG universe is 318, while the state corrected value is 211. Data metric for the CESQG universe is 2785, while the state corrected value is 2236. (Note: Region 1 used Hazardous Waste Management Bureau (HWMB) corrected values, where appropriate, throughout the SRF2 process.)
	State Response	
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	

(RCRA) Element 1 – Data Completeness - Degree to which the Minimum Data Requirements are complete.		
1.2	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input checked="" type="checkbox"/> Area for State Improvement (<i>Recommendation Required</i>)
	Finding	The minimum data elements for the number of new SNCs and the number of total number of sites in SNC during FY08 were not reflected accurately in RCRAInfo.

	<p>Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)</p>	<p>This inconsistency affects several other Element and data metric discussions that follow in this report. Region 1 used the file review process to investigate this concern by reviewing all active FY08 SNC cases and SNC cases that still had some sort of enforcement response in FY08. The file review indicated 1 new FY08 SNC, for a total of 3 active SNCs, in FY08. The review also indicated 1 resolved FY06 SNC case that received its settlement civil action in FY08 (Luminescent Systems). These actual FY08 SNC numbers were used in subsequent discussions of this report.</p> <p>The HWMB indicated to Region 1 that its policy for entering the SNC date in RCRAInfo corresponds to the inspection date (or the date when additional SNC-confirming information becomes available). However, this date is not entered until the initial formal enforcement action is issued or when a referral to the State AG is made. Accordingly, Region 1 made the following observations:</p> <p><u>Facility X</u> (so named in this report due to an ongoing investigation by EPA CID) represents a <u>pending case of SNC</u>. This facility was inspected in FY08 and referred to the EPA CID for interference and pass-through Clean Water Act (CWA) violations. According to the HWMB, the RCRA violation warrants SNC designation; however, the State Attorney General (State AG) advised the HWMB not to pursue further action on this case pending EPA CID's investigation and response. Therefore, no initial administrative action was taken and the SNC (SNY code) was not entered into RCRAInfo. Region 1 agrees with the state's decision for Facility X and is not considering this an active SNC case for FY08. However, details regarding this case's referral to EPA CID were not found in the compliance or confidential files.</p> <p><u>Wakefield Engineering (new SNC)</u> was inspected and the SNC determination was made in FY08 (July 30, 2008). The facility received its initial formal enforcement action in late FY09, at which point RCRAInfo was updated with the SNC (SNY code) corresponding to the date of the SNC determination recorded in the compliance file (July 30, 2008). Hence, this facility did not show up in SNY during the generation of the Official Data Set (ODS) and the Preliminary Data Analysis (PDA) back in June 2009. It is currently recorded as an official case of FY08 SNC in RCRAInfo. Region 1 concludes that the HWMB followed its established protocol for SNC identification in this particular case.</p> <p><u>Aavid Thermalloy (existing SNC)</u> was inspected pre-FY08 and the SNC determination was made in FY07. The final formal enforcement action against the facility (a settled administrative fine) occurred in FY08 and the state issued the facility a letter of compliance (LOC) in FY08 (on 10/27/07). Therefore, this facility was in SNC during early FY08. The HWMB simply failed to enter the SNC (SNY code) and the resolved SNC (SNN code) into RCRAInfo. HWMB has agreed to enter these missing codes into RCRAInfo. HWMB followed its established protocol for SNC identification for this facility but simply forgot to enter the SNY/SNN codes into RCRAInfo.</p> <p><u>Thermal Dynamics (Existing SNC)</u> was inspected in FY05. The SNC (SNY code) was entered in FY06. The resolved SNC (SNN code) was entered in FY08, and the State AG civil action settled in FY08. This facility was in SNC during FY08 and it is the single facility identified in the data metrics of the ODS and PDA. The data metric correctly registered the SNC status for Thermal Dynamics.</p>
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		As seen in the PDA, the state's SNC performance is severely underrated since two of the three existing SNCs for FY08 were not recorded in RCRAInfo due to coding or timing issues. At the time of this report, the SNC discrepancies for FY08 have been corrected. Other than the issues described in Element 1.1 and 1.2 (e.g., incorrect representations of SQG, CESQG and SNC universes in RCRAInfo), the file review metrics, the Official Data Set (ODS) and the Preliminary Data Analysis (PDA) did not indicate any other significant issues with the minimum data requirements.
	Metric(s) and Quantitative Value	The data metric for the number of new SNCs in FY08 is zero. The file review indicated that there was 1 new case of SNC in FY08. The data metric for the total number of sites in SNC in FY08 is 1. The file review indicated that there were 3 sites in SNC in FY08.
	State Response	NH DES continues to have concerns about identifying a facility as being in SNC in a public database prior to the facility being notified directly.
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	Recommendation: A. The HWMB will develop and document a consistent protocol for establishing SNY/SNN and for coding them into RCRAInfo. HWMB will incorporate, by reference, this protocol into the <u>draft</u> HWMB Hazardous Waste Civil and Administrative Enforcement Response Policy (ERP) by no later than September 30, 2010. (See Element 11 regarding finalizing the ERP and how the ERP shall have wording that incorporates it by reference into the NH DES Compliance Assurance Response Policy (CARP).) B. HWMB should develop a protocol of how referrals to the NH AGO or EPA criminal investigators are made and documented in compliance files and/or RCRAInfo. This protocol should discuss how SNC violations for such referrals are handled and when the SNC flags for such cases are entered into RCRAInfo. The resulting protocol shall be incorporated into the HWMB's Enforcement Response Policy (ERP) by no later than September 30, 2010. C. The HWMB will ensure that any SNC coding corrections for FY08-FY10 are implemented in RCRAInfo by no later than October 15, 2010.

(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.).		
2.1	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input checked="" type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement (<i>Recommendation Required</i>)
	Finding	With a few exceptions, the HWMB implements accurate inspection and enforcement data entry in RCRAInfo and within its own state Lotus tracking system. NH DES also tracks hazardous waste related investigations and inspections conducted by the Spill Response and Complaint Investigation Section (SRCIS) in the Measures Tracking and Recording System (MTRS) used to track Performance Partnership Agreement (PPA) commitments. However, SRCIS inspections and violations are not always accurately entered into RCRAInfo.
	Explanation. (If Area for State Attention, describe why)	Region 1 reviewed 26 facility files. Twenty-three of these files corresponded to work by the HWMB and three corresponded to investigations by SRCIS. The file review indicated that, in most cases, all mandatory data elements were correctly and accurately reflected in RCRAInfo. Region 1 discussed deficiencies observed

	<p>action not required, if Area for Improvement, provide recommended action.)</p>	<p>in five (5) facilities with HWMB staff and they have agreed to implement the necessary corrections. The discrepancies are: 1) <u>Aavid Thermalloy</u>: a 310 was incorrectly coded as a 210, and the SNY/ SNN codes were missing; 2) <u>Enpro</u>: two 9/4/07 inspections were incorrectly coded as 9/4/08; 3) <u>Kawall Corp./Manchester</u>: a 7/28/08 final 310 action was incorrectly dated as 6/25/08; 4) <u>Luminescent Systems</u>: a 11/10/05 NOF was missing; and 5) <u>Thompson Center Arms</u>: the 1/9/09 210 action was missing.</p> <p>The SCRIS transporter inspections (Stericycle and Enpro) and the facility investigation (Facility X) were entered into RCRAInfo, but their violation dispositions were not. The transporters were secondary violators (SVs) that were returned to compliance during or just after the inspection, but there was nothing entered into RCRAInfo or the compliance files to indicate that they had been resolved. There was nothing in RCRAInfo to indicate that the investigation at Facility X resulted in a referral to EPA CID. Further, the 5-year data metrics for the number of transporter and non-notifier inspections conducted by SRCIS were not accurately recorded in RCRAInfo.</p> <p>The file review also indicated that for the three existing FY08 SNC cases discussed in Element 1.2, the SNC determinations recorded in the compliance files were dated, on average, 150+ days after the inspection or when additional SNC-confirming information became available. (Region 1 acknowledges that this average is adversely impacted by the lapse of time required to make the SNC decision for Aavid Thermalloy, since input from EPA HQ was required. Sans Aavid Thermalloy, the SNC determinations for Wakefield and Thermal Dynamics only took an average of 136 days.) However, the SNC determination dates are not entered into RCRAInfo until the initial formal enforcement action is issued or when a referral to the State AG is made. When SNN and SNY codes are entered into RCRAInfo, they are typically entered within one week of the initial formal action. Once the SNC universe coding issues described in Element 1.2 are resolved, data accuracy associated with SNC identification and resolution will also become accurately reflected in RCRAInfo and the data metrics.</p> <p>The number of sites in violation for greater than 240 days, as reported on the PDA data metrics, was more than twice as great as the actual number reflected in the state's Lotus data base. The HWMB has since corrected RCRAInfo by closing out settled actions and coding actions from the 1980s-1990s as 'stale.' Only Facility X (the pending SNC case) has unresolved violations greater than 240 days old and this is due to the case's referral to EPA CID.</p> <p>HWMB has already implemented minor corrections in RCRAInfo and once the SQG/ CESQG and SNC (SNY/SNN coding) universes are corrected as outlined in Elements 1.1 and 1.2, RCRAInfo will reflect accurate data for the HWMB. HWMB has also agreed to work with SRCIS to ensure that their hazardous waste facility/non-notifier investigations and transporter inspections are accurately recorded in RCRAInfo. (Note: Where the state's data base and the PDA disagree, Region 1 has used the state's data.)</p>
	<p>Metric(s) and Quantitative Value</p>	<p>21 of 26 facility files (81%) represented accurate inspection, informal enforcement, formal enforcement, and facility and violation compliance status data entry into RCRAInfo. The HWMB has taken steps to correct the remaining 19%.</p> <p>Data metrics indicate that 12 sites were in violation for greater than 240 days. The state's data base only indicated 5 such sites. Corrections have been made by HWMB such that only Facility X's violations are accurately recorded as older than 240 days.</p>

		For the 5-year period ending 9/30/08, the data metrics indicate that SRCIS only conducted 9 active transporter and 0 non-notifier inspections, when the MTRS system indicates that there were actually 97 and 44, respectively. HWMB and SRCIS have agreed to work to ensure that FY08 SRCIS inspections/investigations and violations are accurately recorded in RCRAInfo
	State Response	
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	

(RCRA) Element 3 - Timeliness of Data Entry - Degree to which the Minimum Data Requirements are timely		
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 (<i>Recommendation Required</i>)
	Finding	The file review of 26 facility compliance and enforcement files indicates that the HWMB implements timely data entry once inspections are completed, and informal or formal enforcement actions are taken.
	Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	During the review of the data metrics, exchange of commentary on the Official Data Set and subsequent preparation of the PDA, HWMB worked with Region 1 to address and resolve minor data discrepancies usually consisting of missing data and/or codes into RCRAInfo. Once the recommendations of Elements 1 and 2 are implemented, there should be no further issues with timely data entry.
	Metric(s) and Quantitative Value	
	State Response	
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	

(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.		
4.1	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 (<i>Recommendation Required</i>)
	<p>Finding</p> <p>Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)</p>	<p>The HWMB meets, and often far exceeds, its FY08 compliance and enforcement commitments.</p> <p>These commitments were met by a staff of only 2.5 experienced compliance inspectors, one relatively new inspector, two outreach and training coordinators, one Enforcement Manager, one Supervisor and one Administrator. In the FY08 Performance Partnership Agreement (PPA), the HWMB committed to complete 30 inspections at hazardous waste generators, no inspections at commercial treatment storage and disposal facilities (TSDFs) since none exist in New Hampshire, and inspections at 20% of the Large Quantity Generator (LQG) Universe.</p> <p>The LQG universe tends to change over time due to fluctuating economies and generator status changes over the fiscal year. Since the HWMB conducts multiple Full Quantity Generator (FQG) Hazardous Waste Coordinator trainings over the course of a fiscal year, the fluid LQG universe tends to become refined over time as facilities either move into and out of the state or (as the result of the state's FQG training) initiate a generator status change (e.g., when LQGs/SQGs learn that they are really a CESQG or vice versa). The known LQG universe at the time of PPA planning was 97 which resulted in the corresponding commitment of 20 LQG inspections. (<i>Note: The SRF2 metric for the LQG universe is 113 (or 114 per the latest biennial report). The number of 113 represents the more accurate count of LQGs at the time the data metrics were recorded on the ODS and results in a commitment of 23 LQG inspections. However, at the time of FY08 planning, the universe was 97 and that is how this element is being evaluated.</i>) The HWMB completed 31 inspections during FY08, of which 20 corresponded to LQG inspections. In addition, SRCIS also conducted investigations and inspections, which resulted in a total of 40 hazardous waste compliance inspections in FY08.</p> <p>Also, the HWMB met or far exceeded its planned commitments for FY08. HWMB FY08 Performance Partnership Agreement (PPA) commitments are tracked via the MTRS system as recorded in the PPA End-of-Year Report. The major compliance and enforcement commitments are as follows:</p> <ol style="list-style-type: none"> 1) Implement 30 RCRAInfo entries (26 done or 87%); 2) Conduct 45 non-penalty enforcement actions (39 done or 87%); 3) Conduct 10 penalty actions (8 done or 80%); 4) Conduct 30 compliance inspections (31 done or 103%); 5) Conduct 4 limited permit inspections (13 done or 325%); 6) Conduct 10 outreach presentations (37 done or 370%); 7) Participate in 10 workshops (17 done or 170%); 8) Respond to 700 hotline telephone calls (726 done or 104%); 9) Resolve 9 SQG Self Certification discrepancies (7 done or 78%); 10) Conduct 10 advanced modular workshops (11 done or 110%); 11) Conduct 8 basic training workshops (13 done or 163%); 12) Issue 175 new hazardous waste coordinator certifications (223 done or 127%); 13) Issue 425 renewal hazardous waste coordinator certifications (561 or 132%); and 14) Process SQG Self-certifications for various counties (average completion 118). <p>Region 1 acknowledges that when a percentage fell below 100%, the HWMB simply over-estimated the projected target for a given milestone at the time of planning and this should not be held against the state in this review. This is specifically applicable to items 1, 2, 3 and 9, listed above.</p>

	Metric(s) and Quantitative Value	File review metrics: FY08 PPA overall inspection commitment 31/30 (103%); LQG inspection commitment 20/20 (100%); fourteen other enforcement/ compliance PPA commitments (averaging 147%).
	State's Response	
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	

(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.		
4.2	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 (<i>Recommendation Required</i>)
	Finding	The HWMB conducts an effective Full Quantity Generator (federal LQG and SQG) Hazardous Waste Coordinator Certification Program and also implements the Small Quantity Generator (federal CESQG) Self-Certification Program.
	Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	<p>Region 1 recognizes that, although HWMB inspectors are highly skilled and dedicated, inspector resources are relatively low and have been gradually decreasing over time. However, the HWMB has not seen a corresponding decrease in workload over time. The same staff responsible for achieving inspection commitments is also tasked to carry out formal and informal enforcement, complaint investigations, technical assistance and outreach to the regulated community. In recognition of, and in order to address the low staff to workload ratio, the HWMB has implemented the FQG HW Coordinator Certification and SQG Self-Certification Programs.</p> <p>The FQG HW coordinator certification program effectively and repeatedly informs the regulated community of the generator-specific requirements that must be met in order to comply with state and federal hazardous waste management regulations. Likewise, the SQG Self-Certification Program forces thousands of federal CESQGs (targeted on a county by county basis) to self-assess their compliance, to propose compliance schedules to address any discovered discrepancies, and to self-certify compliance. Both programs are self-funded via a fee/tuition system. Both programs resulted in the fulfillment of PPA milestones 9-14, outlined in Element 4.1. Both programs allow the relatively small-sized HWMB staff to reach many more generators on an annual basis than would normally be expected from the traditional inspection/enforcement approach. Both programs help to refine the federal LQG, SQG and CESQG universes as generators learn their true generator status' during attendance at basic or advance training modules or during self-assessments. Finally, and perhaps most importantly, both programs help to focus limited compliance and enforcement resources on violating generators that should know better after having successfully (and often repeatedly) completed FQG training sessions or SQG Self-Certifications.</p>
	Metric(s) and Quantitative Value	
	State's Response	

	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	
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(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.

4.3	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)
	Finding	Although FY08 commitments were met, similar accomplishments in subsequent fiscal years are jeopardized due to current staffing levels within the HWMB.
	Explanation. (If Area for State Attention,, describe why action not required, if Area for Improvement,, provide recommended action.)	With an inspector staffing level of 3.5 FTEs, 1 Enforcement Manager, 1 Supervisor and 1 Administrator, the HWMB was able to successfully accomplish the FY08 milestones highlighted in this and in the other elements of this report. A key recommendation of the SRF1 report was to fill two vacant inspector positions, increasing the number of inspectors to 4.5 full time employees (FTEs). Fortunately, during FY08 one of the vacant positions had been filled, increasing the number of available inspectors to 3.5. Unfortunately, the inspector position gained in FY08 has since been re-vacated. HWMB is again faced with 2 vacant inspector positions. Additionally, during FY09 the existing enforcement manager moved into the HWMB permit writing position and one of the remaining inspectors moved into the role of Enforcement Manager. The net effect is that the HWMB is currently operating with only 1.5 hazardous waste inspectors (less than the SRF 1 level), 1 Enforcement Manager, 1 Supervisor and 1 Administrator. Unless the two inspector vacancies are filled, all accomplishments discussed in this and other elements will be jeopardized in FY10 and beyond.
	Metric(s) and Quantitative Value	
	State's Response	NH DES is aware of the pressing need to fill the vacant positions. The current state budget situation and lack of adequate federal resources makes filling these positions unlikely in the short term. Even if funding becomes available immediately, the state personnel hiring requirements could not be met prior to September 30, 2010.
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	<u>Recommendation:</u> A. To ensure future compliance with SRF Program commitments, HWMB will explore sources of funding for the two vacant inspector positions (WMS III # 14731 and WMS IV # 41645), develop the job descriptions and post the positions by no later than September 30, 2011; and B. HWMB should take all necessary measures to fill the two vacant inspector positions by no later than September 30, 2011.

(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).

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
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		<input type="checkbox"/> Area for State Improvement (<i>Recommendation Required</i>)																					
Finding	HWMB meets planned inspection goals.																						
Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	<p>HWMB' inspection coverage meets or exceeds national goals and/or national averages as contained in the data metrics. (Note: Inspection coverage, in terms of PPA commitments, is addressed in Element 4. The above finding is based on corrections to the data metrics (see attached ODS and PDA) based on the data in the state's Lotus tracking system and/or the PPA tracking system (MTRS)).The data metric accurately indicates that no commercial TSDf inspections were done, since there are no such facilities in New Hampshire.</p> <p>For FY08, the data metric uses the most recent biennial LQG universe of 114 to address this Element. (The state's HZWIMS data base indicates a slightly smaller LQG universe of 113, but for this discussion the Region used 114.) The actual number of state conducted LQG inspections was 20, not 19 as indicated by the data metric. The HWMB is investigating why the LQG inspection at Anaren Ceramics was not counted in the data metrics. Further, the data metric accurately identifies 4 additional LQG inspections conducted by Region 1. Using these corrected numbers, the state conducted 20/114 (17.5% coverage) and the combined state+EPA effort was 24/114 (21% coverage). Based on the biennial report universe, HWMB nearly met the national goal and the combined effort exceeded the national goal of 20%. However, as seen in Element 4, the LQG universe size at the time of FY08 PPA planning was 97, which yields 20.6% for state coverage and a combined effort of 24.7%. Given that the target LQG universe differs based on the source of information (biennial report, RCRAInfo, or state HZWIMS data base), on when the universe is tallied (beginning of FY08 for PPA planning or the period covered by the latest biennial report), and on generators fluctuating in and out of LQG status during the course of a fiscal year, Region 1 concludes that HWMS achieved the national goal of 20% LQG coverage in FY08.</p> <p>Using the state's Lotus data base and tallying up the number of LQG inspections done over a 5-year period, the state determined that there were 117 state LQG inspections at different facilities and 128 (state+EPA) inspections. For comparison purposes only, using the latest biennial report universe of 114, the 5-year state coverage was 102.6%, while the combined effort was 112.3%. These numbers also exceed the national goal of 100% LQG coverage over a 5-year period. (Note: The actual percent coverage may be higher based on lower actual LQG universe counts from year to year.)</p> <p>The data metrics (as corrected with state Lotus data base numbers or the PPA tracking system (MTRS) data) indicate that HWMB also conducted the following number of inspections over the 5-year period ending in 9/30/08:</p> <ol style="list-style-type: none"> 17 SQG inspections (out of the current universe of 211 for an estimated 8.1%); 39 conditionally exempt small quantity generators (CESQGs); 97 active transporter inspections. (The data metric only indicates 9 New Hampshire registered transporter inspections; however, the state systems indicate a total of 97 in-state and out-of-state registered transporter inspections. HWMB has agreed to update RCRAInfo accordingly); 44 inspections at non-notifiers, based on the PPA tracking system (MTRS). It appears that these SRCIS inspections were simply not entered into RCRAInfo. HWMB agreed to work with SRCIS to update RCRAInfo accordingly; and 13 inspections at used oil burners, marketers, transfer stations, or non-RCRA hazardous waste processors. 																						
Metric(s) and Quantitative Value	<table border="1"> <thead> <tr> <th><u>Inspection Category</u></th> <th><u>Data metric</u></th> <th><u>State Correction</u></th> </tr> </thead> <tbody> <tr> <td>1. State FY08 LQGs</td> <td>19</td> <td>20</td> </tr> <tr> <td>2. Combined FY08 LQGs</td> <td>23</td> <td>24</td> </tr> <tr> <td>3. State 5-yr LQGs</td> <td>82</td> <td>117</td> </tr> <tr> <td>4. Combined 5-yr LQGs</td> <td>85</td> <td>128</td> </tr> <tr> <td>5. State 5-yr SQGs</td> <td>25 (out of 318)</td> <td>17 (out of 211)</td> </tr> <tr> <td>6. Combined 5-yr SQGs</td> <td>29 (out of 318)</td> <td>27 (out of 211)</td> </tr> </tbody> </table>	<u>Inspection Category</u>	<u>Data metric</u>	<u>State Correction</u>	1. State FY08 LQGs	19	20	2. Combined FY08 LQGs	23	24	3. State 5-yr LQGs	82	117	4. Combined 5-yr LQGs	85	128	5. State 5-yr SQGs	25 (out of 318)	17 (out of 211)	6. Combined 5-yr SQGs	29 (out of 318)	27 (out of 211)	
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		7. State 5-yr CESQGs 45 39 8. Combined 5-yr CESQGs 56 59 9. State 5-yr Active Transporters 9 97 10. State 5-yr Non-notifiers 0 44 11. State 5-yr Other 15 13 [Note: HWMB has agreed to investigate the causes of the differences between RCRAInfo and state Lotus data base and/or MTRS data bases for metric numbers 3, 4, 9 and 10, listed above.]
	State Response	
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	

(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.

6.1	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input checked="" type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement (<i>Recommendation Required</i>)
	Finding	The FY08 HWMB inspection reports meet the SRF requirements. SRCIS inspection reports need to be improved to clearly document hazardous waste investigation findings and violation disposition.
	Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	Region 1 reviewed 26 facility and compliance files that contained, in total, 28 inspection reports covering pre-FY08, FY08 and FY09. Twenty-four of these reports corresponded to generator inspections by the HWMB and 4 were completed by SRCIS (one facility investigation and three transporter inspections). Specific to FY08, the Region reviewed 15 final inspection reports. All reports, except for the SRCIS facility investigation report for Facility X, consisted of checklists. HWMB and SRCIS utilize unique, standardized checklists. The HWMB checklists have been modified, per SRF 1 recommendations, to include more descriptive narratives. Only one of the FY08 reports was considered incomplete (namely, the SRCIS report for Facility X). SRCIS' report for Facility X was a hand-written narrative which only described the violation. It did not discuss the type and purpose of the inspection, the facility's RCRA ID number or if even one existed, the facility and its RCRA regulated activities. The report did not include an inspection checklist, photographs, drawings or diagrams, designate the source of the information, or describe the detailed observations necessary to substantiate the violation. In short, the narrative only stated the existence of the violation on a "Site Investigation Report." As recommended in SRF1, SRCIS should bring their hazardous waste inspection report documentation practices into par with those used by the HWMB. One option would be for SRCIS to utilize the HWMB inspection checklists when investigating a hazardous waste violation. Alternatively, SRCIS could modify their "Site Investigation Report" to cover the same topics as those contained in the HWMB checklist/modules. Regarding photographs taken on HWMB inspections, the presence of a completed photo-log

	<p>in the inspection checklist indicates whether or not photographs were taken during an inspection. However, photographs were usually not found in the compliance files. Per HWMB, digital photographs are maintained on NH DES' server in an archive directory.</p> <p>HWMB does not have a written policy specifying a time frame for completing a report. EPA's RCRA Enforcement Response Policy (ERP) is the default which requires reports be completed within 150 days from Day Zero. HWMB readily identifies all violations during or just after inspections and a majority of the inspection reports are completed in a very timely manner. This timeliness is, in part, due to the expeditious nature of the checklists used by the HWMB and SRCIS. Also, SRCIS reports are usually completed on the same day of the investigation/ inspection. Regarding the 15 FY08 inspections reviewed, all reports were completed in well within 150 days, ranging from 0-90 days after the inspection.</p> <p>EPA acknowledges that the HWMB met the SRF requirements for this element. However, HWMB has agreed to:</p> <p>A. Work with SRCIS to develop an improved SRCIS reporting format for hazardous waste site investigations by September 30, 2011;</p> <p>B. Develop a written Digital Photograph Policy, by September 30, 2011, that describes how digital photographs are maintained as part of the compliance/enforcement file. Region 1 provided HWMB with a copy of its digital camera/photography policy as guidance: and</p> <p>C. Keep print-outs (e.g., multiple images per page) or discs of inspection digital photographs in the individual compliance files.</p>
Metric(s) and Quantitative Value	<p><u>File Review Metrics:</u> Number of FY08 inspection reports: 15 % of FY08 reports that are complete & sufficiently documented: 14/15 (93%); % of FY08 reports completed within a determined time frame: 15/15 (100%)</p>
State Response	NH DES strongly contests the implication that it does not meet programmatic requirements in this area.
Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	

(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.		
6.2	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 (<i>Recommendation Required</i>)
	Finding	The HWMB generates timely, accurate and quality inspection checklists that serve as the backbone for accurate compliance evaluations.

<p>Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)</p>	<p>HWMB staff complete the “Exit Debriefing Module” of the inspection checklist at the close of each compliance evaluation inspection (CEI). This debriefing memo summarizes violations (with regulation citations) and concerns observed during the inspection and serves as an early warning notice to the facility. Thus, facilities receive early warning notices as early as Day Zero, or just days thereafter. Prior to leaving the inspection, the facility representative must sign the Exit Debriefing Module and then receives a copy of the signed document. The facility thus receives a written copy of all the observed violations and can move forward with addressing the violations prior to receipt of the final report.</p> <p>Also, final HWMB compliance evaluation inspection (CEI) checklists are accompanied by corresponding informal enforcement actions. The types of informal enforcement actions observed to accompany inspection checklists are: 1) Letters of Deficiency (LODs) for ongoing violations; or 2) Notices of Past Violations (NPVs) for violations documented as returned to compliance. The combination checklist/informal enforcement document represents the final report package. The date of the final report corresponds to the date of the attached informal action (although the report itself may be initialed and dated by the inspector a few days earlier). Region 1 observed that the violations in HWMB reports were accurately transcribed into the accompanying informal actions. LODs serve as an additional tool to place the facility on notice of ongoing violations that need to be addressed in accordance with the injunctive relief contained in the LOD. NPVs serve to document resolved violations and how those violations were resolved.</p> <p>Of the 26 facility files reviewed, 23 corresponded to work by the HWMB. All 23 facilities (whether SV and SNC cases) received Exit Debriefing Modules. All 23 facilities received initial informal enforcement in the form of LODs or NPVs that accompany the inspection checklists. Some facilities also received a subsequent LOD or NPV if additional violations were uncovered or a Notice of Findings (NOF) if staff requested additional information after the inspection had been completed.</p>
<p>Metric(s) and Quantitative Value</p>	
<p>State Response</p>	
<p>Action(s) (Include any uncompleted actions from Round 1 that address this issue.)</p>	

<p>(RCRA) Element 7 - Identification of Alleged Violations - Degree to which compliance determinations are accurately made and promptly reported in the national data base based upon compliance monitoring report observations and other compliance monitoring information (e.g., facility-reported information).</p>		
<p>7.1</p>	<p>Is this finding a(n) (select one):</p>	<p><input type="checkbox"/> Good Practice <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement (<i>Recommendation Required</i>)</p>
	<p>Finding</p>	<p>Overall, HWMB makes timely and accurate compliance determinations for both SV and SNC violators which are also accurately reflected in both RCRAInfo and the state’s Lotus compliance data base.</p>

<p>Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)</p>	<p>The compliance, enforcement and confidential files reviewed by Region 1 clearly document the status of each violation (Class I or Class II) and the overall facility compliance status of SV or SNC.</p> <p>The data metric indicates that the number of non-SNC sites with violations found during FY08 compared to the number of inspected facilities in FY08 is 32/37 or 86.5%. HWMB concurs with this assessment. However, Region 1 could consider this ratio as 34/37 or 91.9% since two additional facilities were noted to have violations during their FY08 inspections. Their violations, however, had not been entered into RCRAInfo for case specific reasons, namely: 1) Facility X had been referred to EPA CID and the State AG requested a suspension of further state action pending EPA's investigation; and 2) Hannaford & Hamel underwent an ownership change to Autocraft and the violations were not entered until May 2009, when HWMB received formal notification of the change.</p> <p>For <u>all</u> 28 reviewed inspection reports, spanning pre-FY08 through late FY09, 27 reports documented accurate compliance determinations. Where Region 1 believes that a report initially made an erroneous compliance determination (Facility X), the state made the appropriate correction and rapidly elevated the violation status to a referral to EPA CID (see File Review Analysis Chart for details). However, Region 1 did not find any documentation in the file for the actual referral to EPA CID. The reviewer has since been notified by EPA CID that the referral came to the Region on January 29, 2008, four days after the investigation.</p> <p>With regard to the SRCIS Transporter Inspections for Enpro (2 inspection reports) and Stericycle (1 inspection report), the violations and facilities were treated as SVs and Region 1 concurs with these determinations. However, the SV determinations are not represented anywhere in the Facility's compliance or confidential files, or in RCRAInfo (addressed in Element 2.1 recommendation).</p> <p>For <u>all</u> 28 reports reviewed, Region 1 observed that 24 reports led to timely violation determinations recorded in RCRAInfo. (Timely being defined as within 150 days from Day Zero, per the RCRA and HWMB ERPs.) Many of these determinations were, in fact, reported very soon after the inspection date. This is, in part, due to the expeditious nature of the HWMB and SRCIS transporter checklists. Only one of the 15 FY08 inspection reports had recorded violation determinations after the lapse of 150 days (Stericycle Inc., a transporter inspection) since its SV determination was not recorded anywhere in the Facility files or in RCRAInfo.</p>
<p>Metric(s) and Quantitative Value</p>	<p><u>Data metric:</u> # of non-SNC sites with violations found during FY08 compared to # of FY08 inspected facilities: 32/37 or 86.5%.</p> <p><u>File Review Metrics:</u> % accurate compliance determinations based on <u>all</u> reports: 28/28 (100%). (For FY08: 15/15 (100%));</p> <p>% of violation determinations in <u>all</u> the reviewed file that were reported timely in the national data base: 24/28 (86%); (For FY08: 14/15 (93%)).</p>
<p>State Response</p>	
<p>Action(s) (Include any uncompleted actions)</p>	

	from Round 1 that address this issue.)	
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(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.		
8.1	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input checked="" type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement (<i>Recommendation Required</i>)
	Finding	The HWMB makes accurate SNC/HPV determinations; however, not all of the minimum data elements relating to SNC were entered into RCRAInfo at the time of the PDA development.
	Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	<p>Specifically, the SNY and SNN codes were missing for 2 of the three active SNC cases in FY08. As discussed in Element 1.2, the minimum data elements for the number of new SNCs and the number of total number of sites in SNC during FY08 were not accurately reflected in RCRAInfo. Consequently, the data metrics did not provide much insight into the state's accuracy in identifying SNCs/HPVs. Region 1 therefore relied on the file review process to understand the circumstances regarding each case of active SNC in FY08.</p> <p>Of the 26 facility files reviewed, 21 facilities were correctly determined as SVs, 4 were correctly identified as SNC in the compliance files, and 1 was referred to EPA CID and will most likely be considered SNC pending conclusion of EPA's investigation and response. Region 1 reviewed all three cases of FY08 SNC during the file review. There was only one newly identified SNC in FY08, namely Wakefield Engineering. See discussions below regarding the three FY08 SNCs. (Note: Region I also reviewed one case of FY06 SNC that received its final civil action in FY08):</p> <ol style="list-style-type: none"> <u>Wakefield Engineering</u>: FY08 inspection; SNC determination in FY08 (7/30/08); SNY code missing in RCRAInfo at the time of review since the initial formal enforcement action (dated 8/24/09) occurred after the file review. It is HWMB's policy to enter the SNC (SNY code) after issuance of a proposed action. The SNY code will be dated 7/30/08 in RCRAInfo. <u>Aavid Thermalloy</u>: pre-FY08 inspection; SNC determination made after 5/18/07 EPA HQ input on a complicated hazardous waste determination violation; SNY/SNN flags were missing in RCRAInfo (SNY occurred in FY07, SNN occurred in FY08, administrative penalty settled in FY08); and <u>Thermal Dynamics</u>: FY05 inspection; SNC determination in FY06; Resolved SNC (SNN code) in FY08; Civil action settled in FY08. <p><u>Luminescent Systems</u> was reviewed for its final civil settlement action in FY08. The facility was inspected in FY05; SNC determination (SNY code) and resolved SNC (SNN code) occurred in FY06. Although a SNC case, the facility was not in SNC at any time during FY08.</p> <p><u>Facility X</u> was inspected and referred to EPA CID in FY08. SNC will be determined and entered into RCRAInfo post-EPA CID investigation and response. The referral to EPA CID occurred only 4 days after the inspection.</p> <p>For FY08, Region 1 reviewed 15 inspection reports, representing 15 facilities. One of the 15 FY08 inspection reports resulted in a new accurate SNC determination (a 6.6% new SNC determination rate that is almost twice that of the national average). If Facility X had not</p>

		<p>been referred to EPA CID, the rate would have increased to 2/15 or 13.3%.</p> <p>Implementation of the Element 1.2 recommendation should ensure future accurate representations of SNC in RCRAInfo.</p>
	Metric(s) and Quantitative Value	<p><u>File Review Metric</u>: % of violations in files reviewed that were accurately determined to be SNC: For all Facility Files Reviewed (4/4 or 100%); For FY08 only (1/1 or 100%)</p>
	State Response	
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	

(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.

9.1	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 (<i>Recommendation Required</i>)
	Finding	<p>HWMB informal and formal enforcement responses consistently require corrective actions that return facilities to compliance.</p>
	Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	<p>HWMB takes both informal and formal action (administratively and civilly by referral to the State Attorney General's Office (AG)). HWMB also makes referrals to EPA (Facility X). Two good practices implemented by the HWMB are: 1) The HWMB and State AG meet bimonthly to review all current cases and to make determinations on the enforcement route for new hazardous and solid waste violators. Region 1 is invited to these meetings and tries to attend as many as possible; and 2) the HWMB is very active in assessing and collecting Administrative Fines from SV facilities, as well as from SNC violators. In fact, of the 26 facility files reviewed, 19 facilities were deemed as SVs by the HWMB. Thirteen of these 19 SVs (68%) were assessed administrative fines to deter future non-compliance.</p> <p>Two of the three cases of active SNC in FY08 (namely, Aavid Thermalloy, and Thermal Dynamics) have returned to compliance as documented by FY08 settled administrative fines (310s), settled civil penalty actions (610s), and Letters of Compliance. Wakefield Engineering was identified as SNC in FY08 (on 7/30/08) and was issued a proposed administrative fine in FY09 (on 8/24/09). Since the HWMB has shown success in collecting administrative fines and documenting facility return to compliance, Region 1 believes that Wakefield Engineering will also return to compliance. However, Facility X has been referred to EPA CID. Consequently, the HWMB is holding off on SNC designation in RCRAInfo and on any administrative or civil response pending EPA's action.</p> <p>Individual SV violations were shown to be returned to compliance (RTC) in RCRAInfo. Compliance files document RTC by containing dated Letters of Compliance (LOCs) and dated Notices of Past Violations (NPVs). LOCs and NPVs discuss each violation and how compliance was achieved. LOCs and NPVs are also recorded in RCRAInfo. Of the 21 facilities determined to be SVs by HWMB and SRCIS, 19 had either NPVs or LOCs in their files that</p>

		proved RTC. The remaining two trucking inspections documented RTC via handwritten notes in the margins of the inspection check lists; however, their RTC was not documented in RCRAInfo. HWMB agrees to work with SRCIS to make this correction in RCRAInfo (see Element 2.1 recommendation).
Metric(s) and Quantitative Value		<p><u>File review metrics:</u> # of enforcement responses reviewed in FY08: 37 formal and informal responses;</p> <p>% of enforcement responses that have or will return a source in SNC to compliance: 3/3 (100%);</p> <p>% of HWMB and SRCIS enforcement responses that have returned or will return Secondary Violators (SV's) to compliance: 21/21 (100%)</p>
State Response		
Action(s) (Include any uncompleted actions from Round 1 that address this issue.)		

(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.		
10.1	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input checked="" type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement (<i>Recommendation Required</i>)
	Finding	Based on the file review, the HWMB takes appropriate actions against SV and SNC violators. Informal actions against SV and SNC violators were timely. Formal enforcement taken against SNC violators was not timely.
	Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	<p>(Note: Region 1 used the file review process to discuss this element since the FY08 SNC universe was not correctly reflected in the ODS and PDA (refer to see Element 1.2).)</p> <p>The types of reviewed informal actions were Notices of Past Violations (NPVs), Letters of Deficiency (LODs), Notices of Findings (NOFs), and Letters of Compliance (LOCs). Reviewed formal actions against both SVs and SNCs consisted of Administrative Fines (AFs), referrals to the State AG and referrals to Region 1 CID. The Region also reviewed numerous appropriate proposed and settled administrative fines against SVs.</p> <p><u>Appropriateness of Actions:</u> After the review of 26 facility files and receipt of additional input from HWMB staff, Region 1 concurs with all the violation determinations made for all 26 facility files (21 SVs, 4 SNCs and 1 referral to EPA CID). With the exception of the SRCIS transporter inspections and the single SRCIS facility investigation that resulted in the referral to EPA, SVs and SNCs are initially pursued by informal actions (LODs to request action(s) to return to compliance; NPVs if no further action is needed; NOFs if more information is needed). Region 1 also reviewed all fines levied against and collected from SVs and SNCs (pursued administratively) and generally concurs with the penalty amounts assessed, the methodology used to calculate the penalties (via</p>

		<p>the RCRA penalty policy or state’s Schedule of Administrative Fines), the documented justifications for reducing assessed penalties, and the final amounts collected (see discussion for Elements 11 and 12).</p> <p>Region 1 acknowledges that the HWMB also pursues formal penalty actions against SVs, even if they have documented return to compliance in their files and/or in RCRAInfo. Administrative fines were assessed against 13 of 19 facilities determined to be SVs by HWMB (68%). Further, the HWMB expends the same level of effort and commitment in assessing and collecting administrative fines against SVs as they do when taking formal enforcement against SNC violators.</p> <p>Region 1 recognizes the HWMB’s willingness to refer a case to the State AG or EPA Region 1 based on the egregiousness or recalcitrance of the violations. For referrals to the State AG, the HWMB provides a summary of the case and a copy of the file to State AG staff.</p> <p><u>Timing of Early Warning Notices by HWMB:</u> Twenty-three of the 26 facility files reviewed related to enforcement work by the HWMB. All 23 facilities (whether determined to be SV or SNC) received early warning notices by having to read and sign an “Exit Debriefing” checklist at the close of each inspection. Also, all 23 facilities received initial informal enforcement in the form of LODs or NPVs that accompanied the inspection report/checklists. Some facilities also received a subsequent LOD or NPV if additional violations were uncovered or a Notice of Findings (NOF) if staff needed additional information after the inspection had been completed.</p> <p><u>Timing of Informal Enforcement by HWMB:</u> Of the 23 facility files reviewed that corresponded to HWMB’ work, 19 were determined to be SVs that required, at minimum, informal enforcement. They all received initial informal enforcement in the form of LODs or NPVs with the inspection report/checklists. Eighteen of these 19 facilities received initial informal enforcement well before the ERP limit of 150 days from Day Zero. Only one facility (Amherst Collision) received informal enforcement after 150 days. Of these 19 facilities, 16 returned to compliance well before or just slightly after the federal and state ERP limit of 240 Days from Day Zero. (Presstek (244 days), Amherst Collision (272 days) and Hitchner (262 days) were only slightly over the limit and Region 1 considered them timely.) Three facilities (Circuit Connect (359 days), Thompson Center Arms (388 days) and Markem Corp (502 days)) significantly exceeded the 240 day limit. However, their compliance files clearly documented the complicated case-specific reasons for these delays and the constant coordinating efforts between HWMB staff and the facilities to resolve the violations.</p> <p><u>Timing of Informal Enforcement by SRCIS:</u> Three of the 26 facility files reviewed related to facility (Facility X) and transporter inspections (Enpro and Stericycle) by SRCIS. The inspections at Enpro and Stericycle were determined to be SVs requiring, at minimum, informal enforcement. Enpro’s minor violation was resolved on-the-spot and did not warrant an informal enforcement action. Stericycle received an informal written letter within days from the inspection and the company’s response (received within the week) resolved the violations.</p> <p><u>Timing of Formal Enforcement by HWMB:</u> Four of the 26 facility files reviewed were determined to be in SNC by the HWMB. Three of these facilities were in SNC at some point during FY08. One facility had a resolved SNC in FY06 but received its final civil action in FY08. Only the facility with the resolved FY06 SNC (Luminescent Systems) basically met the criteria for federal and state ERP timeliness. The remaining FY08 cases of SNC, Aavid Thermalloy, Thermal Dynamics and Wakefield Engineering, did not meet the timeliness criteria. Aavid Thermalloy’s the first and only formal enforcement action was a settled administrative fine that occurred well after 360 days from Day</p>
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	<p>Zero. Thermal Dynamics was referred to the State AG 525 days after Day Zero (165 days after time limit). Wakefield Engineering received its initial administrative fine 466 days after the inspection (226 days after the time limit). Region 1 acknowledges that all three cases have case-specific complexities that contributed to these delays, and the corresponding compliance files document ongoing coordination, communication and negotiations between HWMB staff and facility contacts.</p> <p>The federal and state ERPs do not require formal enforcement against SVs; therefore, Region 1 will not be making detailed timeliness assessments of the HWMB's formal enforcement against SVs (i.e., assessment/collection of administrative fines or referrals to the State AG). However, Region 1 has determined that it takes, on average, 8 months (240 days) to issue proposed administrative fines to SVs and +15 months (+450 days) to settle these administrative fines.)</p> <p>Regarding SNC violators, the HWMB must develop and implement a protocol to improve the timeliness of issuing formal administrative actions and civil referrals to the State AG. Region I believes that the steps outlined in this protocol will also improve timeliness of formal enforcement actions taken against SV violators. The bimonthly HWMB/State AG meetings can be used to explore ways to expedite referrals to the State AG.</p> <p><u>SNC Violations Discovered by SRCIS:</u> The SRCIS facility inspection at Facility X was referred to EPA CID only 4 days after the investigation. However, Region 1 could not find any written documentation in the file that discussed the details of the referral, except that it occurred on January 29, 2008. Subsequent discussions with HWMB indicated that the referral to CID was based on Clean Water Act violations and that the State AG requested a suspension of state actions pending EPA CID's work. The reviewer then contacted CID which confirmed that the referral came to CID on January 29, 2008, but that no referral document was available. (See recommendation of Element 1.2)</p> <p>By September 30, 2011, HWMB (with input from the State AG) will develop and implement a protocol for improving timeliness for formal enforcement against SNC violators. The final protocol should contain language that incorporates it by reference into the HWMB ERP.</p>
Metric(s) and Quantitative Value	<p><u>File Review Metrics:</u> Informal enforcement against all cases of SV reviewed: average 95% timely; FY08 formal enforcement against SNCs: 0% timely; FY08 referral to Region 1 CID: 100% timely; Percent of enforcement response appropriateness for all files reviewed: 100%</p>
State Response	
Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	

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

		<input type="checkbox"/> Area for State Improvement (<i>Recommendation Required</i>)
Finding		Whenever the HWMB takes a formal penalty enforcement action against either a SNC or SV violator, penalty calculations will always take into account gravity and economic benefit.
Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)		<p>The overall penalty will be assessed using either EPA’s RCRA Penalty Policy or the state’s Administrative Schedule of Fines. Economic benefit is always calculated using EPA’s BEN model.</p> <p>For Cases of SNC: When a facility’s violation is determined to be SNC, HWMB considers both gravity and economic benefit per violation. Regarding economic benefit, the confidential file documents for each violation whether it was non-existent, negligible or the dollar amount as calculated by EPA’s BEN model. The gravity component is assessed per violation using EPA’s RCRA penalty policy as captured in a draft HWMB ERP. This ERP references the 2003 and 2005 RCRA penalty policy gravity and extent of deviation matrices. Gravity is also clearly documented in the facility confidential files.</p> <p>Of the 3 cases of FY08 SNC, Region 1 was able to review the penalty calculations for 2 facilities (namely, Thermal Dynamics and Aavid Thermalloy). Thermal Dynamics was referred to the State AG for civil action and has since settled. The draft penalty documents, calculated by HWMB and referred to the State AG, documented both economic benefit and gravity as described above. Aavid Thermalloy went straight to a final administrative fine calculated using EPA’s BEN model and the RCRA penalty policy; however, the 2003 gravity and extent of deviation matrices were used instead of those from the 2005 RCRA penalty policy. Wakefield Engineering received a proposed administrative fine in August 2009 after the file review, and was determined to be an SNC facility in FY08. Region 1 has no reason to believe that this case’s penalty calculations would differ from the rest. (Note: Facility X, referred to EPA CID, did not have a calculated penalty on file.)</p> <p>For Cases of SV: For SVs warranting an administrative fine, the HWMB will also calculate the per violation economic benefit, where appropriate, utilizing EPA’s BEN model. The confidential file will also record the economic benefit as non-existent, negligible or the dollar amount per violation. However, the HWMB then utilizes the NH DES Schedule of Administrative Fines to calculate the per violation penalty amount. If there is a significant economic benefit, HWMB will compare that amount to the violation’s calculated administrative fine to ensure that the administrative fine covers both the economic benefit and some amount of gravity. (Note: In the event that the economic benefit is not covered by the administrative fine, HWMB will refer the case to the State AG for civil enforcement. This was not the case with any of the files reviewed in SRF2.) Of the 21 facilities determined to be SV by HWMB and SRCIS, only 8 received informal, non-penalty enforcement, but 13 received administrative fines that considered both economic benefit and gravity. Where economic benefit was calculated, the administrative fine covered both components (gravity and economic benefit).</p> <p>The HWMB has agreed to finalize the draft ERP and insure that the final ERP includes language that incorporates it by reference into NH DES CARP.</p>
Metric(s) and Quantitative Value		<p><u>File Review Metric:</u> % of reviewed penalty calculations that consider and include where appropriate gravity and economic benefit: For FY08 SNCs: 2/2 (100%); For FY08 SVs: 13/13 (100%).</p>
State Response		
Action(s) (Include any uncompleted		

	actions from Round 1 that address this issue.)	
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(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.		
12.1	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 (<i>Recommendation Required</i>)
	Finding	HWMB maintains, as part of a facility's compliance record, a confidential file that clearly documents all aspects of penalty calculation, adjustment and collection.
	Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	<p>The confidential files document 1) how proposed penalties were calculated per violation and the assessed amount; 2) how gravity (and where appropriate, economic benefit) are taken into account per each violation; 3) the justifications for each mitigated penalty per violation; 4) the final penalty amount for each violation; 5) overall penalty off-sets by supplemental environmental projects (SEPs) and descriptions of the SEPs; and 6) the total cash settlement penalty amount.</p> <p>During the file review process, Region 1 was always able to find proof of payment, usually in the form of a copy of the paid check, or series of copied checks if payment was made in installments. Region 1 was also able to find proof of the completed SEP for Luminescent Systems. HWMB collected a total of \$326,027 in final penalties during FY08 from SV and SNC violators.</p>
	Metric(s) and Quantitative Value	<u>Data Metric (corrected):</u> % of FY08 final formal actions with penalty: 100%; FY08 final penalties collected: \$326,027 <u>File Review Metric:</u> % of files that documented collection of penalty: 100%; % of FY08 penalties that document the difference/rationale between proposed and final penalties: 100%
	State's Response	
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	

APPENDIX A: STATUS OF RECOMMENDATIONS FROM PREVIOUS REVIEW

During the first SRF review of NHDES's compliance and enforcement programs in 2004, Region 1 and NHDES identified a number of actions to be taken to address issues found during the review. NHDES has taken steps to implement each of these recommendations. The table below describes the SRF-1 recommendations.

E#	Media		Due Date	Status	Finding
E2	CAA	Violations ID'ed Appropriately	10/1/2005	Completed	Inspection reports missing past enforcement history
E3	CAA	Violations ID'ed Timely	5/22/2007	Completed	Inspection Reports Not Timely
E4	CAA	SNC Accuracy	5/22/2007	Completed	Variation is setting Day Zero for HPVs
E6	CAA	Timely & Appropriate Actions	5/22/2007	Completed	Complete HPV actions within 270 days
E7	CAA	Penalty Calculations	5/22/2007	Completed	Calculation and documentation of economic benefit needs improvement
E10	CAA	Data Timely	5/22/2007	Completed	Data accuracy relating to HPV and Day Zero needs improvement
E11	CAA	Data Accurate	5/22/2007	Completed	HPV's need to be entered accurately in AFS
E7	CWA	Penalty Calculations	5/22/2007	Completed	Document consideration of Economic Benefit
E8	CWA	Penalties Collected	5/22/2007	Completed	Consider use of injunctive relief instead of SEPs
E1	RCRA	Insp Universe	9/30/2007	Completed	Staff cutbacks limit ability to meet inspection commitments
E2	RCRA	Violations ID'ed Appropriately	9/30/2007	Completed	Maintain complete copy of inspection reports
E2	RCRA	Violations ID'ed Appropriately	9/30/2007	Completed	Include completion date on Inspection checklists
E2	RCRA	Violations ID'ed Appropriately	9/30/2007	Completed	Improve inspection checklists so they can "stand alone"
E2	RCRA	Violations ID'ed Appropriately	9/30/2009	Long Term Resolution	Provide resources to support inspection database
E4	RCRA	SNC Accuracy	9/30/2007	Completed	Ensure DES has up-to-date EPA policies
E4	RCRA	SNC Accuracy	9/1/2007	Completed	Update CARP to reflect EPA policies
E4	RCRA	SNC Accuracy	9/30/2007	Completed	Ensure facilities in certification program receive appropriate enf. response
E5	RCRA	Return to Compliance	9/30/2007	Completed	SIS should deliver appropriate enforcement response
E5	RCRA	Return to Compliance	9/30/2007	Completed	Improve SIS file documentation
E7	RCRA	Penalty Calculations	9/30/2007	Completed	Document economic benefit decisions in all administrative cases.
E7	RCRA	Penalty Calculations	9/30/2007	Completed	Increase per day penalty caps
E8	RCRA	Penalties Collected	9/30/2009	Completed	Forgive fewer penalties
E11	RCRA	Data Accurate	9/30/2007	Completed	Ensure all actions are correctly coded in RCRAInfo
E11	RCRA	Data Accurate	9/30/2007	Completed	Ensure old violations are addressed
E12	RCRA	Data Complete	9/30/2007	Completed	Reconcile differences between EPA and DES data annually

APPENDIX B: OFFICIAL DATA PULL

Clean Air Act

Metric	Metric Description	Metric Type	Agency	National Goal	National Average	NH Metric	Count	Universe	Not Counted
A01A1S	Title V Universe: AFS Operating Majors (Current)	Data Quality	State			43	NA	NA	NA
A01A1C	Title V Universe: AFS Operating Majors (Current)	Data Quality	Combined			43	NA	NA	NA
A01A2S	Title V Universe: AFS Operating Majors with Air Program Code = V (Current)	Data Quality	State			43	NA	NA	NA
A01A2C	Title V Universe: AFS Operating Majors with Air Program Code = V (Current)	Data Quality	Combined			43	NA	NA	NA
A01B1S	Source Count: Synthetic Minors (Current)	Data Quality	State			91	NA	NA	NA
A01B1C	Source Count: Synthetic Minors (Current)	Data Quality	Combined			91	NA	NA	NA
A01B2S	Source Count: NESHAP Minors (Current)	Data Quality	State			3	NA	NA	NA
A01B2C	Source Count: NESHAP Minors (Current)	Data Quality	Combined			3	NA	NA	NA
A01B3S	Source Count: Active Minor facilities or otherwise FedRep, not including NESHAP Part 61 (Current)	Informational Only	State			262	NA	NA	NA
A01B3C	Source Count: Active Minor facilities or otherwise FedRep, not including NESHAP Part 61 (Current)	Informational Only	Combined			262	NA	NA	NA
A01C1S	CAA Subprogram Designations: NSPS (Current)	Data Quality	State			69	NA	NA	NA
A01C1C	CAA Subprogram Designations: NSPS (Current)	Data Quality	Combined			69	NA	NA	NA
A01C2S	CAA Subprogram Designations: NESHAP (Current)	Data Quality	State			3	NA	NA	NA
A01C2C	CAA Subprogram Designations: NESHAP (Current)	Data Quality	Combined			3	NA	NA	NA
A01C3S	CAA Subprogram	Data Quality	State			11	NA	NA	NA

	Designations: MACT (Current)								
A01C3C	CAA Subprogram Designations: MACT (Current)	Data Quality	Combined			11	NA	NA	NA
A01C4S	CAA Subpart Designations: Percent NSPS facilities with FCEs conducted after 10/1/2005	Data Quality	State	100%	76.7 %	100.0%	64	64	0
A01C5S	CAA Subpart Designations: Percent NESHAP facilities with FCEs conducted after 10/1/2005	Data Quality	State	100%	33.5 %	0 / 0	0	0	0
A01C6S	CAA Subpart Designations: Percent MACT facilities with FCEs conducted after 10/1/2005	Data Quality	State	100%	89.3 %	85.7%	6	7	1
A01C6C	CAA Subpart Designations: Percent MACT facilities with FCEs conducted after 10/1/2005	Data Quality	Combined	100%	86.6 %	50.0%	7	14	7
A01D1S	Compliance Monitoring: Sources with FCEs (1 FY)	Data Quality	State			37	NA	NA	NA
A01D2S	Compliance Monitoring: Number of FCEs (1 FY)	Data Quality	State			37	NA	NA	NA
A01D3S	Compliance Monitoring: Number of PCEs (1 FY)	Informational Only	State			57	NA	NA	NA
A01E0S	Historical Non-Compliance Counts (1 FY)	Data Quality	State			12	NA	NA	NA
A01E0C	Historical Non-Compliance Counts (1 FY)	Data Quality	Combined			13	NA	NA	NA
A01F1S	Informal Enforcement Actions: Number Issued (1 FY)	Data Quality	State			49	NA	NA	NA
A01F2S	Informal Enforcement Actions: Number of Sources (1 FY)	Data Quality	State			48	NA	NA	NA
A01G1S	HPV: Number of New Pathways (1 FY)	Data Quality	State			12	NA	NA	NA
A01G2S	HPV: Number of New Sources (1 FY)	Data Quality	State			12	NA	NA	NA
A01H1S	HPV Day Zero Pathway Discovery date: Percent DZs with discovery	Data Quality	State	100%	51.7 %	100.0%	12	12	0
A01H2S	HPV Day Zero Pathway Violating Pollutants: Percent DZs	Data Quality	State	100%	66.3 %	100.0%	12	12	0
A01H3S	HPV Day Zero Pathway Violation Type Code(s): Percent DZs with HPV Violation Type Code(s)	Data Quality	State	100%	66.1 %	100.0%	12	12	0
A01I1S	Formal Action: Number Issued (1 FY)	Data Quality	State			7	NA	NA	NA

A01I2S	Formal Action: Number of Sources (1 FY)	Data Quality	State			7	NA	NA	NA
A01J0S	Assessed Penalties: Total Dollar Amount (1 FY)	Data Quality	State			\$165,567	NA	NA	NA
A01K0S	Major Sources Missing CMS Policy Applicability (Current)	Review Indicator	State	0		2	NA	NA	NA
A02A0S	Number of HPVs/Number of NC Sources (1 FY)	Data Quality	State	<= 50%	61.4 %	133.3%	4	3	NA
A02A0C	Number of HPVs/Number of NC Sources (1 FY)	Data Quality	Combined	<= 50%	61.3 %	133.3%	4	3	NA
A02B1S	Stack Test Results at Federally-Reportable Sources - % Without Pass/Fail Results (1 FY)	Goal	State	0%	1.3%	0.0%	0	35	35
A02B2S	Stack Test Results at Federally-Reportable Sources - Number of Failures (1 FY)	Data Quality	State			0	NA	NA	NA
A03A0S	Percent HPVs Entered <= 60 Days After Designation, Timely Entry (1 FY)	Goal	State	100%	35.4 %	33.3%	4	12	8
A03B1S	Percent Compliance Monitoring related MDR actions reported <= 60 Days After Designation, Timely Entry (1 FY)	Goal	State	100%	62.8 %	31.9%	38	119	81
A03B2S	Percent Enforcement related MDR actions reported <= 60 Days After Designation, Timely Entry (1 FY)	Goal	State	100%	72.4 %	51.9%	14	27	13
A05A1S	CMS Major Full Compliance Evaluation (FCE) Coverage (2 FY CMS Cycle)	Goal	State	100%	59.0 %	41.5%	17	41	24
A05A1C	CMS Major Full Compliance Evaluation (FCE) Coverage (2 FY CMS Cycle)	Goal	Combined	100%	59.2 %	51.2%	21	41	20
A05A2S	CAA Major Full Compliance Evaluation (FCE) Coverage(most recent 2 FY)	Review Indicator	State	100%	81.3 %	74.4%	32	43	11
A05A2C	CAA Major Full Compliance Evaluation (FCE) Coverage(most recent 2 FY)	Review Indicator	Combined	100%	81.9 %	81.4%	35	43	8
A05B1S	CAA Synthetic Minor 80% Sources (SM-80) FCE Coverage (5 FY CMS Cycle)	Review Indicator	State	20% - 100%	68.3 %	41.5%	22	53	31
A05B1C	CAA Synthetic Minor 80% Sources (SM-80) FCE Coverage (5 FY CMS Cycle)	Review Indicator	Combined	20% - 100%	68.7 %	47.2%	25	53	28

	Cycle)								
A05B2S	CAA Synthetic Minor 80% Sources (SM-80) FCE Coverage (last full 5 FY)	Informational Only	State	100%	100.0 %	100.0%	18	18	0
A05B2C	CAA Synthetic Minor 80% Sources (SM-80) FCE Coverage (last full 5 FY)	Informational Only	Combined		100.0 %	100.0%	19	19	0
A05C0S	CAA Synthetic Minor FCE and reported PCE Coverage (last 5 FY)	Informational Only	State		81.0 %	90.4%	85	94	9
A05C0C	CAA Synthetic Minor FCE and reported PCE Coverage (last 5 FY)	Informational Only	Combined		81.3 %	94.7%	89	94	5
A05D0S	CAA Minor FCE and Reported PCE Coverage (last 5 FY)	Informational Only	State		30.3 %	29.4%	198	673	475
A05E0S	Number of Sources with Unknown Compliance Status (Current)	Review Indicator	State			0	NA	NA	NA
A05E0C	Number of Sources with Unknown Compliance Status (Current)	Review Indicator	Combined			0	NA	NA	NA
A05F0S	CAA Stationary Source Investigations (last 5 FY)	Informational Only	State			0	NA	NA	NA
A05G0S	Review of Self-Certifications Completed (1 FY)	Goal	State	100%	92.6 %	100.0%	42	42	0
A07C1S	Percent facilities in noncompliance that have had an FCE, stack test, or enforcement (1 FY)	Review Indicator	State	> 1/2 National Avg	21.2 %	15.0%	9	60	51
A07C2S	Percent facilities that have had a failed stack test and have noncompliance status (1 FY)	Review Indicator	State	> 1/2 National Avg	43.8 %	0 / 0	0	0	0
A07C2E	Percent facilities that have had a failed stack test and have noncompliance status (1 FY)	Review Indicator	EPA	> 1/2 National Avg	0.0%	0 / 0	0	0	0
A08A0S	High Priority Violation Discovery Rate - Per Major Source (1 FY)	Review Indicator	State	> 1/2 National Avg	7.8%	7.0%	3	43	40
A08A0E	High Priority Violation Discovery Rate - Per Major Source (1 FY)	Review Indicator	EPA		0.5%	0.0%	0	43	43
A08B0S	High Priority Violation Discovery Rate - Per Synthetic Minor Source (1 FY)	Review Indicator	State	> 1/2 National Avg	0.7%	7.7%	7	91	84
A08B0E	High Priority Violation Discovery Rate - Per Synthetic Minor Source (1 FY)	Review Indicator	EPA	> 1/2 National Avg	0.0%	0.0%	0	91	91

A08C0S	Percent Formal Actions With Prior HPV - Majors (1 FY)	Review Indicator	State	> 1/2 National Avg	74.9 %	100.0%	2	2	0
A08D0S	Percent Informal Enforcement Actions Without Prior HPV - Majors (1 FY)	Review Indicator	State	< 1/2 National Avg	40.4 %	55.6%	5	9	4
A08E0S	Percentage of Sources with Failed Stack Test Actions that received HPV listing - Majors and Synthetic Minors (2 FY)	Review Indicator	State	> 1/2 National Avg	24.8 %	0.0%	0	4	4
A10A0S	Percent HPVs not meeting timeliness goals (2 FY)	Review Indicator	State		39.5 %	50.0%	7	14	7
A12A0S	No Activity Indicator - Actions with Penalties (1 FY)	Review Indicator	State			6	NA	NA	NA
A12B0S	Percent Actions at HPVs With Penalty (1 FY)	Review Indicator	State	>= 80%	86.4 %	50.0%	1	2	1

Clean Water Act

Metric	Metric Description	Metric Type	Agency	National Goal	National Average	NH Metric	Count	Universe	Not Counted
P01A1C	Active facility universe: NPDES major individual permits (Current)	Data Quality	Combined			45	NA	NA	NA
P01A2C	Active facility universe: NPDES major general permits (Current)	Data Quality	Combined			0	NA	NA	NA
P01A3C	Active facility universe: NPDES non-major individual permits (Current)	Data Quality	Combined			42	NA	NA	NA
P01A4C	Active facility universe: NPDES non-major general permits (Current)	Data Quality	Combined			79	NA	NA	NA
P01B1C	Major individual permits: correctly coded limits (Current)	Goal	Combined	>=; 95%	95.3%	95.6%	43	45	2
C01B2C	Major individual permits: DMR entry rate based on MRs expected (Forms/Forms) (1 Qtr)	Goal	Combined	>=; 95%	92.3%	97.8%	177	181	4
C01B3C	Major individual permits: DMR entry rate based on DMRs expected (Permits/Permits) (1 Qtr)	Goal	Combined	>=; 95%	91.1%	100.0%	45	45	0
P01B4C	Major individual permits: manual RNC/SNC override rate (1 FY)	Data Quality	Combined			30.4%	7	23	16
P01C1C	Non-major individual permits: correctly coded limits (Current)	Informational Only	Combined			66.7%	28	42	14
C01C2C	Non-major individual permits: DMR entry rate based on DMRs expected (Forms/Forms) (1 Qtr)	Informational Only	Combined			4.6%	5	108	103
C01C3C	Non-major individual permits: DMR entry rate based on DMRs expected (Permits/Permits) (1 Qtr)	Informational Only	Combined			4.8%	2	42	40
P01D1C	Violations at non-majors: noncompliance rate (1 FY)	Informational Only	Combined			69.0%	29	42	13
C01D2C	Violations at non-majors: noncompliance rate in the annual noncompliance report (ANCR)(1 CY)	Informational Only	Combined			0 / 0	0	0	0
P01D3C	Violations at non-majors: DMR non-receipt (3 FY)	Informational Only	Combined			6	NA	NA	NA
P01E1S	Informal actions: number of major facilities (1 FY)	Data Quality	State			0	NA	NA	NA

P01E1E	Informal actions: number of major facilities (1 FY)	Data Quality	EPA			0	NA	NA	NA
P01E2S	Informal actions: number of actions at major facilities (1 FY)	Data Quality	State			0	NA	NA	NA
P01E2E	Informal actions: number of actions at major facilities (1 FY)	Data Quality	EPA			0	NA	NA	NA
P01E3S	Informal actions: number of non-major facilities (1 FY)	Data Quality	State			0	NA	NA	NA
P01E3E	Informal actions: number of non-major facilities (1 FY)	Data Quality	EPA			0	NA	NA	NA
P01E4S	Informal actions: number of actions at non-major facilities (1 FY)	Data Quality	State			0	NA	NA	NA
P01E4E	Informal actions: number of actions at non-major facilities (1 FY)	Data Quality	EPA			0	NA	NA	NA
P01F1S	Formal actions: number of major facilities (1 FY)	Data Quality	State			0	NA	NA	NA
P01F1E	Formal actions: number of major facilities (1 FY)	Data Quality	EPA			3	NA	NA	NA
P01F2S	Formal actions: number of actions at major facilities (1 FY)	Data Quality	State			0	NA	NA	NA
P01F2E	Formal actions: number of actions at major facilities (1 FY)	Data Quality	EPA			3	NA	NA	NA
P01F3S	Formal actions: number of non-major facilities (1 FY)	Data Quality	State			0	NA	NA	NA
P01F3E	Formal actions: number of non-major facilities (1 FY)	Data Quality	EPA			0	NA	NA	NA
P01F4S	Formal actions: number of actions at non-major facilities (1 FY)	Data Quality	State			0	NA	NA	NA
P01F4E	Formal actions: number of actions at non-major facilities (1 FY)	Data Quality	EPA			0	NA	NA	NA
P01G1S	Penalties: total number of penalties (1 FY)	Data Quality	State			0	NA	NA	NA
P01G1E	Penalties: total number of penalties (1 FY)	Data Quality	EPA			0	NA	NA	NA
P01G2S	Penalties: total penalties (1 FY)	Data Quality	State			\$0	NA	NA	NA
P01G2E	Penalties: total penalties (1 FY)	Data Quality	EPA			\$0	NA	NA	NA
P01G3S	Penalties: total collected pursuant to civil judicial actions (3 FY)	Data Quality	State			\$0	NA	NA	NA
P01G3E	Penalties: total collected pursuant to civil judicial actions (3 FY)	Data Quality	EPA			\$0	NA	NA	NA
P01G4S	Penalties: total collected pursuant to administrative actions (3 FY)	Informational Only	State			\$0	NA	NA	NA

P01G4E	Penalties: total collected pursuant to administrative actions (3 FY)	Informational Only	EPA			\$198,106	NA	NA	NA
P01G5S	No activity indicator - total number of penalties (1 FY)	Data Quality	State			\$0	NA	NA	NA
P01G5E	No activity indicator - total number of penalties (1 FY)	Data Quality	EPA			\$0	NA	NA	NA
P02A0S	Actions linked to violations: major facilities (1 FY)	Data Quality	State	>=; 80%		0 / 0	0	0	0
P02A0E	Actions linked to violations: major facilities (1 FY)	Data Quality	EPA	>=; 80%		66.7%	2	3	1
P05A0S	Inspection coverage: NPDES majors (1 FY)	Goal	State	100%	57.6%	95.5%	42	44	2
P05A0E	Inspection coverage: NPDES majors (1 FY)	Goal	EPA	100%	5.9%	6.8%	3	44	41
P05A0C	Inspection coverage: NPDES majors (1 FY)	Goal	Combined	100%	60.4%	95.5%	42	44	2
P05B1S	Inspection coverage: NPDES non-major individual permits (1 FY)	Goal	State			41.5%	17	41	24
P05B1E	Inspection coverage: NPDES non-major individual permits (1 FY)	Goal	EPA			0.0%	0	41	41
P05B1C	Inspection coverage: NPDES non-major individual permits (1 FY)	Goal	Combined			41.5%	17	41	24
P05B2S	Inspection coverage: NPDES non-major general permits (1 FY)	Goal	State			29.1%	23	79	56
P05B2E	Inspection coverage: NPDES non-major general permits (1 FY)	Goal	EPA			0.0%	0	79	79
P05B2C	Inspection coverage: NPDES non-major general permits (1 FY)	Goal	Combined			29.1%	23	79	56
P05C0S	Inspection coverage: NPDES other (not 5a or 5b) (1 FY)	Informational Only	State			100.0%	2	2	0
P05C0E	Inspection coverage: NPDES other (not 5a or 5b) (1 FY)	Informational Only	EPA			0.0%	0	2	2
P05C0C	Inspection coverage: NPDES other (not 5a or 5b) (1 FY)	Informational Only	Combined			100.0%	2	2	0
P07A1C	Single-event violations at majors (1 FY)	Review Indicator	Combined			0	NA	NA	NA
P07A2C	Single-event violations at non-majors (1 FY)	Informational Only	Combined			0	NA	NA	NA
P07B0C	Facilities with unresolved compliance schedule violations (at end of FY)	Data Quality	Combined		37.0%	0.0%	0	4	4
P07C0C	Facilities with unresolved permit schedule violations (at end of FY)	Data Quality	Combined		28.9%	26.3%	10	38	28
P07D0C	Percentage major facilities with DMR violations (1 FY)	Data Quality	Combined		55.0%	80.0%	36	45	9

P08A1C	Major facilities in SNC (1 FY)	Review Indicator	Combined			18	NA	NA	NA
P08A2C	SNC rate: percent majors in SNC (1 FY)	Review Indicator	Combined		23.8%	40.0%	18	45	27
P10A0C	Major facilities without timely action (1 FY)	Goal	Combined	< 2%	16.8%	46.7%	21	45	24

Resource Conservation and Recovery Act

Metric	Metric Description	Metric Type	Agency	National Goal	National Average	NH Metric	Count	Universe	Not Counted
R01A1S	Number of operating TSDFs in RCRAInfo	Data Quality	State			0	NA	NA	NA
R01A2S	Number of active LQGs in RCRAInfo	Data Quality	State			115	NA	NA	NA
R01A3S	Number of active SQGs in RCRAInfo	Data Quality	State			318	NA	NA	NA
R01A4S	Number of all other active sites in RCRAInfo	Data Quality	State			2,785	NA	NA	NA
R01A5S	Number of LQGs per latest official biennial report	Data Quality	State			114	NA	NA	NA
R01B1S	Compliance monitoring: number of inspections (1 FY)	Data Quality	State			40	NA	NA	NA
R01B1E	Compliance monitoring: number of inspections (1 FY)	Data Quality	EPA			7	NA	NA	NA
R01B2S	Compliance monitoring: sites inspected (1 FY)	Data Quality	State			37	NA	NA	NA
R01B2E	Compliance monitoring: sites inspected (1 FY)	Data Quality	EPA			7	NA	NA	NA
R01C1S	Number of sites with violations determined at any time (1 FY)	Data Quality	State			59	NA	NA	NA
R01C1E	Number of sites with violations determined at any time (1 FY)	Data Quality	EPA			4	NA	NA	NA
R01C2S	Number of sites with violations determined during the FY	Data Quality	State			32	NA	NA	NA
R01C2E	Number of sites with violations determined during the FY	Data Quality	EPA			0	NA	NA	NA
R01D1S	Informal actions: number of sites (1 FY)	Data Quality	State			30	NA	NA	NA
R01D1E	Informal actions: number of sites (1 FY)	Data Quality	EPA			2	NA	NA	NA
R01D2S	Informal actions: number of actions (1 FY)	Data Quality	State			32	NA	NA	NA
R01D2E	Informal actions: number of actions (1 FY)	Data Quality	EPA			2	NA	NA	NA
R01E1S	SNC: number of sites with new SNC (1 FY)	Data Quality	State			0	NA	NA	NA
R01E1E	SNC: number of sites with new SNC (1 FY)	Data Quality	EPA			0	NA	NA	NA
R01E2S	SNC: Number of sites in SNC (1 FY)	Data Quality	State			1	NA	NA	NA
R01E2E	SNC: Number of sites in SNC (1 FY)	Data Quality	EPA			1	NA	NA	NA
R01F1S	Formal action: number of sites (1 FY)	Data Quality	State			18	NA	NA	NA
R01F1E	Formal action: number of sites (1 FY)	Data Quality	EPA			1	NA	NA	NA
R01F2S	Formal action: number taken (1 FY)	Data Quality	State			21	NA	NA	NA

R01F2E	Formal action: number taken (1 FY)	Data Quality	EPA			1	NA	NA	NA
R01G0S	Total amount of final penalties (1 FY)	Data Quality	State			\$457,027	NA	NA	NA
R01G0E	Total amount of final penalties (1 FY)	Data Quality	EPA			\$0	NA	NA	NA
R02A1S	Number of sites SNC-determined on day of formal action (1 FY)	Data Quality	State			0	NA	NA	NA
R02A2S	Number of sites SNC-determined within one week of formal action (1 FY)	Data Quality	State			0	NA	NA	NA
R02B0S	Number of sites in violation for greater than 240 days	Data Quality	State			12	NA	NA	NA
R02B0E	Number of sites in violation for greater than 240 days	Data Quality	EPA			1	NA	NA	NA
R03A0S	Percent SNCs entered ≥ 60 days after designation (1 FY)	Review Indicator	State			0 / 0	0	0	0
R03A0E	Percent SNCs entered ≥ 60 days after designation (1 FY)	Review Indicator	EPA			0 / 0	0	0	0
R05A0S	Inspection coverage for operating TSDFs (2 FYs)	Goal	State	100%	87.5%	0 / 0	0	0	0
R05A0C	Inspection coverage for operating TSDFs (2 FYs)	Goal	Combined	100%	91.8%	0 / 0	0	0	0
R05B0S	Inspection coverage for LQGs (1 FY)	Goal	State	20%	23.3%	16.7%	19	114	95
R05B0C	Inspection coverage for LQGs (1 FY)	Goal	Combined	20%	25.6%	20.2%	23	114	91
R05C0S	Inspection coverage for LQGs (5 FYs)	Goal	State	100%	67.8%	71.9%	82	114	32
R05C0C	Inspection coverage for LQGs (5 FYs)	Goal	Combined	100%	73.1%	74.6%	85	114	29
R05D0S	Inspection coverage for active SQGs (5 FYs)	Informational Only	State			7.9%	25	318	293
R05D0C	Inspection coverage for active SQGs (5 FYs)	Informational Only	Combined			9.1%	29	318	289
R05E1S	Inspections at active CESQGs (5 FYs)	Informational Only	State			45	NA	NA	NA
R05E1C	Inspections at active CESQGs (5 FYs)	Informational Only	Combined			56	NA	NA	NA
R05E2S	Inspections at active transporters (5 FYs)	Informational Only	State			9	NA	NA	NA
R05E2C	Inspections at active transporters (5 FYs)	Informational Only	Combined			10	NA	NA	NA
R05E3S	Inspections at non-notifiers (5 FYs)	Informational Only	State			0	NA	NA	NA
R05E3C	Inspections at non-notifiers (5 FYs)	Informational Only	Combined			0	NA	NA	NA
R05E4S	Inspections at active sites other than those listed in 5a-d and 5e1-5e3 (5 FYs)	Informational Only	State			15	NA	NA	NA
R05E4C	Inspections at active sites other than those listed in 5a-d and 5e1-5e3 (5 FYs)	Informational Only	Combined			15	NA	NA	NA
R07C0S	Violation identification rate at sites with inspections (1 FY)	Review Indicator	State			86.5%	32	37	5
R07C0E	Violation identification rate at sites with inspections (1 FY)	Review Indicator	EPA			0.0%	0	7	7

R08A0S	SNC identification rate at sites with inspections (1 FY)	Review Indicator	State	1/2 National Avg	3.3%	0.0%	0	37	37
R08A0C	SNC identification rate at sites with evaluations (1 FY)	Review Indicator	Combined	1/2 National Avg	3.5%	0.0%	0	44	44
R08B0S	Percent of SNC determinations made within 150 days (1 FY)	Goal	State	100%	78.6%	0 / 0	0	0	0
R08C0S	Percent of formal actions taken that received a prior SNC listing (1 FY)	Review Indicator	State	1/2 National Avg	58.8%	4.8%	1	21	20
R08C0E	Percent of formal actions taken that received a prior SNC listing (1 FY)	Review Indicator	EPA	1/2 National Avg	81.2%	100.0%	1	1	0
R10A0S	Percent of SNCs with formal action/referral taken within 360 days (1 FY)	Review Indicator	State	80%	27.5%	0 / 0	0	0	0
R10A0C	Percent of SNCs with formal action/referral taken within 360 days (1 FY)	Review Indicator	Combined	80%	25.5%	0 / 0	0	0	0
R10B0S	No activity indicator - number of formal actions (1 FY)	Review Indicator	State			21	NA	NA	NA
R12A0S	No activity indicator - penalties (1 FY)	Review Indicator	State			\$457,027	NA	NA	NA
R12B0S	Percent of final formal actions with penalty (1 FY)	Review Indicator	State	1/2 National Avg	80.6%	100.0%	13	13	0
R12B0C	Percent of final formal actions with penalty (1 FY)	Review Indicator	Combined	1/2 National Avg	79.7%	100.0%	13	13	0

APPENDIX C: PDA TRANSMITTAL LETTER

Appendices C, D and E provide 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.

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

Region 1 media program lead reviewers transmitted PDAs and File Selection lists to NH DES by e-mail. They then discussed the contents of the PDAs with their state counterparts by phone and in meetings.

APPENDIX D: PRELIMINARY DATA ANALYSIS CHARTS

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 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. However, the full PDA, which is available as a document separate from this report, 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 has occurred. Through this process, Initial Findings may be confirmed, modified, or determined not to be supported. Findings are presented in Section IV of this report.

Clean Air Act

Metric	Metric Description	Agency	National Goal	National Average	New Hampshire Metric	Initial Findings (EPA Only)	Evaluation (EPA Only)
A01A1S	Title V Universe: AFS Operating Majors (Current)	State			43		Appears Acceptable
A01A1C	Title V Universe: AFS Operating Majors (Current)	Combined			43		Appears Acceptable
A01A2S	Title V Universe: AFS Operating Majors with Air Program Code = V (Current)	State			43		Appears Acceptable
A01A2C	Title V Universe: AFS Operating Majors with Air Program Code = V (Current)	Combined			43		Appears Acceptable
A01B1S	Source Count: Synthetic Minors (Current)	State			87		Appears Acceptable
A01B1C	Source Count: Synthetic Minors (Current)	Combined			87		Appears Acceptable
A01B2S	Source Count: NESHAP Minors (Current)	State			3		Appears Acceptable

A01B2C	Source Count: NESHAP Minors (Current)	Combined			3		Appears Acceptable
A01B3S	Source Count: Active Minor facilities or otherwise FedRep, not including NESHAP Part 61 (Current)	State			264		Appears Acceptable
A01B3C	Source Count: Active Minor facilities or otherwise FedRep, not including NESHAP Part 61 (Current)	Combined			264		Appears Acceptable
A01C1S	CAA Subprogram Designations: NSPS (Current)	State			58		Appears Acceptable
A01C1C	CAA Subprogram Designations: NSPS (Current)	Combined			58		Appears Acceptable
A01C2S	CAA Subprogram Designations: NESHAP (Current)	State			3		Appears Acceptable
A01C2C	CAA Subprogram Designations: NESHAP (Current)	Combined			3		Appears Acceptable
A01C3S	CAA Subprogram Designations: MACT (Current)	State			8		Appears Acceptable
A01C3C	CAA Subprogram Designations: MACT (Current)	Combined			8		Appears Acceptable
A01C4S	CAA Subpart Designations: Percent NSPS facilities with FCEs conducted after 10/1/2005	State	100%	78.1%	100.0%		Appears Acceptable
A01C5S	CAA Subpart Designations: Percent NESHAP facilities with FCEs conducted after 10/1/2005	State	100%	35.1%	0 / 0		Appears Acceptable
A01C6S	CAA Subpart Designations: Percent MACT facilities with FCEs conducted after 10/1/2005	State	100%	91.8%	87.5%	There are 7 sources out of 8 that have the MACT subpart. This is slightly below the national average	Minor Issue
A01C6C	CAA Subpart Designations: Percent MACT facilities with FCEs conducted after 10/1/2005	Combined	100%	89.2%	57.1%	There are 8 sources out of 14 that have the MACT subpart. This is below the	Minor Issue

						national average	
A01D1S	Compliance Monitoring: Sources with FCEs (1 FY)	State			36		Appears Acceptable
A01D2S	Compliance Monitoring: Number of FCEs (1 FY)	State			36		Appears Acceptable
A01D3S	Compliance Monitoring: Number of PCEs (1 FY)	State			58		Appears Acceptable
A01E0S	Historical Non-Compliance Counts (1 FY)	State			12		Appears Acceptable
A01E0C	Historical Non-Compliance Counts (1 FY)	Combined			13		Appears Acceptable
A01F1S	Informal Enforcement Actions: Number Issued (1 FY)	State			49		Appears Acceptable
A01F2S	Informal Enforcement Actions: Number of Sources (1 FY)	State			48		Appears Acceptable
A01G1S	HPV: Number of New Pathways (1 FY)	State			12		Appears Acceptable
A01G2S	HPV: Number of New Sources (1 FY)	State			12		Appears Acceptable
A01H1S	HPV Day Zero Pathway Discovery date: Percent DZs with discovery	State	100%	50.6%	100.0%		Appears Acceptable
A01H2S	HPV Day Zero Pathway Violating Pollutants: Percent DZs	State	100%	69.0%	100.0%		Appears Acceptable
A01H3S	HPV Day Zero Pathway Violation Type Code(s): Percent DZs with HPV Violation Type Code(s)	State	100%	69.8%	100.0%		Appears Acceptable
A01I1S	Formal Action: Number Issued (1 FY)	State			7		Appears Acceptable
A01I2S	Formal Action: Number of Sources (1 FY)	State			7		Appears Acceptable
A01J0S	Assessed Penalties: Total Dollar Amount (1 FY)	State			\$165,567	The total dollar value is low, but the state has limited penalty authority as compared to EPA.	Appears Acceptable
A01K0S	Major Sources Missing CMS Policy Applicability (Current)	State	0		2		Appears Acceptable
A02A0S	Number of HPVs/Number of NC Sources (1 FY)	State	<= 50%	65.0%	133.3%		Appears Acceptable

A02A0C	Number of HPVs/Number of NC Sources (1 FY)	Combined	<= 50%	65.1%	133.3%		Appears Acceptable
A02B1S	Stack Test Results at Federally-Reportable Sources - % Without Pass/Fail Results (1 FY)	State	0%	1.1%	0.0%		Appears Acceptable
A02B2S	Stack Test Results at Federally-Reportable Sources - Number of Failures (1 FY)	State			0		Appears Acceptable
A03A0S	Percent HPVs Entered <= 60 Days After Designation, Timely Entry (1 FY)	State	100%	33.0%	33.3%	Only 4 out of 12 HPVs were entered in AFS within 60 days of day zero, but NH's data entry is consistent with the national average.	Minor Issue
A03B1S	Percent Compliance Monitoring related MDR actions reported <= 60 Days After Designation, Timely Entry (1 FY)	State	100%	59.1%	31.6%	Only about 30% of NH inspections were entered in AFS within 60 days. This is below the national average.	Potential Concern
A03B2S	Percent Enforcement related MDR actions reported <= 60 Days After Designation, Timely Entry (1 FY)	State	100%	70.3%	56.0%	Only about 50% of NH enforcement actions were entered in AFS within 60 days. This is below the national average.	Potential Concern
A05A1S	CMS Major Full Compliance Evaluation (FCE) Coverage (2 FY CMS Cycle)	State	100%	60.0%	42.5%	NH CMS cycle is FY08 and FY09. In FY08, NH conducted FCEs at 17 of its 40 major sources. NH is on track to conduct FCS at the remaining 23 sources in FY09.	Appears Acceptable

A05A1C	CMS Major Full Compliance Evaluation (FCE) Coverage (2 FY CMS Cycle)	Combined	100%	60.2%	52.5%	NH CMS cycle is FY08 and FY09. In FY08, with EPA assistance NH conducted FCEs at 21 of its 40 major sources. NH is on track to conduct FCS at the remaining 23 sources in FY09.	Potential Concern
A05A2S	CAA Major Full Compliance Evaluation (FCE) Coverage(most recent 2 FY)	State	100%	81.8%	74.4%	NH conducted FCEs in the most recent 2-year period at 32 of its 43 major sources. This is slightly below the national average, but 4 of the sources are closed, one source was recently added to the CMS, one source is a title v source, but is not a major source (landfill), and EPA conducted 3 inspections for NH. Given, this NH only missed 2 sources.	Appears Acceptable / Minor Issue
A05A2C	CAA Major Full Compliance Evaluation (FCE) Coverage(most recent 2 FY)	Combined	100%	82.2%	81.4%	NH conducted FCEs in the most recent 2-year period at 32 of its 43 major sources. This is slightly below the national average, but 4 of the sources are closed, one source was	Appears Acceptable / Minor Issue

						recently added to the CMS, one source is a title v source, but is not a major source (landfill), and EPA conducted 3 inspections for NH. Given, this NH only missed 2 sources.	
A05B1S	CAA Synthetic Minor 80% Sources (SM-80) FCE Coverage (5 FY CMS Cycle)	State	20% - 100%	70.3%	41.7%	The current CMS cycle started in FY07. NH conducted FCEs at 41.7 % of its SM80s during the first 2 years of the 5 year cycle. NH appears to be on track to complete the SM80 inspections as required by the CMS.	Appears Acceptable
A05B1C	CAA Synthetic Minor 80% Sources (SM-80) FCE Coverage (5 FY CMS Cycle)	Combined	20% - 100%	70.7%	47.9%	The current CMS cycle started in FY07. With EPA assistance, NH conducted FCEs at 47.9 % of its SM80s during the first 2 years of the 5 year cycle. NH appears to be on track to complete the SM80 inspections as required by the CMS.	Appears Acceptable
A05B2S	CAA Synthetic Minor 80% Sources (SM-80) FCE Coverage (last full 5 FY)	State	100%	100.0%	100.0%	NH conducted FCEs in the most recent 5-year period at all of its SM80s.	Appears Acceptable

A05B2C	CAA Synthetic Minor 80% Sources (SM-80) FCE Coverage (last full 5 FY)	Combined		100.0%	100.0%		Appears Acceptable
A05C0S	CAA Synthetic Minor FCE and reported PCE Coverage (last 5 FY)	State		80.4%	89.1%		Appears Acceptable
A05C0C	CAA Synthetic Minor FCE and reported PCE Coverage (last 5 FY)	Combined		80.6%	93.5%		Appears Acceptable
A05D0S	CAA Minor FCE and Reported PCE Coverage (last 5 FY)	State		30.4%	32.8%		Appears Acceptable
A05E0S	Number of Sources with Unknown Compliance Status (Current)	State			0		Appears Acceptable
A05E0C	Number of Sources with Unknown Compliance Status (Current)	Combined			0		Appears Acceptable
A05F0S	CAA Stationary Source Investigations (last 5 FY)	State			0		Appears Acceptable
A05G0S	Review of Self-Certifications Completed (1 FY)	State	100%	93.2%	100.0%		Appears Acceptable
A07C1S	Percent facilities in noncompliance that have had an FCE, stack test, or enforcement (1 FY)	State	> 1/2 National Avg	20.9%	15.3%	Of the 59 informal or formal enforcement actions, NH updated the compliance status for only 9 sources.	Minor Issue
A07C2S	Percent facilities that have had a failed stack test and have noncompliance status (1 FY)	State	> 1/2 National Avg	42.0%	0 / 0		Appears Acceptable
A07C2E	Percent facilities that have had a failed stack test and have noncompliance status (1 FY)	EPA	> 1/2 National Avg	50.0%	0 / 0		Appears Acceptable
A08A0S	High Priority Violation Discovery Rate - Per Major Source (1 FY)	State	> 1/2 National Avg	8.2%	4.7%	HPV identification rate per major source is low, but does meet the goal of being 1/2 the national average.	Appears Acceptable
A08A0E	High Priority Violation Discovery Rate - Per	EPA		0.6%	0.0%		Appears Acceptable

	Major Source (1 FY)						
A08B0S	High Priority Violation Discovery Rate - Per Synthetic Minor Source (1 FY)	State	> 1/2 National Avg	0.7%	8.0%		Appears Acceptable
A08B0E	High Priority Violation Discovery Rate - Per Synthetic Minor Source (1 FY)	EPA	> 1/2 National Avg	0.0%	0.0%		Appears Acceptable
A08C0S	Percent Formal Actions With Prior HPV - Majors (1 FY)	State	> 1/2 National Avg	74.6%	100.0%		Appears Acceptable
A08D0S	Percent Informal Enforcement Actions Without Prior HPV - Majors (1 FY)	State	< 1/2 National Avg	40.8%	55.6%		Appears Acceptable
A08E0S	Percentage of Sources with Failed Stack Test Actions that received HPV listing - Majors and Synthetic Minors (2 FY)	State	> 1/2 National Avg	44.3%	0.0%	We need more information to evaluate whether these failed stacks were for the pollutant for which the source was major or sm.	Appears Acceptable / Potential Concern
A10A0S	Percent HPVs not meeting timeliness goals (2 FY)	State		37.2%	52.6%	Out of 19 HPVs, NH addressed 10 with in 270 days. This is above the national average.	Appears Acceptable
A12A0S	No Activity Indicator - Actions with Penalties (1 FY)	State			6		Appears Acceptable
A12B0S	Percent Actions at HPVs With Penalty (1 FY)	State	>= 80%	86.6%	50.0%	NH identified 12 HPVs and collected penalties from 2. We need more information to understand evaluate this indicator.	Minor Issue

Clean Water Act

The Preliminary Data Assessment (PDA) displays information from ICIS about CWA implementation, in this case, in NH. Region 1 enters all NH CWA data in ICIS. There are significant data quality issues in ICIS which Region 1 is working to resolve. For these reasons, Region 1 determined that a PDA would not accurately describe the work of NH DES and decided not to conduct a Preliminary Data Assessment of the NH DES water program. As indicated in Section IV – Findings, and Appendix B – Official Data Pull, Region 1 shared the Official Data Set (ODS) with NH DES and discussed issues from the ODS in the findings (i.e., # of inspection) where it was appropriate.

Resource Conservation and Recovery Act

Metric	Metric Description	Agency	State Discrepancy (Yes/No)	State Correction	State Data Source	Discrepancy Explanation	Evaluation (Preliminary)	Initial Findings
R01A3S	Number of active SQGs in RCRAInfo	State	YES	211	State Database: HZWIMS	Minus 125 inactive facilities, minus 1 LQG (Smith's Tubular), minus 1 CESQG (Walmart), plus 20 additional SQGs in state database.	Potential Concern	Data problems, since HZWIMS is supposed to directly translate into RCRAInfo. Use corrected value
R01A4S	Number of all other active sites in RCRAInfo	State	YES	2236	State Database: HZWIMS	2093 active CESQGs & 143 registered transporters	Potential Concern	Difference of 549 generators. Data issue, since state system [HZWIMS] is directly translated into RCRAInfo. Use corrected value.
R01E1S	SNC: number of sites with new SNC (1 FY)	State	NO	NA	NA	NA	Potential Concern, File Review	NH assigns SNC when there are actual releases, health &/or worker exposures/impacts. NH considers prior inspection history and remedial response undertaken. Facilities that take prompt action to RTC, had not undergone a prior inspection, &/ had or violations that did not result in a release or health/worker safety impacts, will be considered 1st-time offenders/SVs. [Note: NH agrees with EPA that substantial statutory &/or regulatory deviations require SNC designations, regardless of the above conditions.] IF A FACILITY IS SNC, THE SNY DATE WILL CORRESPOND TO INSPECTION DATE or THE DATE WHEN ADDITIONAL SNC-CONFIRMING INFO BECAME AVAILABLE. HOWEVER, THE SNY FLAG WILL NOT BE ENTERED UNTIL ISSUANCE OF A STATE 210 OR 410 ACTION. [Note: EPA recognizes that NH takes formal enforcement (and assesses penalties) against SV facilities. Review several SV files to determine if SNC should have been assigned. Also, assess timeliness of determination.
R01E2S	SNC: Number of sites in SNC (1 FY)	State	NO	NA	NA	NA	Potential Concern, File Review	See comments in Rows 18 and 52.

R01E2E	SNC: Number of sites in SNC (1 FY)	EPA	NO	NA	NA	NA	Potential Concern, File Review	U.S. Army Cold Regions remained SNC thru-out FY08. Discuss with EPA case team case progression, timeliness and when SNY flag is turned on.
R02A1S	Number of sites SNC-determined on day of formal action (1 FY)	State	NO	NA	NA	NA	Potential Concern; Suppl. File Review	See comments in Rows 18 and 52. Review SV files to determine if should have been classified SNC, and review timeliness of SV designation and resultant actions.
R02A2S	Number of sites SNC-determined within one week of formal action (1 FY)	State	NO	NA	NA	NA	Potential Concern, Suppl. File Review	See comments in Rows 18 and 52. Review SV files to determine if should have been classified SNC, and review timeliness of SV designation and resultant actions.
R02B0S	Number of sites in violation for greater than 240 days	State	YES	5	RCRAInfo & State Files	Currently verified in RCRAInfo are 5 facilities flagged for >240 days, namely Beede, Dover, CUEs, Coating & Facility X. The first 4 will be reviewed by NH and probably coded as old/stale [1980s-1990s]. Facility X is the active case that is >240 days old. [Note: Of original 12, five actions just need to be closed out in RCRAInfo (done in 4/09) = Lincoln, Auto Workshop, Ossippe, Downeast and CHESI, and 3 actions were left open until proposed administrative fines were issued Markem, Dartmouth, Smith (these have since been closed out).	Potential Concern	Corrected value is already shown in RCRAInfo. State to review old cases and code RCRAInfo with stale codes as needed. EPA to review Facility X to determine reasons for >240 days. Also, NH to determine why Facility X was not on the original metrics list of 12 facilities. [FYI: NHDES currently RTCs facilities/ violations once it receives documentation that compliance has been achieved. Letters of Compliance [LOCs] are now sent after the proposed fines have been issued to prevent any confusion resulting from the levying of penalties after issuance of a LOCs.]
R02B0E	Number of sites in violation for greater than 240 days	EPA	NO	NA	NA	NA	Potential Concern	Six violations from 9/23/04 inspection at Franklin Ferrous Foundry were addressed by 8/3/05 NOV (10 mos 11 days later). Need to RTC these violations in RCRAInfo. Also, determine why U.S. Army Cold Regions is not included in this metric since ~520 days between SNY designation and issuance of 210 action.

R03A0S	Percent SNCs entered > 60 days after designation (1 FY)	State	NO	NA	NA	NA	Potential Concern, Suppl. File Review	See comments for Rows 18 and 52. Also, review several SV files to determine if SNC should have been assigned, and (if SV is appropriate) to assess how long it took NH to maketa SV designation.
R05E2S	Inspections at active transporters (5 FYs)	State	YES	97	MTRS [PPA tracking system]	9 appears to only corrspond to NH registered transporter. State system includes NH and other state registered transporters.	Minor Issue	Appears to be a metric logic issue that results in only flagging NH registered transporters. NH and EPA will investigate why out-of-state transporters that are in RCRAInfo and MTRS were not flagged by SRF. Use corrected value.
R05E2C	Inspections at active transporters (5 FYs)	Combined	YES	97 [There were no EPA inspections at tranpo rters.]	RCRAInfo	Metric is flagging a full CEI inspection at Mary Hitchcock Memorial Hospital on 8/2006 as both CEI and transporter. However, this was a generator CEI inspection, only.	Minor Issue	Re: Mary Hitchcock Mem Hospital, it appears that metric logic results in double dipping inspection counts for facilities that operate multiple RCRA functions. Also, metric only flagging NH registered transporters, or RCRAInfo needs to be updated to reflect MTRS system. Use corrected value.
R05E3S	Inspections at non-notifiers (5 FYs)	State	YES	44	MTRS [PPA tracking system]	44 in MTRS. Done by SRCIS group and may not have not been entered into RCRAInfo. But these inspections were reported to EPA under PPA process	Minor Issue	RCRAInfo needs to be updated to reflect MTRS system. Use corrected value.
R05E3C	Inspections at non-notifiers (5 FYs)	Combined	YES	44 (no EPA inspections)	MTRS [PPA tracking system]	44 in MTRS. Done by SRCIS group and may not have not been entered into RCRAInfo. But these inspections were reported to EPA under PPA process	Minor Issue	RCRAInfo needs to be updated to reflect MTRS system. Use corrected value.
R07C0E	Violation identification rate at sites with inspections (1 FY)	EPA	YES	1 out of 7	RCRAInfo	Current value in RCRAInfo is 1 out of universe of 7, resulting in 14.3%.	Potential Concern	None of EPA's FY 08 inspections resulted in SNC or formal enforcement. Sturm Ruger's violation was identified on 4/22/08, received NOV and then RTC'd. [EPA to update RCRAInfo re: status of Colt, Ametek, Jones, Pilgrim, Nashua Corp. and Osram which still have undetermined violations.]

R08A0S	SNC identification rate at sites with inspections (1 FY)	State	NO	NA	NA	NA	Potential Concern, Suppl. File Review	See comment in Row 18. Also, for cases going to the AG, SNC will not be turned on until the referral is made (410 action). NH currently has one AG referral case pending [Wakefield Engineering] which will change the metric (albeit for FY09) to 2.7%. This is close to the National Average. Review Wakefield Eng. case file.
R08B0S	Percent of SNC determinations made within 150 days (1 FY)	State	NO	NA	NA	NA	Potential Concern, Suppl. File Review	See comments in Rows 18 and 52.
R08C0S	Percent of formal actions taken that received a prior SNC listing (1 FY)	State	YES	Universe =20, [resulting in 5%]	State Lotus spread sheet	Circle Tri 610 was entered into RCRAInfo with a date of 9/13/08, where it should have been 9/13/05. RCRAInfo corrections were implemented on 5/14/09.	Potential Concern, Suppl. File Review	See comments in Rows 18 and 52. [During FY08 only one SNC was on record in RCRAInfo (Thermal Dynamics: CEI=6/05, LOD=8/05, SNY=1/06, 410=12/06, SNN=12/07, 610=3/08). Review case file.
R10A0S	Percent of SNCs with formal action/referral taken within 360 days (1 FY)	State	NO	NA	NA	NA	Potential Concern, Suppl. File Review	See comments in Row 18 and 52.
R10A0C	Percent of SNCs with formal action/referral taken within 360 days (1 FY)	Combined	NO	NA	NA	NA	Appears Acceptable	None of EPA's FY08 inspections resulted in SNC or formal enf. Also, see comment in Row 21, and comments in Rows 18 and 52 (re: Region's similar approach for turning on SNY flag).

APPENDIX E: PDA WORKSHEET (with State and EPA comments)

Clean Air Act

NH DES did not provide written responses to the Preliminary Data Assessment for the Clean Air Act.

Clean Water Act

The Preliminary Data Assessment (PDA) displays information from ICIS about CWA implementation, in this case, in NH. Region 1 enters all NH CWA data in ICIS. There are significant data quality issues in ICIS which Region 1 is working to resolve. For these reasons, Region 1 determined that a PDA would not accurately describe the work of NH DES and decided not to conduct a Preliminary Data Assessment of the NH DES water program. As indicated in Section IV – Findings, and Appendix B – Official Data Pull, Region 1 shared the Official Data Set (ODS) with NH DES and discussed issues from the ODS in the findings (i.e., # of inspection) where it was appropriate.

Resource Conservation and Recovery Act

NH DES did not provide written responses to the Preliminary Data Assessment for the Resource Conservation and Recovery Act.

APPENDIX F: FILE SELECTION

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

A File Selection Process

CLEAN AIR ACT (CAA)

File Selection Logic	# of Files
selected the first federally reportable minor with an FCE	1
selected every fifth major with an FCE	7
selected the first other minor with an FCE	1
selected every tenth SM80 with an FCE	3
selected all penalty actions (four)	4
selected every third HPV plus one SM80	4
	20

Results of File Selection by File Type	# of Files
Total # of majors	7
Total # of SM80s	5
Total # of SMs	3
Total # of federally reportable minors	4
Total # of other minors	1
	20

CLEAN WATER ACT (CWA)

EPA used the OTIS File Selection Tool to identify 18 facilities for review. From the initial OTIS listing of 134 major and minor facilities in New Hampshire, EPA rejected 16 facilities with storm water general permits. Using the revised list, EPA selected every seventh facility for a total of 16, and then selected the third facility from the top of the list with “Combined Sewer Overflows” and the third facility under a “formal enforcement action.” The final 18 facilities selected for review included: a mix of major, minor and general permits; municipal

and industrial facilities; a variety of informal and formal enforcement responses; Significant Non-Compliance (“SNC”) and non-SNC violations; inspection activities; and were geographically scattered throughout New Hampshire.

RESOURCE CONSERVATION AND RECOVERY ACT (RCRA)

	<u>Legend: How facilities were selected:</u>	<u>Assumptions</u>
A	Sorted on FY08 Universe Types, then selected every 5th LQG, every 5th CESQG, every 2nd SQG, every 4th OTHER, and one transporter. [Note: file review proved that there were 2 transporters];	Per SRF2 Guidance, need to review 15-30 files since SRF2 File Selection Tool was populated by 57 facilities;
	NEXT....	
B	Sorted by number of FY08 Evaluations, then selected every 5th facility that received one evaluation, and selected one facility that received two evaluations;	Could not sort on SNC since no new SNCs were flagged in FY08 at this point in time. So contacted NH to find out which ones were SNC in FY08 and made sure they were on the list.
	NEXT....	
C	Sorted by FY08 Informal Actions, then selected every 7th facility that received one informal action, and selected the one facility that received three informal actions;	Use of selection techniques A-D sometimes selected the same facility for multiple sorts.
	NEXT....	
D	Sorted by FY08 Formal Actions, then selected every 3rd facility that received one formal action, and selected one facility that received two formal actions;	Addition of supplemental files to support some findings of final ODS and PDA.
	NEXT....	
E	Deleted 5 of the above randomly selected facilities based on available RCRAInfo data;	***** = not brought up as candidates in SRF2 File Selection Tool. Added by EPA reviewer.
	NEXT....	
F	Added five supplemental facilities and their associated files for review.	

B. File Selection Table

Clean Air Act

	Facility Name	AFS #	Street	City	State	Zip Code
1	STAR ISLAND CORPORATION	3301500104	STAR ISLAND, ISLES OF SHOALS	RYE	NH	03870
2	TIMKEN AEROSPACE - SBB DIVISION	3300900018	HIGHWAY 4	LEBANON	NH	03766
3	INGERSOLL-RAND ENERGY SYSTEMS	3301500024	32 EXETER STREET	PORTSMOUTH	NH	03801
4	MONADNOCK COMMUNITY HOSPITAL	3301100096	452 OLD STREET ROAD	PETERBOROUGH	NH	03458
5	ANHEUSER-BUSCH INC	3301100017	221 DANIEL WEBSTER HIGHWAY	MERRIMACK	NH	03054
6	DARTMOUTH HITCHCOCK MEDICAL CENTER	3300900003	1 MEDICAL CENTER DRIVE	LEBANON	NH	03766
7	KALWALL PANELS & ACCESSORIES	3301100076	1111 CANDIA ROAD	MANCHESTER	NH	03105
8	PHILLIPS EXETER ACADEMY	3301500004	20 MAIN STREET	EXETER	NH	03833
9	PINETREE POWER - BETHLEHEM	3300900026	1241 WHITEFIELD ROAD	BETHLEHEM	NH	03574
10	PSNH - NEWINGTON STATION	3301500054	165 GOSLING ROAD	NEWINGTON	NH	03801
11	TILLOTSON RUBBER COMPANY INC	3300700006	ONE SPUR ROAD	DIXVILLE NOTCH	NH	03576
12	FRAN'S AUTO BODY	3301191267	160 BENNINGTON ROAD	HANCOCK	NH	03449
13	OLDENBURG GROUP INC	3301990163	423 RIVER ROAD	CLAREMONT	NH	03743
14	TEXTILES COATED INC	3301191256	200 BOUCHARD STREET	MANCHESTER	NH	03108
15	JOHN J PAONESSA COMPANY INC	3301590912	62 HAVERHIL ROAD	WINDHAM	NH	03087
16	HENRY HANGER COMPANY OF AMERICA INC	3301100058	110 EAST HOLLIS STRE	NASHUA	NH	03060
17	NYLON CORPORATION OF AMERICA	3301100007	333 SUNDIAL AVENUE	MANCHESTER	NH	03103
18	KING FOREST INDUSTRIES INC - WENTWORTH	3300990274	EAST SIDE ROAD	WENTWORTH	NH	03282
19	NH DHHS YOUTH DEVELOPEMENT CENTER	3301100106	1056 NORTH RIVER ROAD	MANCHESTER	NH	03104
20	VELCRO USA INC - MANCHESTER	3301100049	406 BROWN AVENUE	MANCHESTER	NH	03108

Clean Water Act

Facility Name	Program ID	Universe	Select
BROX INDUSTRIES INC.	NH0023469	Minor	Accepted representative
EXETER TOWN OF	NH0100871	Major	Accepted representative
FRANKLIN PIERCE COLLEGE WATER TREATMENT PLANT	NH0101044	Minor	Accepted representative
GORHAM W W T F	NHG580927	Minor	Accepted representative
HILLSBOROUGH WWTF	NH0100111	Minor	Accepted representative
LEBANON WATER FILTRATION FACILITY	NHG640012	Minor	Accepted representative
LEBANON WWTF	NH0100366	Major	Accepted representative
MILTON W W T F	NH0100676	Minor	Accepted representative
NEWPORT WASTEWATER TREATMENT FACILITY	NH0100200	Major	Accepted representative
PINETREE POWER INC.	NH0021423	Minor	Accepted representative
PLYMOUTH VILLAGE WWTF	NHG580242	Minor	Accepted representative
PORTSMOUTH CITY OF	NH0100234	Major	Accepted supplemental
SCOTIA ACQUISITION CO.	NHG250350	Minor	Accepted representative
SEABROOK WWTP	NH0101303	Major	Accepted representative
TOWN OF FARMINGTON	NH0100854	Major	Accepted supplemental
TWIN MOUNTAIN FISH HATCHERY	NH0000744	Minor	Accepted representative
WAUSAU PAPERS OF NH INC.	NH0001562	Major	Accepted representative
WHITEFIELD WWTP	NH0100510	Minor	Accepted representative

Resource Conservation and Recovery Act

FACILITY NAME	EPA ID NO.	CITY	# INFORMAL	# FORMAL	UNIVERSE	REPRESENT. vs SUPPLE.
AAVID THERMALLOY LLC SNC	NHD002576817	LACONIA	0	1	LQG	supplemental
AMHERST STREET CAR CO	NHD980916894	NASHUA	1	0	CES	representative
FACILITY X						
BAE SYSTEMS INFO & ELECTRONIC SYS INTERGRATIO	NHD980914097	NASHUA	1	0	LQG	representative
C A DESIGN INC	NHD510181977	DOVER	1	1	CES	representative
CIRCUIT CONNECT INC	NHD986466688	NASHUA	3	0	LQG	representative
ELLIOT HOSPITAL	NHD046313052	MANCHESTER	1	0	LQG	representative
ENPRO SERVICES INC [Transporter]	MAD980670004	NEWBURYPORT	0	0	TRA	representative
GENERAL ELECTRIC COMPANY	NHD001091073	SOMERSWORTH	0	1	LQG	representative
HITCHINER MANUFACTURING CO INC	NHD001078682	MILFORD	0	1	LQG	representative
J P NOONAN TRANSPORTATION INC	NHD982747875	HOOKSETT	1	1	CES	representative
KALWALL CORP FLAT SHEET DIV	NHD000791541	BOW	0	1	SQG	representative
KALWALL CORP PANEL & ACCESSORIES DIV	NHD001086198	MANCHESTER	0	2	LQG	representative
LUMINESCENT SYSTEMS INC SNC (but in FY06)	NHD510017304	LEBANON	0	1	LQG	supplemental
MARKEM CORP	NHD001085158	KEENE	0	1	LQG	representative
NEW HAMPSHIRE BALL BEARINGS INC	NHD018925735	LACONIA	1	0	LQG	representative
PRESSTEK INC	NHD500021738	HUDSON	1	2	LQG	representative
STERICYCLE INC [Transporter]	RI500008763	WOONSOCKET	0	0	OTH	representative
TELEFLEX MEDICAL INC	NHD037706082	JAFFREY	1	0	LQG	representative
THERMAL DYNAMICS CORP SNC FY08	NHD001080951	LEBANON	0	1	LQG	representative
THOMPSON CENTER ARMS	NHD002059525	ROCHESTER	1	0	LQG	representative
UNIVERSITY OF NEW HAMPSHIRE	NHD000790923	DURHAM	0	1	LQG	representative
VIBRO-METER INC	NHD500003280	LONDONDERRY	1	0	SQG	representative
VULCAN FLEXIBLE CIRCUITS CORP	NHD980671077	HUDSON	1	0	LQG	representative
VUTEK INC	NHD510166168	MEREDITH	0	1	LQG	supplemental
WAKEFIELD THERMAL SOLUTIONS SNC FY08	NHD500003587	PELHAM			LQG	supplemental

APPENDIX G: FILE REVIEW ANALYSIS

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 Metrics Analysis Form in the report only includes metrics where potential concerns are identified, or potential areas of exemplary performance.

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

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

Clean Air Act

Name of State:		Review Period:		
CAA Metric #	CAA File Review Metric Description:	Metric Value	Evaluation	Initial Findings
Metric 2c	% of files reviewed where MDR data are accurately reflected in AFS.	50%		A total of 10 out of the 20 files reviewed reflected consistent MDR data when compared to the AFS/OTIS databases. Many of the data inconsistencies were minor (e.g., SIC codes, street addresses, and zip codes); however, 7 out of the 20 files reviewed, or 35%, were found to have compliance status data that were not consistent with the data found in AFS/OTIS.

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.	48.8% TV FCEs; 47.9% SM80 FCEs		The NH DES committed to following a CMS plan without seeking to negotiate an alternative plan. From the preliminary data analysis, NH DES, with EPA assistance, inspected 21 of 43, or 48.8% of Title V major sources within FY2008. The NH CMS cycle for major sources is FY2008 and FY2009. NH DES is on track to conduct FCEs at the remaining 22 sources in FY2009. The current CMS cycle for SM80 sources started in FY2007. During the first two years of this five year cycle, NH DES conducted FCEs at 23 of the 48, or 47.9% of the SM80s. NH DES appears to be on track to complete the SM80 inspections as required by the CMS.
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.			In its CMS plan, NH DES commits to conducting a certain number of FCEs at synthetic minor (less than 80%), minor, and unpermitted sources each year. In FY2008, NH DES committed to conduct FCEs at 21 of these minor sources. In its PPA, NH DES commits to enter all CAA MDRs into AFS accurately and in a timely manner. EPA believes that NH DES is accurately making compliance determinations. However, of the 20 files reviewed, 7 did not accurately reflect the compliance status in AFS.
Metric 6a	# of files reviewed with FCEs.	16		A total of 16 out of the 20 files reviewed included FCEs and inspection reports, or 80% of the files reviewed. A total of 10 out of the 16 inspection reports, or 62.5%, were completed within a month of the applicable FCE. A total of 4 out of the 16 inspection reports, or 25%, were completed more than two months after the FCE and 2 out of 16, or 12.5% were completed more than 3 months after completion of the FCE.
Metric 6b	% of FCEs that meet the definition of an FCE per the CMS policy.	100%		The NH DES should be commended for writing very comprehensive and well organized inspection reports.
Metric 6c	% of CMRs or facility files reviewed that provide sufficient documentation to determine compliance at the facility.	100%		As mentioned above, NH DES air inspectors conduct very thorough evaluations and write comprehensive inspection reports. All 16 reports reviewed (Title V or SM80) included sufficient information/documentation to determine compliance.

Metric 7a	% of CMRs or facility files reviewed that led to accurate compliance determinations.	100%		The inspection reports or compliance monitoring reports (CMRs) were found to be comprehensive and properly documented observations noted during the inspections. EPA's review revealed that NH DES inspectors were consistently making accurate compliance determinations.
Metric 7b	% of non-HPVs reviewed where the compliance determination was timely reported to AFS.	20%		A total of 5 out of the 20 files reviewed were for non-HPVs. A total of 4 out of the 5 non-HPV files reviewed included inconsistent compliance status information when compared to the AFS/OTIS databases.
Metric 8f	% of violations in files reviewed that were accurately determined to be HPV.	100%		Based on EPA's review of 6 case files pertaining to HPVs, EPA determined that NH DES is capable of making accurate compliance determinations.
Metric 9a	# of formal enforcement responses reviewed.	6		A total of 6 out of the 20 files reviewed involved the issuance of informal enforcement actions (3 of the informal enforcement actions were followed by formal enforcement). A total of 8 out of the 20 files reviewed involved the issuance of formal enforcement actions and 5 of those formal enforcement actions assessed a penalty.
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%		In all of the applicable files reviewed, the NH DES required the necessary injunctive relief to return a facility to compliance within a specified timeframe to ensure a violating facility returned to compliance expeditiously.
Metric 10b	% of formal enforcement responses for HPVs reviewed that are addressed in a timely manner (i.e., within 270 days).	75%		A total of 3 out of the 4 enforcement case files reviewed for HPVs indicated that the NH DES had addressed the HPV violations within the appropriate time frame of 270 days, as required by EPA's "Timely and Appropriate" guidance.
Metric 10c	% of enforcement responses for HPVs appropriately addressed.	25%		Formal enforcement was taken at only 1 HPV for which enforcement files were reviewed. A total of 3 of the HPV files that were reviewed were cases where the facility has low actual emissions of VOC but high potential emissions of VOC (over the 50 ton per year major source threshold). In accordance with the EPA 1998 memo from Eric Schaeffer which provides Guidance on the Appropriate Injunctive Relief for Violations of Major New Source Review Requirements, NH DES issued these three facilities a synthetic minor cap. However, NH DES used enforcement

				discretion to issue only informal enforcement and did not require the facility to install LAER.
Metric 11a	% of reviewed penalty calculations that consider and include where appropriate gravity and economic benefit.	80%		EPA reviewed 5 enforcement case files where penalties were assessed and determined that NH DES is calculating and collecting penalties for both economic benefit and gravity, when appropriate, and is consistently utilizing the Enforcement Tracking sheet and assessing appropriate penalties. One case file included gravity in the penalty calculation, but there was no mention of economic benefit found in the file.
Metric 12c	% of penalties reviewed that document the difference and rationale between the initial and final assessed penalty.	100%		Of the 4 enforcement case files reviewed where a penalty was assessed, 1 of the facilities settled with no reduction in penalty and 3 facilities negotiated a penalty reduction. All 3 enforcement case files reviewed, for facilities where the final penalty was reduced, included a discussion of the penalty reduction describing the NH DES's rationale for reducing its proposed penalty.
Metric 12d	% of files that document collection of penalty.	100%		For each of the 4 enforcement case files reviewed where a penalty was collected, a copy of the penalty check was included in the case file that indicated that the penalty had been paid in full.

Evaluation Criteria

Minor Issues/Appears Acceptable -- No EPA recommendation required.

Potential Concern -- Not a significant issue. Issues that the state may be able to correct without specific recommendation. May require additional analysis.

Significant Issue -- File review shows a pattern that indicates a significant problem. Will require an EPA Recommendation.

Clean Water Act

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.	NA	EPA is responsible for ICIS data entry and is working to remedy any data issues.
Metric 4a	Planned inspections completed	100%	<p>NH DES met its Performance Partnership Agreement CWA inspection commitments in FY2008. NH DES planned and completed NPDES inspections at 99 facilities in FY2008. Specifically, State inspections were performed at 54 (40 municipal and 14 industrial) of the 55 major facilities (EPA inspects the Winnepesaukee River Basin Program WWTF, a State-operated major facility) and at 29 (15 municipal and 14 industrial) of the 44 minor facilities with individual NPDES permits; and at 17 (6 water treatment, 3 GW remediation and 8 NCCW) of the minor facilities with general permits.</p> <p>NH DES inspects each major facility regulated by individual permits and four major facilities regulated by general permits (i.e., Allenstown NHG580714, Hanover NHG580099, Newington NHG5801141, Plymouth NHG580242) each year, and inspects each minor facility with an individual permit or general permit (excluding storm water facilities where there is no equivalent State authority) at least once every two years. New Hampshire's inspection coverage policies surpass the National goals and achievements. The State routinely completes 100% of its NPDES major facility coverage inspections, which far exceeds the National Average of 57.6%. The majority of NH DES inspections are unannounced, sampling inspections.</p>
Metric 4b	Other Commitments. Delineate the commitments for the FY under review and describe what was accomplished.	NA	The PPA only contains NPDES inspection commitments.
Metric 6a	# of inspection reports reviewed.	16	Using the OTIS File Selection Tool, EPA randomly-selected and reviewed NH DES' inspection reports and related files for 18 NPDES facilities, seven major and 11 minor facilities. NHDES had inspected 16 of the 18 facilities in FY08.
Metric 6b	% of inspection reports reviewed that are complete.	100%	The inspection report is sent to the facility within 30 days of the inspection date (with a copy to EPA) and consists of the following: (1) a letter from the NH DES inspector (or a Letter of Deficiency ("LOD") from Administrator of the Wastewater Engineering Bureau) to the facility identifying observed deficiencies, any repeat deficiencies, or other inspection observations/recommendations or whether no deficiencies were observed; (2) a copy of the federal Water Compliance Inspection Report Form 3560-3 which includes inspection date, time, type and purpose of the inspection, inspection participants and facility contact information, and areas evaluated; (3) a NH DES Track2000 Database violations summary report for the period beginning with the last inspection; and (4) any sampling inspection laboratory data. If deficiencies were observed, the letter (or LOD) includes a

CWA Metric #	CWA File Review Metric:	Metric Value	Initial Findings and Conclusions
			<p>deadline for a written response and corrective action. After the identified deficiencies are addressed, an inspection closeout letter is sent.</p> <p>The file review checklist requires a facility description to be included in the inspection report. Region 1 did not feel that a facility description was necessary because the NPDES facilities are inspected frequently; the information is on file and is available to the public upon request.</p>
Metric 6c	% of inspection reports reviewed that provide sufficient documentation to lead to an accurate compliance determination.	100%	<p>Inspection preparation includes generating a Track 2000 violation summary report and completing the Pre-Inspection and Background Information sections of the inspection checklist(s). The Background Information section includes a summary of any NPDES permit monitoring, reporting, and effluent limits violations. The checklist is completed during the inspection opening conference; the NPDES permit review and the documentation review; the facility site and effluent/receiving water inspection; the flow measurement accuracy assessment; the sample collection and preservation techniques check; the laboratory instruments, methods, QA/QC manuals, benchsheets, records and records management review; the operations and maintenance activities, the alarm systems checks, the spare parts inventory and backup power checks and documentation review; the pump stations inventory, sludge/septage handling and disposal check, the storm water review; sanitary sewer overflows and combined sewer overflows inventory; the industrial pretreatment overview; the multi-media questions for other program areas (Hazardous Waste/Petroleum, Air and groundwater); and the closing conference review. The NH DES inspections are thorough and lead to accurate compliance determinations.</p>
Metric 6d	% of inspection reports reviewed that are timely.	100%	<p>NHDES prepared and mailed all 16 inspections reports (100%) to the facility's responsible official within 30 days of the inspection date. More specifically, all 16 reports were mailed within 1 to 29 days of the inspection date, with six of the 16 reports (37.5%) mailed within 14 days. Chapter I, Section F of the CARP guidance states that LODs should be issued within 15 working days of reaching the decision. One LOD, issued to Whitefield 29 days after the inspection date, exceeded the 15 working days guideline.</p>
Metric 7e	% of inspection reports or facility files reviewed that led to accurate compliance determinations.	100%	<p>NH DES has developed and maintains: (1) the Track2000 violations database to track permit violations, single event violations ("SEVs") such as sanitary sewer overflows and bypasses, and State and Federal enforcement action compliance ;) (2) the Inspection Tracking spreadsheet (to track inspection commitments and inspection follow-up activities through conclusion); (3) the DMR Tracking spreadsheet (to track monitoring and reporting violations, and effluent violations by facility); (4) the Violations by Facility tracking system; and (5) the Significant Non-Compliance Violations ("SNC") spreadsheet. NH DES' databases are updated as information is received and are accurate. EPA and NH DES discuss the contents of these databases during quarterly enforcement coordination meetings.</p> <p>Also refer to Metric 6c above.</p>
Metric 8b	% of single event violation(s) that are accurately identified as SNC	NA	<p>EPA is responsible for ICIS data entry and is working to remedy any data issues. As noted in Metric 7e above, NH DES has developed and maintains various compliance tracking databases that are discussed with EPA during quarterly enforcement coordination meetings. EPA and NH DES will continue to attempt to reconcile the NH DES' databases with ICIS.</p>

CWA Metric #	CWA File Review Metric:	Metric Value	Initial Findings and Conclusions
Metric 8c	% of single event violation(s) identified as SNC that are reported timely.	NA	EPA is responsible for ICIS data entry and is working to remedy any data issues.
Metric 9a	# of enforcement files reviewed	0 (FY2008)	Of the 18 randomly selected NPDES facilities, EPA reviewed one State enforcement file. NH DES' Administrative Order by Consent ("AOC") # WD 06-006 required Franklin Pierce to upgrade its wastewater treatment facility and redirect its discharge from the pond to subsurface disposal. This AOC was issued in 2006 and was concluded and the NPDES permit was terminated in 2009. Franklin Pierce was a minor facility and Metric 9a only pertains to formal enforcement at major facilities.
Metric 9b	% of enforcement responses that have returned or will return a source in SNC to compliance.	100%	No NH DES enforcement actions were reviewed for FY2008, but prior year actions met the criteria.
Metric 9c	% of enforcement responses that have returned or will return a source with non-SNC violations to compliance.	100%	This metric pertains to minor facilities, and to major facilities where the violation is not SNC. Of the 18 files reviewed, NH DES inspected 16 facilities in FY2008, issued 10 inspection letters and six LODs to the facilities, and the sources returned to compliance with the non-SNC deficiencies identified during the inspections.
Metric 10b	% of enforcement responses reviewed that address SNC that are taken in a timely manner.	NA	<p>Of the 18 facility files reviewed, five facilities received formal enforcement actions addressing SNC that were issued by EPA in FY2008 and FY2009; specifically, Consent Decrees ("CDs") were negotiated with Lebanon and Portsmouth and lodged in court and Administrative Orders ("AOs") were issued to Farmington, Newport and Whitefield. The Lebanon CD superseded an active EPA AO, the Portsmouth CD superseded an active CD, and the three AOs addressed violations of new, more stringent effluent limits of the permits.</p> <p>In FY2008, NH DES initiated the formal enforcement response to address SNC violations by Newport, NH. When the Town failed to sign the AOC in December 2008, NH DES referred the case to EPA in January 2009 and also provided the negotiated wastewater treatment facility upgrade compliance schedule and interim effluent limits to EPA. EPA issued the AO to Newport in March 2009, an appropriate action that was no longer timely.</p>
Metric 10c	% of enforcement responses reviewed that address SNC that are appropriate to the violations.	NA	NH DES did not issue any enforcement actions in FY2008 that addressed SNC. It is recommended that NH DES modify the CARP to include specific guidance for escalation of its enforcement responses and then fully implement the CARP. See the Newport example in Metric 10b above.

CWA Metric #	CWA File Review Metric:	Metric Value	Initial Findings and Conclusions
Metric 10d	% of enforcement responses reviewed that appropriately address non-SNC violations.	100%	See Metric 9c above.
Metric 10e	% enforcement responses for non-SNC violations where a response was taken in a timely manner.	83.3%	Chapter I, Section F of the CARP guidance states that LODs should be issued within 15 working days of reaching the decision to issue an LOD. One of the six LOD files reviewed was issued to Whitefield 29 days after the inspection date, which exceeded the 15 working days guideline of the CARP by six working days.
Metric 11a	% of penalty calculations that consider and include where appropriate gravity and economic benefit.	NA	CARP Chapter VI, includes program-specific penalty policies, penalty calculation methods and required documentation to support the calculations. NH DES did not issue any formal enforcement actions in FY2008 that included upfront penalties. Although the file was not one of those randomly selected for review, in FY2008, NH DES issued one AOC with stipulated penalties to Troy, NH to address persistent DMR reporting violations. The two-year AOC contained stipulated penalties to provide added incentive to Troy to accurately report effluent data. DMR errors have not occurred since the AOC was issued. Upfront penalties should be calculated where appropriate pursuant to the CARP.
Metric 12a	% of penalties reviewed that document the difference and rationale between the initial and final assessed penalty.	NA	NH DES did not issue any formal enforcement actions in FY2008 that included upfront penalties. NH DES should initiate formal enforcement actions to address SNC including penalty assessment and collection where appropriate.
Metric 12b	% of enforcement actions with penalties that document collection of penalty.	NA	Prior years' enforcement, documented collection of stipulated penalties (e.g., Franklin Pierce College AOC with stipulated penalties) by NH DES.

Resource Conservation and Recovery Act

RCRA Metric #	RCRA File Review Metric:	Metric Value	Initial Findings and Conclusions
Metric 2c	% of files reviewed where mandatory data are accurately reflected in the national data system.	For All Files Reviewed: 21/26 (81%)	<p>Region 1 reviewed twenty-six (26) facility files. Twenty-three (23) of these files corresponded to work conducted by the Hazardous Waste Compliance Section [HWCS] of the Hazardous Waste Management Bureau [HWMB], 3 facility files were initiated by the Spill Response and Complaint Investigation Section [SCRIS], 2 of which corresponded to transporter inspections. With regard to FY08, the files contained 15 inspection reports (13 FY08 and 2 FY07 inspections), 6 Letters of Deficiency (LODs), 7 Notices of Past Violations (NOPVs), 3 Notices of Findings (NOFs), 5 Letters of Compliance (LOCs), 6 proposed administrative fines (210s), 7 final administrative fines (310s), one referral (410), and 2 civil settlements (610s).</p> <p>For twenty-one (21) of the facility files, all the mandatory data elements were correctly and accurately reflected in RCRAInfo. NHDES has agreed to make the necessary corrections for the following 5 facilities: 1) <u>Aavid Thermalloy</u>: a 310 was incorrectly coded as a 210, and SNY/ SNN codes were missing; 2) <u>Enpro</u>: two 9/4/07 inspections were incorrectly coded as 9/4/08; 3) <u>Kawall/Manchester</u>: a 7/28/08 final 310 action was incorrectly dated as 6/25/08; 4) <u>Luminescent Systems</u>: a 11/10/05 NOF was missing; and 5) <u>Thompson Center Arms</u>: the 1/9/09 210 action was missing.</p>
Metric 4a	Planned inspections completed	PPA commitment: 31/30 (103%) PPA LQG commitment: 20/20 (100%)	For FY08, and as contained in Performance Partnership Agreement (PPA), the HWMB committed to complete 30 inspections at generators, zero inspections at commercial treatment storage and disposal facilities [TSDFs] as none exist in the state, and inspections at 20% of the Large Quantity Generator [LQG] Universe. The known LQG universe at the time of PPA planning was 97, resulting in a PPA commitment of 20 LQG inspections. <i>[Note: The SRF2 metric for the LQG universe is 113 (or 114 per the latest biennial report), which would correspond to 23 LQG inspections.]</i> The HWMB completed 31 inspections in FY08, of which 20 occurred at LQGs. The HWMB therefore met its PPA inspection commitments. In addition, SRCIS conducted inspections at non-notifiers, transporters and other facilities resulting in an overall total of 40 FY08 hazardous waste compliance inspections.
Metric 4b	Planned commitments completed	For FY08: Range: (78-370%) Average: (147%)	HWMB met or far exceeded its planned commitments for FY08. HWMB FY08 PPA commitments are tracked via the MTRS system and are reported in the PPA End-of-Year Report. The major compliance and enforcement commitments are: 1) Implement 30 RCRAInfo entries (26 or 87%); 2) Conduct 45 non-penalty enforcement actions (39 or 87%); 3) Conduct 10 penalty actions (8 or 80%); 4) Conduct 30 inspections (31 or 103%); 5) Conduct 4 limited permit

RCRA Metric #	RCRA File Review Metric:	Metric Value	Initial Findings and Conclusions
			<p>inspections (13 or 325%); 6) Conduct 10 outreach presentations (37 or 370%);7) Participate in 10 workshops (17 or 170%); 8) Respond to 700 hotline calls (726 or 104%); 9)Resolve 9 SQG Self Certification discrepancies (7 or 78%); 10) Conduct 10 advanced modular training workshops (11 or 110%); 11) Conduct 8 basic training workshops (13 or 163%); 12) Issue 175 new coordinator certifications (223 or 127%); 13) Issue 425 renewal coordinator certifications (561 or 132%); and 14) Process SQG Self-certifications for multiple counties (118 on average). [Note: When a percentage fell below 100%, the HWMB simply over-estimated the projected target for an item at time of fiscal year planning.]</p>
Metric 6a	# of inspection reports reviewed.	<p>For All Files Reviewed: 28 reports.</p> <p>For FY08: (15 reports, 13 by HWMB, 2 by SRCIS)</p>	<p>Of the twenty-six (26) facility files, Region 1 reviewed a total of 28 inspection reports covering pre-FY08, FY08 and FY09. Twenty-four (24) reports were completed by HWMB, and four reports were completed by SRCIS (one facility and three transporter reports).</p> <p>Specific to FY08, the Region reviewed 15 final inspection reports (13 by the HWMB, 2 by SRCIS). Of the 13 HWMB reports, 6 had accompanying LODs and 7 had accompanying NOPVs. A combination checklist/informal enforcement document represents a final HWMB inspection report. The two SRCIS reports were stand-alone documents. SRCIS transporter inspections are recorded on stand-alone checklists and facility investigations are recorded as narratives.</p>
Metric 6b	% of inspection reports reviewed that are complete and provide sufficient documentation to determine compliance at the facility.	<p>For All Files: 27/28 (96%)</p> <p>For FY08: 14/15 (93%)</p>	<p>For <u>all</u> 28 reports reviewed by the Region only one was considered incomplete (namely, the SCRIS report for a facility referred to as 'Facility X' in this document due to an ongoing EPA CID investigation). For the 15 reports completed in FY08, only one report (same as referenced above) was deemed incomplete.</p> <p>SRCIS' report for Facility X was a hand-written narrative which only described the violation. It did not discuss the type and purpose of the inspection, the facility's RCRA ID number or if even one existed, the facility and its RCRA regulated activities. The report did not include an inspection checklist, photographs, drawings or diagrams, designate the source of the information, or describe the detailed observations necessary to substantiate the violation. In short, the narrative only stated the existence of the violation on a "Site Investigation Report."</p> <p>For HWMB documents, Region 1 observed good consistency in transcribing inspection findings and violations from checklists to subsequent informal/formal enforcement actions. [One file, (Luminescent Systems) represented a fine example of how an initial SV was quickly escalated to SNC, with subsequent referral to the State AG, upon receipt of additional</p>

RCRA Metric #	RCRA File Review Metric:	Metric Value	Initial Findings and Conclusions
			<p>information. Settlement also reflected an effective use of the state's SEP policy.]</p> <p>[Note: The notation of a photo-log in the HWMB inspection checklists indicates whether or not inspection digital photographs were taken. However, digital photographs are maintained on NHDES' server in an archive directory. Region 1 recommends also keeping prints of photographs or a CD with the photographs in the individual compliance files.]</p>
Metric 6c	Inspections reports completed within a determined time frame.	<p>For All Reports Reviewed: 26/28 (93%)</p> <p>For FY08: 15/15 (100%)</p>	<p>HWMB does not have a written policy specifying a time frame for completing reports. EPA's default RCRA Enforcement Response Policy [ERP] requires reports be completed within 150 days from Day Zero. HWMB readily identifies all violations during or just after inspections and a majority of the inspection reports are completed in a timely manner. This timeliness is, in part, due to the expedited nature of the checklists used by the HWMB and SCRIS. SRCIS checklists and narrative reports are usually completed on the same day of the investigation/inspection.</p> <p>For <u>all</u> 28 reports reviewed, only 2 pre-FY08 reports took longer than 150 days (Aavid Thermalloy at 345 days and Amherst Street Collision at 272 days). Aavid's delay was the direct result of a complicated hazardous waste determination issue requiring the input of EPA HQ. Once the issue was resolved by EPA HQ, the report was completed within 120 days. Amherst was considered a low priority report since the minor violations were resolved soon after the inspection and staff focused their attention on expediting reports and cases for more egregious violators. Regarding the 15 FY08 inspection reports, all were completed in well within 150 days (between 0-90 days after the inspection).</p>
Metric 7a	% of accurate compliance determinations based on inspection reports.	<p>For All Reports Reviewed: 28/28 (100%)</p> <p>For FY08: 15/15 (100%)</p>	<p>Of the 28 reviewed reports, 27 reports documented accurate compliance determinations. Where Region 1 believes that a report initially made an erroneous compliance determination (Facility X), the state made the appropriate correction and rapidly elevated the violation status to a referral to EPA CID just 4 days after the inspection. Therefore, Region 1 concurs with the state's facility compliance determinations as either secondary violators [SVs] or significant non-compliers [SNCs] for all 26 facilities addressed by 28 inspection reports.</p> <p><u>Regarding Facility X (by SRCIS):</u> The report was completed on the same day as the investigation. The report states that the investigated release was not a hazardous waste based on post-inspection MSDS reviews. However, a subsequent HWMB memo in the file (dated 32 days after the report) indicates that it was a HW release and a violation that caused harm to worker health and to the receiving publicly owned treatment works (POTW). This case was subsequently referred to Region 1 CID for the associated Clean Water Act (CWA) violation. HWMB</p>

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			<p>is considering this violation as SNC. However, the SNY flag has not yet been entered into RCRAInfo pending EPA's CID action. There was no documentation in the file for the actual referral to EPA CID. The reviewer has since been notified by EPA CID that the referral came in on January 29, 2008 (just four days after the investigation).</p> <p><u>Regarding SRCIS Transporter Inspections at Enpro (2 inspection reports) and Stericycle (1 report):</u> The violations and facilities were treated as SVs and Region 1 concurs with these determinations. However, the SV determinations are not represented anywhere in the compliance files or in RCRAInfo.</p>
Metric 7b	% of violation determinations in the files reviewed that are reported timely to the national database (within 150 days).	<p>For all Facility Files Reviewed: 24/28 (86%)</p> <p>For FY08: 14/15 (93%)</p>	<p>Of the 28 reports reviewed, Region 1 observed that 24 reports (addressing 23 of the 26 facilities) led to timely violation determinations recorded in the compliance files and, for cases of SNC, in RCRAInfo as well. [Timely being defined as within 150 days from Day Zero, per EPA's RCRA ERP and the draft HWMB ERP.] Many of these determinations were recorded very soon after the inspection date. This is, in part, due to the expeditious nature of the HWMB and SRCIS inspection report checklists. The four reports that did not lead to timely violation determination were for Amherst Auto, Enpro, Stericycle and Thermal Dynamics. [Note: Thermal Dynamics had a very timely SV determination, but subsequent information received in the facility's response to the inspection checklist's LOD, elevated the violation determination to SNC. It was the SNC determination that occurred after 150 days from the inspection, but not due to any fault of the HWMB.]</p> <p>Only one of the 15 FY08 inspection reports had a recorded violation determination after the lapse of 150 days. This corresponded to Stericycle Inc. (a transporter inspection). As discussed above, the SV determination was not represented anywhere in the compliance files or in RCRAInfo and thus can not be considered timely.</p>
Metric 8d	% of violations in files reviewed that were accurately determined to be SNC.	<p>For all Facility Files Reviewed: 4/4 (100%)</p> <p>For FY08 only 1/1 (100%)</p>	<p>Of the 26 facility files reviewed, 21 facilities were correctly determined as SVs, 4 were accurately considered SNC, and 1 was referred to EPA CID and will most likely be considered SNC pending conclusion of EPA's investigation and response.</p> <p>Region 1 reviewed all three cases of FY08 SNC. There was only one new SNC in FY08 (Wakefield Engineering). Region 1 also reviewed one case of FY06 SNC that received its final civil action in FY08.</p> <p>4. <u>Wakefield Engineering:</u> FY08 inspection; SNC determination, as recorded in the file, was 7/30/08 (FY08); SNY code was missing in RCRAInfo since the initial formal enforcement action occurred on 8/24/09, after the file review. It is HWMB's policy to enter the SNC (SNY code) after issuance of the</p>

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			<p>initial. The SNY code has since been entered with a date of 7/30/08;</p> <ol style="list-style-type: none"> 5. <u>Aavid Thermalloy</u>: pre-FY08 inspection; SNC determination was made after the 5/18/07 EPA HQ input on the hazardous waste determination violation; SNY/SNN flags missing in RCRAInfo (SNY occurred in FY07, SNN occurred in FY08, administrative penalty settled in FY08); and 6. <u>Thermal Dynamics</u>: FY05 inspection; SNC determination in FY06; Resolved SNC (SNN code) in FY08; Civil action settled in FY08. <p>Note: <u>Luminescent Systems</u> was reviewed for its final civil settlement action in FY08. The facility was inspected in FY05; SNC determination and resolution occurred in FY06. Although a SNC case, the facility was not in SNC at any time during FY08.</p> <p>Note: <u>Facility X</u> was inspected and referred to EPA CID in FY08. SNC will be determined and entered into RCRAInfo post-EPA CID investigation and response.</p> <p>For FY08, Region 1 reviewed 15 inspection reports, representing 15 facilities. One of the 15 FY08 inspection reports resulted in a new accurate SNC determination, 13 of the 15 FY08 inspection reports resulted in accurate SV determinations, and one resulted in a referral to EPA CID.</p>
Metric 9a	# of enforcement responses reviewed.	<p>For All Files reviewed: 41 informal and 29 formal actions (Total: 70)</p> <p>For FY08: 21 informal and 16 formal actions (Total: 37)</p>	<p>HWMB takes both informal and formal action (administratively and civilly by referral to the State Attorney General's Office (AG)). The State also makes referrals to EPA (e.g., Facility X). The HWMB and AG meet bimonthly to review all current cases and to make determinations on the enforcement route for new hazardous and solid waste violators.</p> <p>Significantly, the HWMB is active in assessing and collecting Administrative Fines from SV facilities, as well as from SNC violators. Of the 26 facility files reviewed, 19 facilities were deemed SVs by the HWMB. Thirteen of these 19 SVs (68%) were assessed administrative fines by the HWMB.</p> <p>Region 1 reviewed a total of 41 informal actions and 29 formal actions in 26 facility files. For FY08, Region 1 reviewed 6 LODs, 7 NOPVs, 5 LOCs and 3 NOFs (for a total of 21 informal actions), and 6 assessed administrative fines (210s), 7 collected administrative fines (310s), 1 referral (410) and 2 settled civil actions (610s), (for a total of 16 formal actions).</p>

RCRA Metric #	RCRA File Review Metric:	Metric Value	Initial Findings and Conclusions
Metric 9b	% of enforcement responses that have returned or will return a source in SNC to compliance.	For FY08 3/3 (100%) have or will result in RTC	Two of the 3 cases of active FY08 SNC (Aavid Thermalloy and Thermal Dynamics) have returned to compliance as documented by FY08 settled administrative fines (310s), settled civil penalty actions (610s), and Letters of Compliance (LOCs). Wakefield Engineering was identified as SNC in FY08 and has been issued a proposed administrative fine on 8/24/09 (FY09). Since the HWMB has shown success in collecting administrative fines from both SV and SNC cases and documenting facility return to compliance, Region 1 believes that Wakefield Engineering will also return to compliance.
Metric 9c	% of enforcement responses that have returned or will return Secondary Violators (SV's) to compliance.	For all SV facility files reviewed 21/21 (100%)	Individual SV violations were shown to be returned to compliance (RTC) in RCRAInfo. Compliance files document RTC by containing dated LOCs and NOPVs. LOCs and NOPVs discuss each violation and how compliance was achieved and is recorded in RCRAInfo. Of the 21 facilities determined to be SVs, 19 HWMB cases had either NOPVs or LOCs in their files that proved RTC. The remaining two SRCIS SVs documented RTC with handwritten notes in the margins of the transporter inspection checklists. Also, one of the transporter files had a letter from the owner which documented compliance. However, the individual transporter violations were not documented as RTC in RCRAInfo.
Metric 10c	% of enforcement responses reviewed that are taken in a timely manner.	<p>For Informal Enforcement against all SVs reviewed: (average of 95%)</p> <p>For Formal Enforcement against Facilities in SNC during FY08: 0/3 (0%)</p> <p>For Referral to EPA CID during FY08: 1/1 (100%)</p>	<p>REGARDING 21 SV cases: <i>Twenty-three of the 26 facility files reviewed related to enforcement by the HWMB:</i> All 23 facilities (SV and SNC cases) received early warning notices by reading and signing an "Exit Debriefing" checklist at the close of each inspection. All 23 facilities received initial informal enforcement in the form of LODs or NOPVs that accompany the inspection report checklists. Some facilities also received additional informal enforcement (e.g., NOFs) if additional violations were uncovered or if staff was requesting additional information. <i>[Timeliness: 100% for HWMB informal early warning letters]</i></p> <p>Nineteen of the 23 facilities determined to be SVs (corresponding to HWMB inspections) required informal enforcement. These SVs all received initial informal enforcement in the form of LODs or NOPVs with the inspection report checklists. Eighteen of these 19 facilities received initial informal enforcement well before the ERP limit of 150 days from Day Zero. One facility (Amherst Collision) received informal enforcement after 150 days (see metric 6c). <i>[Timeliness: 18/19 (95%) for HWMB informal NOPVs and LODs]</i></p> <p>Of the 19 HWMB SVs, 16 returned to compliance well before or just slightly after the ERP limit of 240 Days from Day Zero. [Presstek (244 days), Amherst Collision (272 days) and Hitchner (262 days) were only slightly over the limit and Region 1 considered them timely.]</p>

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			<p>Three facilities [Circuit Connect (359 days), Thompson Center Arms (388 days) and Markem Corp (502 days)] exceeded the 240 day limit. However, their compliance files clearly documented the complicated case-specific reasons for these delayed RTCs and the coordinating efforts and dialogue between HWMB staff and the facilities to resolve the violations. <i>[Timeliness: for HWMB RTCs 16/19 (84%)]</i></p> <p>Region 1 acknowledges that the HWMB is also active in seeking formal enforcement against SVs, even if they have documented RTC. As mentioned above, 68% of HWMB SV cases were assessed administrative fines. Since the ERP does not require formal enforcement for SVs, Region 1 will not be making detailed assessments of the timeliness of such actions. However, Region 1 has determined that it takes an average of 8 months (240 days) to issue proposed administrative fines to SVs and +15 months (+450 days) to settle these administrative fines. Further, Region 1 acknowledges that the HWMB expends the same level of effort and commitment in assessing and collecting administrative fines against SVs as they do when enforcing against SNC violators.</p> <p><u>Three of the 26 facility files reviewed related to facility (Facility X) and transporter inspections (Enpro and Stericycle) by SRCIS:</u> The inspections at Enpro and Stericycle were determined to be SVs requiring, at minimum, informal enforcement. Enpro's minor single violation was resolved on-the-spot and did not warrant an informal enforcement action. Stericycle received an informal written letter within days from the inspection and the company's response (received within the week) resolved the violations. <i>[Timeliness: 2/2 (100%)]</i></p> <p>Regarding SNCs: <u>Four of the 26 facility files reviewed were determined to be in SNC by the HWMB:</u> [Three of these were in SNC during FY08, and one had a resolved SNC in FY06 but received its final civil action in FY08.] Only the FY06 SNC (Luminescent Systems) basically met the criteria for federal and state ERP timeliness. Luminescent was inspected in 2005 and referred to the State AG in 2006 (374 days after the inspection, just 14 days over the limit). The civil action was settled in FY08 (305 days after the referral). The FY08 cases of SNC (Aavid Thermalloy, Thermal Dynamics and Wakefield Engineering) did not meet the timeliness criteria. Aavid's first and only formal enforcement action was a settled administrative fine that occurred well after 360 days from Day Zero. Thermal Dynamics was referred to the State AG 525 days after Day Zero (165 days after time limit). Wakefield Engineering received its initial administrative fine 466 days after the inspection (226 days after the time limit). Region 1 acknowledges that all three FY08 SNC cases have case-specific complexities that contributed to these delays, and</p>

RCRA Metric #	RCRA File Review Metric:	Metric Value	Initial Findings and Conclusions
			<p>the corresponding compliance files document ongoing coordination, communication and negotiations between HWMB staff and facility representatives. [Timeliness: 0/3 (0% timely)]</p> <p>Regarding the Referral to EPA CID: The SRCIS facility inspection at Facility X was referred to EPA CID only 4 days after the investigation. However, Region 1 could not find any written documentation in the file that discussed the details of the referral, other than it occurred on January 29, 2008. Subsequent discussions with HWMB indicated that the referral to CID was based on Clean Water Act violations and that the State AG requested a suspension of state actions pending EPA CID's work. The reviewer then contacted CID which confirmed that the referral came to CID on January 29, 2008, but that no referral document was available. [Timeliness: 1/1 (100%)]</p>
Metric 10d	% of enforcement responses reviewed that are appropriate to the violations.	(100%)	<p>Based on the file review for 26 facility and receipt of subsequent input from HWMB, Region 1 concurs with all the violation determinations made for all 26 facility files (21 SVs, 4 SNCs and 1 referral to EPA CID).</p> <p>With the exception of the SRCIS transporter inspections and the single SRCIS facility investigation that resulted in the referral to EPA, SVs and SNCs are initially pursued by informal actions (LODs, NOPVs and occasional NOFs) which require injunctive relief that often brings about a return to compliance.</p> <p>Region 1 also reviewed all fines levied against and collected from SVs and SNCs (pursued administratively) and generally concurs with the penalty amounts assessed, the methodology used to calculate the penalties (via the RCRA penalty policy or state's Schedule of Administrative Fines), the documented justifications for reducing assessed penalties, and the final amounts collected (see discussion for Elements 11 and 12). Region 1 acknowledges the HWMB's active assessment and collection of administrative fines against SVs (68% of the HWMB SV were assessed administrative fines). HWMB utilizes the same level of effort and commitment in assessing and collecting administrative fines against SVs as they do when penalizing SNC violators. The Region recognizes the HWMB' willingness to readily refer a case to the State AG or EPA Region 1 based on the egregiousness or recalcitrance of the violations. For referrals to the State AG, the HWMB provides AG staff with detailed descriptions of the violations via referral packages containing LODs, NOPVs, NOFs, initial administrative penalty calculations and inspection reports.</p>

RCRA Metric #	RCRA File Review Metric:	Metric Value	Initial Findings and Conclusions
Metric 11a	% of reviewed penalty calculations that consider and include where appropriate gravity and economic benefit.	For FY08 SNCs: 2/2 (100%) For FY08 SVs: 13/13 (100%)	<p>For Cases of SNC: The HWMB will consider both gravity and economic benefit per violation. Regarding economic benefit, the confidential file documents for each violation whether it was non-existent, negligible or the dollar amount as calculated by EPA's BEN model. The gravity component is assessed per violation using EPA's RCRA Penalty Policy as captured in a draft HWMB Hazardous Waste Civil and Administrative Enforcement Response Policy (ERP). This ERP references the 2003 and 2005 RCRA penalty policy gravity and extent of deviation matrices. Gravity is also clearly documented in the facility confidential files. Region 1 recommends that the draft HWMB ERP become finalized as soon as possible and incorporated, by reference, in the state's Compliance Assurance Response Policy (CARP).</p> <p>Of the 3 cases of FY08 SNC, Region 1 was able to review the penalty calculations for 2 facilities (namely, Thermal Dynamics and Aavid Thermalloy). Thermal Dynamics was referred to the State AG for civil action and has since settled. The draft penalties, calculated by HWMB and referred to the State AG, documented both economic benefit and gravity as described above. Aavid Thermalloy went straight to a final administrative fine calculated using EPA's BEN model and the RCRA penalty policy; however, the 2003 gravity and extent of deviation matrices were used instead of those from the 2005 RCRA penalty policy. Wakefield Engineering received a proposed administrative fine in August 2009 after the file review. Region 1 has no reason to believe that this case's penalty calculations would differ from the rest. [Note: Facility X, referred to EPA CID, did not have a calculated penalty on file.]</p> <p>For Cases of SV: For SVs warranting an administrative fine, the HWMB will also calculate the per violation economic benefit, where appropriate, utilizing EPA's BEN model. The confidential file will also record the economic benefit as non-existent, negligible or the dollar amount per violation. However, the HWMB then utilizes the Schedule of Administrative Fines to calculate the per violation penalty amounts. If there is a significant economic benefit, HWMB will compare that amount to the violation's calculated administrative fine to ensure that the administrative fine covers both the economic benefit and some amount of gravity. [Note: In the event that the economic benefit is not covered by the administrative fine, HWMB will refer the case to the State AG for civil enforcement. This was not the case with any of the files reviewed.] In total, of the 21 facilities in SV cases, only 8 received informal/non-penalty enforcement, but 13 received administrative fines from the HWMB that considered and captured (when applicable) economic benefit and some level of gravity in the administrative fines.</p>

RCRA Metric #	RCRA File Review Metric:	Metric Value	Initial Findings and Conclusions
Metric 12a	% of penalties reviewed that document the difference and rationale between the initial and final assessed penalty.	For FY08 SNC Cases: (N/A) For settled fines against SVs 9/9 (100%)	<p>For Cases of SNC (Thermal Dynamics, Aavid Thermalloy and Wakefield Engineering): Thermal Dynamics was referred to the State AG. The State AG settlement files were not reviewed; however, the case was finalized and the final penalty amount was recorded in RCRAInfo. Aavid Thermalloy went straight to a final administrative fine. This case required input from EPA HQ on a hazardous waste determination count observed during a 2006 limited permit focused compliance inspection. By the time the issue was resolved by EPA HQ (May 2007), the proposed penalty was accepted by Aavid and the case was immediately settled. Wakefield Engineering only received its proposed administrative fine in FY09, after the file review. [Note: Region 1 did review the case file for Luminescent Systems, a FY06 SNC which received its final civil action in FY08. The confidential file documented that both economic benefit and gravity were assessed and the differences between proposed and final penalties were clearly justified.]</p> <p>For Cases of SV: Of the 13 SVs that received administrative fines from the HWMB, 4 were still under negotiation and final penalty documents were not available. The remaining 9 SV penalty cases were settled, and their confidential files clearly documented the rationale behind each penalty reduction resulting in the final settlement penalty. For some facilities (e.g., Hitchner) there was no difference between the proposed and settled penalty. Region 1 observed two instances where the rationale for assessing a penalty significantly differed from EPA's approach. In the first (Teleflex), the penalty for failure to label SAA containers was assumed to be accounted for in the penalty for failure to conduct SAA training. In the second (Vutek), the penalty for failure to close a SAA container was assumed to be accounted for in the penalty for failure to properly label SAA containers. According to the HWMB, the state's Schedule of Administrative Fines allows the 'grouping' of all SAA violations under one count.</p>
Metric 12b	% of files that document collection of penalty.	100%	For all settled actions against SNC and SV cases, the files all contained evidence of penalty payment (e.g., copies of a paid check or a series of paid checks and documentation of completed SEPs.)

APPENDIX G: CORRESPONDENCE

Kick-off letter to NH DES April 2, 2009



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region 1
1 Congress Street, Suite 1100
BOSTON, MA 02114-2023**

Mr. Thomas Burack, Commissioner
New Hampshire Department of Environmental Services
29 Hazen Drive
PO Box 95
Concord, NH 03302-0095

Dear Mr. Burack:

Through this letter, EPA Region 1 New England is initiating a review of the New Hampshire Department of Environmental Service (DES) RCRA Subtitle C Enforcement, Clean Air Act Stationary Source Enforcement and the New Hampshire Water Enforcement Programs. We will review inspection and enforcement activity from Federal Fiscal Year 2008.

In 2007, EPA regions completed the first round of reviews using the State Review Framework (SRF) protocol. This work created a baseline of performance from which future oversight of state compliance and enforcement programs can be tracked and managed. In 2008, the first round of reviews was evaluated and a work group composed of EPA headquarters, regional managers and staff, ECOS, state media associations, and other state representatives revised the SRF elements, metrics, process and guidance.

In the second round of the SRF (SRF/2), the review cycle has been extended by a year such that all states will be reviewed within a 4 year cycle, or by the end of Fiscal Year 2012.

SRF/2 is a continuation of a national effort that allows Region 1 New England to ensure that DES meets agreed upon minimum performance levels in providing environmental and public health protection. The review will include:

- ▶ examination of inspection and enforcement activity from Federal Fiscal Year 2008 and any available more recent information on current operations,
- ▶ discussions between Region 1 New England and DES program managers and staff,

- ▶ review of selected DES inspection and enforcement files and policies,
- ▶ examination of data in EPA and DES data systems, and
- ▶ review of DES's follow-up to the recommendations made by Region 1 after SRF/1.

Region 1 New England and DES have the option of agreeing to examine state programs that broaden the scope of traditional enforcement. This may include programs such as pollution prevention, compliance assistance, and innovative approaches to achieving compliance, documenting and reporting outputs, outcomes and indicators, or supplemental environmental projects. We welcome DES suggesting other compliance programs for EPA review.

We expect to complete the DES review, including the final report, by October 31, 2009.

Our intent is to assist DES in achieving implementation of programs that meet federal standards and are based on the goals we have agreed to in DES's Performance Partnership Agreement. Region 1 New England and DES are partners in carrying out the review. If we find issues, we want to address them in the most constructive manner possible.

Region 1 New England has established a cross-program team of managers and senior staff to implement the DES review. Mark Mahoney will be Region 1 New England's primary contact for the review. He will lead the review team, directing all aspects of the review for the Region. Sam Silverman, Deputy Director, Office of Environmental Stewardship, is the Region 1 New England senior manager with overall responsibility for the review. The program experts on the review team will be:

- Susan Nachmann, RCRA
- Joy Hilton, DES Water Enforcement
- Beth Kudarauskus & Ken Rota, Clean Air Act

I hope to meet with your senior managers to go over the review expectations, procedures, and schedule. Our review team will participate in this meeting and we hope that DES managers and staff involved in the review can join us.

The SRF/2 protocol includes numerous program specific worksheets, metrics, and report templates that Region 1 New England and DES will use to complete the review. We believe it will assist us in carrying out an efficient, focused review. All of these materials have been developed jointly by EPA regional and HQ staff and numerous state officials.

Attachment A, with this letter, transmits the Official Data Set (ODS) that will be used in the review, the files that have been selected for review, and our focus areas for the upcoming on-site file review. Please respond by April 30, 2009 with an indication that you agree with the ODS or with a spreadsheet indicating any discrepancies. Please send your response by e-mail to Mark Mahoney (Mahoney.mark@epa.gov). If you do not respond by this date, we will proceed with our preliminary data analysis under the assumption that the ODS is correct.

EPA has designed the SRF Tracker as a repository for holding all SRF products including draft and final documents, letters, data sets, etc. It is also a management tool used to track the

progress of a state review and to follow-up on the recommendations. Regions will enter and update all information for their states in the SRF Tracker. OECA will use the Tracker to monitor implementation of SRF/2. States can view and comment on their information securely on the internet.

All information and materials used in this review may be subject to federal and/or state disclosure laws. While EPA intends to use this information only for discussions with DES, EPA will release the information in response to any request that is properly submitted.

We look forward to working with you on this project.

Sincerely,

Susan Studlien, Director
Office of Environmental Stewardship

Attachment A: Official Data Set

cc: By E-mail
Gretchen Hamel, Administrator, DES Legal Unit
Ira Leighton, Acting Regional Administrator
Stephen Perkins, Acting Deputy Administrator
Region 1 New England Office Directors and Deputies
Lisa Lund, Director, Office of Compliance, OECA
Mark Mahoney, Region 1 New England

ATTACHMENT A

The Official Data Set (ODS) was pulled from the Online Tracking Information System (OTIS) Web site. We also will send an electronic version in Excel format by email. States can access these reports online with additional links and information on the OTIS site. (Note that the data may slightly change after each monthly data refresh.)

Please confirm that the data shown in the enclosed ODS spreadsheet accurately depicts state activity. Please pay particular attention to numbers shown under Elements 1 and 2. For example, do you agree with the number of inspections performed, violations found, actions taken, etc.? Significant discrepancies could have a bearing on the results of the SRF/2 review. If significant discrepancies exist (i.e., the state count of an activity is +/- 10 percent of the number shown, or the facility lists accessed in OTIS for a particular metric do not closely match state records), please note this on the spreadsheet in the columns provided to the right of the data. Please note that you do not need to provide exact counts when your numbers do not differ much from those provided – minor differences in the numbers are often the result of inherent lags between the time a state enters data in its system and when the data is uploaded to the program system and OTIS.

We encourage you to document significant differences between EPA and state numbers using the reporting format included with the spreadsheet. There are two major reasons for this. (1) It is important for EPA to understand these differences in the course of its work. (2) In the event of a Freedom of Information Act (FOIA) request, the official record would include the disputed number along with the correct number according to the state and an explanation of the discrepancy.

If you would like to get a sense of the facilities behind the numbers shown, you can use OTIS (<http://www.epa-otis.gov/otis/stateframework.html>). SRF data metrics results are shown on the OTIS SRF Web site on the first screen that is returned after a search is run. Lists of facilities that make up the ODS results are provided in most cases by clicking an underlined number. (Please note that OTIS data are updated monthly, so differences may exist between the hard copy and the site.) If core inspection, violation, or enforcement actions totals shown on the spreadsheet are not close to what you believe the true counts to be, please consider providing accurate facility lists to assist us with file selection.

Please respond by March 31, 2009 with an indication that you agree with the ODS or with a spreadsheet indicating any discrepancies. Please send your response by e-mail to Mark Mahoney (Mahoney.mark@epa.gov). If you do not respond by this date, we will proceed with our preliminary data analysis under the assumption that the ODS is correct.

State Review Framework Round 2

Direct Implementation of CWA/NPDES
Enforcement and Compliance Program

Region 1: New Hampshire

FINAL 8/16/2013

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I. EXECUTIVE SUMMARY

Major Issues

The executive summary and report below cover the New Hampshire Clean Water Act – National Pollutant Discharge Elimination System (CWA-NPDES) program. While EPA Region 1 directly implements this program, the New Hampshire Department of Environmental Services (NHDES) and EPA have a worksharing agreement whereby NHDES supplements EPA inspection activity. The report distinguishes between EPA and state activity where applicable and possible.

The SRF CWA review of New Hampshire identified the following major issues:

- NHDES inspection reports available in EPA files at the time of the review included the EPA Form 3560 coversheets, but did not include supporting materials, sampling results, and additional documentation. Because NHDES performed most of the inspections, this lack of documentation hindered our ability to review the program under several elements.

CWA/NPDES Program

Findings of Area for Regional Improvement requiring recommendations:

- Element 2 — Data Accuracy: Data in national data system are not consistently accurate. Information from NHDES in files was not complete, which hindered the review of this element.
- Element 6 — Quality of Inspection Reports: Due to missing information in Region 1 files, NHDES inspection reports were generally found to be incomplete. None of the reports reviewed contained sufficient information to determine compliance. Timeliness of federal inspection report completion was also an issue in some cases.
- Element 7 — Identification of Alleged Violations:
 - Finding 7-1: Because complete inspection report documentation was not available in the files, the accuracy of compliance determinations could not be ascertained. Also, many compliance schedule violations are unresolved.
 - Finding 7-2: Single-event violations (SEVs) are not entered into the national data system. Since the review year, Region 1 has received training and has adopted a pilot procedure for SEV entry.
- Element 8 — Identification of SNC: Only two of the files reviewed contained documentation sufficient to confirm that an accurate SNC determination was made. Region 1 notes that since the review it is now part of the region's SEV procedure to designate as SNC those violations that meet the Wet Weather SNC criteria described

in the 2007 Interim Wet Weather SNC Policy.

The following elements met SRF program requirements:

- Element 1: Data Completeness
- Element 3: Timeliness of Data Entry
- Element 4: Completion of Commitments
- Element 5: Inspection Coverage
- Element 9: Enforcement Actions Promote Return to Compliance
- Element 10: Timely and Appropriate Enforcement
- Element 12: Final Penalty Assessment and Collection

The following element could not be evaluated:

- Element 11: Penalty Calculation Method

II. BACKGROUND INFORMATION **ON REGIONAL PROGRAM AND REVIEW PROCESS**

The State Review Framework (SRF) is a program designed to ensure EPA conducts oversight of state and EPA direct implementation compliance and enforcement programs in a nationally consistent and efficient manner. Reviews look at 12 program elements covering data (completeness, timeliness, and quality); inspections (coverage and quality); identification of violations, enforcement actions (appropriateness and timeliness); and penalties (calculation, assessment and collection). Reviews are conducted in three phases: analyzing information from the national data systems; reviewing a limited set of state files; and development of findings and recommendations. Considerable consultation is built into the process, to ensure EPA and the Region 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 Regional programs.

A. GENERAL PROGRAM OVERVIEW

Agency Structure

Region 1 directly implements the NPDES program for New Hampshire. The NPDES responsibilities are handled by four offices at Region 1. Permits are issued by the Office of Environmental Protection (OEP) with legal support from the Office of Regional Counsel. The Office of Environmental Stewardship (OES) handles inspections with some support from OEP for pre-treatment inspections and from the Office of Environmental Measurement and Evaluation for sampling inspections. OES employs both technical and legal experts, who develop and settle enforcement cases. OES data staff code New Hampshire permits into ICIS-NPDES and enter New Hampshire discharge monitoring report data, enforcement milestones and report receipt dates.

Compliance/Enforcement Program Structure

The Office of Environmental Stewardship (OES) is an enforcement and assistance office with both attorneys and technical staff. Within OES, Technical Enforcement is split into four groups: air, water, RCRA/EPCRA, and Toxics/Pesticides. OES has a regulatory legal group which takes cases developed by the technical groups.

Roles and Responsibilities

Because the program is not delegated, Region 1 does not conduct regular reviews of the New Hampshire NPDES program under the State Review Framework. Although it does not have authorization for the NPDES program, NHDES conducts the bulk of the inspections in the state.

Resources

Region 1 employs approximately 1 FTE for data, 1 FTE for technical enforcement and state oversight, and 1 FTE for legal support for the direct implementation of NPDES enforcement in New Hampshire.

Staffing/Training

Region 1 water enforcement staffing levels have fallen by 2 FTE since 2010. Two senior technical staff retired in January 2010, a data analyst retired in 2011, and in 2013, Region 1 lost another senior engineer to retirement. The water enforcement technical group hired two new staff, one in 2011 and one in 2012.

Data Reporting Systems/Architecture

Region 1 enters all New Hampshire NPDES data into ICIS-NPDES.

B. MAJOR REGIONAL PRIORITIES AND ACCOMPLISHMENTS

Priorities

Region 1 implements the EPA national priorities and also carries out regional strategies. In 2010, these included:

Concentrated Animal Feeding Operation inspections, including sampling for bacteria and nutrients, in New Hampshire and Vermont.

Sanitary Sewer Overflows, including implementation of mandatory Capacity Management Operation and Maintenance (CMOM) for all New Hampshire communities with NPDES permits.

Combined Sewer Overflows, with a focus on revisiting existing orders and consent decrees to require further work.

Municipal Stormwater. Issued penalty order to Plaistow for violations of the 2003 MS4 permit.

Stormwater from the Aggregate Sector. Major settlements with two large companies and referral of a third case in FY 2009. Region 1 assisted with the national outreach webinar.

Construction Stormwater. Region 1 continued in FY 2009 to have an active inspection and enforcement presence despite decreased building due to the recession.

Accomplishments

In FY 2009, Region 1 filed two consent decrees which will together keep tens of millions of gallons of raw sewage out of New Hampshire rivers.

A May 28, 2009 settlement with the City of Lebanon will improve the operation and maintenance of the City's wastewater collection system. During heavy rain events, stormwater mixes with wastewater, exceeding the capacity of the collection system and resulting in the discharge of raw sewage from the City's combined sewer overflow (CSO) outfalls. Under the settlement, the City will assess its wastewater collection and transmission system's Capacity, Management, Operation and Maintenance (CMOM) practices to improve efficiency. The City will also completely separate its sanitary wastewater and its stormwater sewers, at an estimated cost of \$30.2 million. The City's sewer separation projects will be completed in phases by November 1 of 2011, 2015, 2018 and 2020. Under the agreement, CSO overflows will be completely eliminated by December 31, 2020.

An August 18, 2009 settlement with the City of Portsmouth requires elimination of sewer overflows and construction of a new wastewater treatment plant. The Administrative Orders and Consent Decree require the City to implement a number of construction projects and to develop a plan for eliminating its overflows entirely. Portsmouth will spend between \$78 and \$110 million dollars, reducing water pollution by over a million pounds per year, and eliminating 13 million gallons per year of raw sewage discharges.

Best Practices:

Region 1 best practices for New Hampshire include:

Water Quality Based Permits: Region 1 states have made excellent progress in assessing water quality which in turn drives water quality based permit limits. Region 1 permits issued in New Hampshire include stringent copper and nutrient limits, require monitoring of combined sewer overflows, and require capacity management and operation and maintenance plans for sewers to prevent overflows. A new MS4 permit for New Hampshire also sets new stringent monitoring and control practices.

NetDMR: Newly reissued New Hampshire permits now require use of NetDMR. Region 1 has over 50 percent of its permit holders trained and operating in NetDMR.

Enforcement: Region 1 instituted electronic storage of all inspection reports and support documents such as photos and sampling data. The electronic storage system allows inspectors to read the history at a facility before inspecting, allows attorneys access to the entire technical file without duplication, and allows coordination and organization between technical staff and attorneys.

Combined Sewer Overflows: Region 1 is working on second generation enforcement actions which will allow for the further elimination of CSOs.

Citizen Monitoring: During FY 2009, Region 1 water inspectors conducted over 100 sampling events for volunteers and community officials at stormwater outfalls in New Hampshire to expand assessments, locate pollution sources and track the improvement of streams and fields. The sampling events aided in demonstrating simple sampling methods for human indicators that can be used by volunteers and communities that will provide the quality of data needed for

enforcement. Region 1 inspectors also evaluated over twenty field and lab screening techniques and methods for accuracy, ease of use, and cost to assess the possibility of creation sampling kits that can be used by volunteers with confidence.

C. PROCESS FOR SRF REVIEW

Describe key steps in the reviews of each media program, including:

Review Period: Reviewed files for Fiscal Year 2009.

Key Dates: Initial notification was sent March 17, 2010, the data pull/PDA was sent May 10, 2010, on-site review was May 24-26, 2010, and the draft report was completed June 11, 2010.

Communication with the Region: OECA and Region 1 began planning for the review in March 2010 with initial discussions and a kick-off meeting to discuss the SRF review process. After the initial discussions were held, the universe of inspection and enforcement files to use in selecting the files for the on-site review was identified. The team downloaded the data metrics and underlying data from the OTIS web site in order to analyze the data and to select the files to be reviewed. After analyzing the data and preparing the list of files for review, a formal letter was sent to the Region on May 10, 2010 that presented the data metrics, identified the files for inspection, and outlined the main data issues. The on-site review was conducted on May 24, 2010, where an entrance meeting with Region 1 initiated the review. The review of the physical and electronic files was concluded on May 26, and a final exit meeting was held with Region 1 at the end of the visit to discuss the review team's initial findings with Region 1.

EPA headquarters and regional lead contacts for review: The EPA headquarters review team consisted of Susan Gilbertson, Allison Donohue, Jim Pendergast, Melissa Saddler, Paul Karaffa, and Greg Siedschlag. The regional contacts were Denny Dart, Susan Studlien, Mike Fedak, Edith Goldman, Mark Mahoney, and Sam Silverman.

III. STATUS OF OUTSTANDING RECOMMENDATIONS FROM PREVIOUS REVIEWS

During the first SRF review of New Hampshire's compliance and enforcement programs, EPA identified a number of actions to be taken to address issues found during the review. **Region 1 completed all of the recommendations at the time of the current SRF review.** Appendix A contains a comprehensive list of completed and outstanding actions for reference.

IV. FINDINGS

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

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

Clean Water Act Program

Element 1 Data Completeness. Degree to which the Minimum Data Requirements are complete.		
1-1	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for Regional Attention <input type="checkbox"/> Area for Regional Improvement – Recommendations Required
	Finding	Region 1 correctly coded permits in the ICIS data system.
	Explanation	Region 1 correctly coded in ICIS all of New Hampshire’s major-facility DMRs and all major and non-major individual permits.
	Metric(s) and Quantitative Value	1b1 — Major individual permits: correctly coded limits (current) <ul style="list-style-type: none"> • Region 1: 47/47 = 100% • National Goal ≥ 95% • National Average = 99.9% 1b2 — Major individual permits: DMR entry rate based on MRs expected <ul style="list-style-type: none"> • Region 1: 321/321 = 100% • National Goal ≥ 95% • National Average = 94.6% 1b3 — Major individual permits: DMR entry rate based on DMRs expected <ul style="list-style-type: none"> • Region 1: 47/47 = 100% • National Goal ≥ 95% • National Average = 93.3% 1c1 — Non-major individual permits: correctly coded limits: 29/29 = 100%
	Regional Response	
	Recommendation	

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.).		
2-1	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for Regional Attention <input checked="" type="checkbox"/> Area for Regional Improvement – Recommendations Required
	Finding	Data in national data system are not consistently accurate. Information in files was not complete, which hindered the review of this element.
	Explanation	The primary challenge to reviewing this element was incomplete NHDES inspection report information in the Regional office files. While the state 3560 inspection report coversheets were generally found, 10 files did not include supporting documentation, and supporting information was not attached to the 3560s.

		<p>The review team checked the Region 1 shared drive (K:) for copies of Region 1 inspection report narratives and where present did note and include these in their analysis.</p> <p>Of the remaining files with adequate information, the review team found that the information was entered accurately into ICIS-NPDES.</p>
	Metric(s) and Quantitative Value	2b — Percentage of files reviewed where data is accurately reflected in the national data system: 10/20 = 50%
	Regional Response	
	Recommendation	<p>2.1.1: Region 1 should develop an internal policy to govern electronic files and all aspects of writing and completing inspection reports within 120 days of the date this report is finalized.</p> <p>2.1.2: Region 1 should obtain copies of complete inspection reports from the state and include those documents in the files within 150 days of report finalization.</p> <p>2.1.3: Region 1 should submit copies to OECA a sampling of complete files to demonstrate complete inspection reports once internal policy governing completing reports is approved and functioning within 210 days of report finalization.</p>

Element 3 Timeliness of Data Entry. Degree to which the Minimum Data Requirements are timely.

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 Regional Attention <input type="checkbox"/> Area for Regional Improvement – Recommendations Required
	Finding	There were no significant differences in the FY 2009 production and frozen data sets in OTIS.
	Explanation	Production data for FY 2009 was compared to the FY 2009 frozen data set used for this review. Frozen data represents the data that existed in the system on a date soon after the close of FY 2009, whereas production data reflects current values. There were no serious discrepancies between the two data sets, which demonstrates that Region 1 entered its New Hampshire FY 2009 data in a timely manner.
	Metric(s) and Quantitative Value	
	Regional Response	
	Recommendation	

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.

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 Regional Attention <input type="checkbox"/> Area for Regional Improvement – Recommendations Required
	Finding	Region 1 met its commitments for all relevant agreements.
	Explanation	Combined state and EPA inspection coverage exceeded the national goal and average for major facilities. Coverage of minor facilities was also satisfactory.
	Metric(s) and Quantitative Value	5a — Inspection coverage: NPDES majors <ul style="list-style-type: none"> • Combined State and EPA (FY 2009): 43/45 = 95.6% • National Goal = 100% every two years • National Average = 66.7% per year 5b1 — Inspection coverage: NPDES non-major individual permits <ul style="list-style-type: none"> • Combined State and EPA (FY 2009): 24/39 = 61.5% 5b2 — Inspection coverage: NPDES non-major general permits <ul style="list-style-type: none"> • Combined State and EPA (FY 2009): 18/81 = 22.2% 5c — Inspection coverage: NPDES other <ul style="list-style-type: none"> • Combined State and EPA (FY 2009): 1/2 = 50%
	Regional Response	
	Recommendation	

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

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 Regional Attention <input type="checkbox"/> Area for Regional Improvement – Recommendations Required
	Finding	New Hampshire’s and Region 1’s combined inspection coverage exceeds the national goal and average for major facilities.
	Explanation	Inspection coverage for New Hampshire exceeded the goals set by the EPA Compliance Monitoring Strategy (CMS). Under the CMS, the region should inspect all major facilities once every two years. For non-major individual permits, inspection coverage should be 100% within a 5-year period. In FY 2009 the state agency and EPA combined to inspect 95.9% of NPDES majors and 61.5% of NPDES non-majors.

Metric(s) and Quantitative Value	<p>5a — Inspection coverage: NPDES majors</p> <ul style="list-style-type: none"> • Combined State and EPA (FY 2009): 43/45 = 95.6% • National Goal = 100% every two years • National Average = 66.7% per year <p>5b1 — Inspection coverage: NPDES non-major individual permits</p> <ul style="list-style-type: none"> • Combined State and EPA (FY 2009): 24/39 = 61.5% <p>5b2 — Inspection coverage: NPDES non-major general permits</p> <ul style="list-style-type: none"> • Combined State and EPA (FY 2009): 18/81 = 22.2% <p>5c — Inspection coverage: NPDES other</p> <ul style="list-style-type: none"> • Combined State and EPA (FY 2009): 1/2 = 50%
Regional Response	
Recommendation	

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.

6-1	<p>Is this finding a(n) (select one):</p> <p><input type="checkbox"/> Good Practice</p> <p><input type="checkbox"/> Meets SRF Program Requirements</p> <p><input type="checkbox"/> Area for Regional Attention</p> <p><input checked="" type="checkbox"/> Area for Regional Improvement – Recommendations Required</p>
Finding	<p>Due to missing NHDES information in files, inspection reports were generally found to be incomplete. None of the reports reviewed contained sufficient information from which to make a compliance determination. Timeliness of inspection report finalization was also an issue in some cases.</p>
Explanation	<p>Of the 17 inspection reports reviewed, only two were complete. While the EPA Form 3560 inspection report coversheets were generally found for NHDES inspections, the files did not contain narrative descriptions of findings, signatures, dates, copies of final permits, and other necessary information.</p> <p>None of the reports reviewed provided sufficient documentation to support a compliance determination. Information in the files and on Region 1's shared drive lacked sufficient information to document if an accurate compliance determination was made.</p> <p>Ten inspection reports were timely based on information in the 3560 forms. For the other five reports, the facility files lacked the information required for the review team to determine if the inspection report was completed within 30 days.</p>
Metric(s) and Quantitative Value	<p>6b — % of inspection reports reviewed that are complete: 2/17 = 11.8%</p> <ul style="list-style-type: none"> • Facilities inspected by state: 2/14 = 14.3% • Facilities inspected by both EPA and state: 0/3 = 0%

	<p>6c — % of inspection reports reviewed that provide sufficient documentation to lead to an accurate compliance determination: 0/17 = 0%</p> <ul style="list-style-type: none"> • Facilities inspected by state: 0/14 = 0% • Facilities inspected by both EPA and state: 0/3 = 0% <p>6d — % of inspection reports reviewed that are timely: 10/17 = 58.8%</p> <ul style="list-style-type: none"> • Facilities inspected by state: 9/14 = 64.3% • Facilities inspected by both EPA and state: 1/3 = 33.3%
Regional Response	
Recommendation	Complete recommendations 2.1.1 through 2.1.3.

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).

7-1	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for Regional Attention <input checked="" type="checkbox"/> Area for Regional Improvement – Recommendations Required
	Finding	Because inspection reports were not complete, the accuracy of compliance determinations could not be ascertained. Also, many compliance schedule violations are unresolved.
	Explanation	<p>Of the 16 files reviewed under metric 7e, only one inspection resulted in a complete inspection report that led to an accurate compliance determination. Facility files often contained copies of the state 3560 inspection report forms. However, supporting narrative information and other documentation was not included. This information is necessary in order to reach a determination that an inspection report led to an accurate determination of compliance.</p> <p>Similarly, the reporting of single-event violations for major and non-major facilities could not be determined based on incomplete inspection files.</p> <p>The national average for unresolved compliance schedule violations is 28.2%. The New Hampshire program has 62.5% unresolved.</p>
	Metric(s) and Quantitative Value	<p>7b — Facilities with unresolved compliance schedule violations (at end of FY)</p> <ul style="list-style-type: none"> • Region 1: 5/8 = 62.5% • National Average = 28.2% <p>7e — % of inspection reports or facility files reviewed that led to accurate</p>

		compliance determinations: 1/16 = 6.3% <ul style="list-style-type: none"> • Facilities inspected by state: 1/13 = 7.7% • Facilities inspected by both EPA and state: 0/3 = 0%
	Regional Response	
	Recommendation	Complete recommendations 2.1.1 through 2.1.3.

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).

7-2	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for Regional Attention <input checked="" type="checkbox"/> Area for Regional Improvement – Recommendations Required
	Finding	Single-event violations (SEVs) are not entered into the national data system.
	Explanation	SEVs did occur and were addressed in the enforcement actions taken. However, the review team found that SEVs were not entered into ICIS-NPDES.
	Metric(s) and Quantitative Value	7a1 — SEVs at majors: 0 entered 7a2 — SEVs at non-majors: 0 entered
	Regional Response	
	Recommendation	7.2.1: Region 1 should send to OECA its SOP for entering single-event violations into ICIS within 30 days of the date this report is finalized. OECA will review to confirm that the SOP is in line with national policy. 7.2.2: Region 1 should begin entering all single-event violations into ICIS within 120 days of report finalization. 7.2.3: Region 1 should link single-event violations to the enforcement action in ICIS within 120 days of report finalization.

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.

8-1	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for Regional Attention <input checked="" type="checkbox"/> Area for Regional Improvement – Recommendations Required
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Finding	Only two of the files reviewed were confirmed to contain accurate significant non-compliance (SNC) determinations.
Explanation	Of the nine files reviewed under this element, only two accurate SNC determinations could be confirmed. None of the other seven files had the documentation necessary to determine whether single-event violations (SEVs) were accurately identified as SNC or non-SNC. The review team examined information from the ICIS data system, available discharge monitoring reports, and information in the facility files to assess SNC status. In these seven files, none of these information sources contained supporting narrative information and documentation.
Metric(s) and Quantitative Value	8b — % of SEVs accurately identified as SNC or non-SNC: 2/9 = 22.2% <ul style="list-style-type: none"> Facilities inspected by state: 2/8 = 25% Facilities inspected by both EPA and state: 0/1 = 0% 8c — % of SEVs identified as SNC that are reported timely: 4/9 = 44.4% <ul style="list-style-type: none"> Facilities inspected by state: 3/7 = 42.9% Facilities inspected by both EPA and state: 1/2 = 50%
Regional Response	
Recommendation	Complete recommendations 2.1.1 through 2.1.3.

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

9-1	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for Regional Attention <input type="checkbox"/> Area for Regional Improvement – Recommendations Required
Finding	Enforcement responses generally return facilities to compliance.	
Explanation	Of the enforcement responses reviewed, 5 of 6 have returned or will return a source in SNC to compliance. There were also 10 enforcement responses reviewed for non-SNC violations. Eight of these returned or will return a source with non-SNC violations to compliance.	
Metric(s) and Quantitative Value	9b — % of enforcement responses that have returned or will return a source in SNC to compliance: 5/6 = 83.3% 9c — % of enforcement responses that have returned or will return a source in non-SNC to compliance: 8/10 = 80%	
Regional Response		
Recommendation		

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

10-1	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for Regional Attention <input type="checkbox"/> Area for Regional Improvement – Recommendations Required
	Finding	Region 1 enforcement actions are generally appropriate and taken in a timely manner.
	Explanation	<p>Region 1’s enforcement responses for both SNC and non-SNC violations were generally appropriate in all cases. Of the six SNC violations reviewed, five led to appropriate formal actions. Nine of the 11 of the non-SNC violations reviewed were also addressed with appropriate enforcement responses.</p> <p>Performance was not as consistent with regard to timeliness but was nonetheless adequate. Of the six SNC enforcement responses reviewed, three were not taken in a timely manner, but one was a state-led response in which there was no information in the state formal administrative order to document timeliness of the enforcement response. Data metric 10a also indicates that there were a total of 12 major facilities without timely enforcement action in FY 2009.</p>
	Metric(s) and Quantitative Value	<p>10a — Major facilities without timely action</p> <ul style="list-style-type: none"> • Region 1: 12/46 = 26.1% • National Goal < 2% • National Average = 18.6% <p>10b — Percentage of enforcement responses reviewed that address SNC that are taken in a timely manner: 3/6 = 50%</p> <p>10c — % of enforcement responses reviewed that address SNC that are appropriate to the violations: 5/6 = 83.3%</p> <p>10d — % of enforcement responses reviewed that appropriately address non-SNC violations: 9/11 = 81.8%</p> <p>10e — % enforcement responses for non-SNC violations where a response was taken in a timely manner: 8/10 = 80%</p>
	Regional Response	
	Recommendation	

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

11-1	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for Regional Attention <input type="checkbox"/> Area for Regional Improvement – Recommendations Required
	Finding	No finding made: There were no penalty actions to review under this element.
	Explanation	
	Metric(s) and Quantitative Value	11a — Percentage of penalty calculations that consider and include where appropriate gravity and economic benefit: 0/0
	Regional Response	
	Recommendation	

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

12-1	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for Regional Attention <input type="checkbox"/> Area for Regional Improvement – Recommendations Required
	Finding	One penalty was reviewed under this element. It did not include the required documentation.
	Explanation	
	Metric(s) and Quantitative Value	12a — % of penalties reviewed that document difference between and rationale for the initial and final assessed penalty: 0/1 = 0% 12b — % of enforcement actions with penalties that document collection of penalty: 0/1 = 0%
	Regional Response	
	Recommendation	

APPENDIX A: STATUS OF RECOMMENDATIONS FROM PREVIOUS REVIEWS

During the first SRF review of New Hampshire's compliance and enforcement programs, EPA identified a number of actions to be taken to address issues found during the review. The table below shows the status of progress toward completing those actions.

Status	Due Date	Media	E#	Element	Finding	Explanation
Completed	5/22/2007	CWA	E7	Penalty Calculations	Document consideration of Economic Benefit	The CARP should be followed and economic benefit calculated in each civil judicial case in order to ensure there is no economic benefit gained through non-compliance. Any deviation from the CARP should be fully documented in writing.
Completed	5/22/2007	CWA	E8	Penalties Collected	Consider use of injunctive relief instead of SEPs	Develop procedures to evaluate whether a proposed SEP should be considered as injunctive rather than as an environmental project that would not otherwise be required.
Completed	12/31/2007	CWA	E3	Violations ID'ed Timely	Enforcement and compliance files were in different places and difficult to locate.	Region 1 should develop a plan for organizing and maintaining the historical compliance and enforcement files to ensure that they have the requisite documentation so files contain historical records for a facility and that Regional inspectors and managers have ready access to these materials.
Completed	3/31/2008	CWA	E2	Violations ID'ed Appropriately	Inspection reports are not always complete.	Region 1 should develop an SOP and a system to track the process for conducting inspections, completing inspection reports, and documenting determinations of violations. It is important to identify SNCs and SEVs as quickly as possible in order to adhere to the timeliness criteria for issuing enforcement actions. Inspection reports need to be complete enough to determine what was inspected and what was found. In the long run, the files should contain the historic record of the facility to ensure that future inspectors can easily find inspection reports, notes to the file and other files information. This will help inspectors to understand the compliance history of a facility.
Completed	12/31/2007	CWA	E3	Violations ID'ed Timely	Untimely inspection reports	For those inspections reports that took more than 30 days, especially the one that took 98 days, the Region should examine the reasons for why it took so long to write a final report and prepare a plan for avoiding unduly long delays.
Completed	3/31/2008	CWA	E3 , E4	Violations ID'ed Timely, SNC Accuracy	Single Event Violations are not being entered into the data system.	The Region needs to begin reporting single event violations into ICIS-NPDES as soon as possible. Also, the Region needs to use CEIs to identify SNC when appropriate.

Status	Due Date	Media	E#	Element	Finding	Explanation
Completed	10/1/2007	CWA	E4	SNC Accuracy	CSO-SSO data are being entered into the national data system.	Information currently available only in the Region's CSO-SSO database needs to be entered into the national data system so that it will be accessible by OECA and the public. The new 3560 form (distributed in January 2006) contains a list of single event violations to facilitate data entry.
Completed	12/31/2007	CWA	E6	Timely & Appropriate Actions	Region was not timely in addressing and reporting SNC into the data system.	Region 1 should continue to improve its timeliness of addressing and reporting SNC to ICIS-NPDES. The work group already in place to look at this issue is a good start and should be encouraged. The group should share its findings and implementation schedule to OECA for review and comment.
Completed	12/31/2007	CWA	E8	Penalties Collected	Region does not always report penalties into the data system.	Reporting penalties into ICIS-NPDES is not a requirement, but OECA suggest that Region 1 begin to report them in order to show the complete picture of their enforcement activities. The Region will enter penalty information into ICIS as it has in the past.
Completed	3/31/2008	CWA	E10	Data Timely	Data quality issues.	The Region should develop an SOP or management practice to assure that actions in ICIS-NPDES are appropriately linked to a NPDES facility or permit, that SEV violations are entered in the data systems, and that inspections are reported in the data systems in a timely manner.
Completed	12/31/2007	CWA	E11	Data Accurate	Data quality issues	The Region should begin to link actions to violations in PCS (or ICIS-NPDES) as required.
Completed	11/30/2007	CWA	E11, E12	Data Accurate, Data Complete	Data quality issues.	For metric 12 g1 and g2, OC would like the Region to analyze why the non compliance rates seem so high and report back to OECA.
Completed	10/1/2007	CWA	E12	Data Complete	Data quality issues	The Region needs to improve its rate for "correctly coded limits" and begin tracking the items referred to as "informal actions" (described above) in the national data system.
Completed	9/30/2007	CWA	E12	Data Complete	Data quality issues.	If resources are an issue in implementing these recommendations, the Region may consider asking the State to assume some data entry responsibilities.

APPENDIX B: OFFICIAL DATA PULL

Metric	Metric Description	Metric Type	Agency	National Goal	National Average	NH metric	Count	Universe	Not Counted
P01A1C	Active facility universe: NPDES major individual permits (Current)	Data Quality	Combined			46	NA	NA	NA
P01A2C	Active facility universe: NPDES major general permits (Current)	Data Quality	Combined			0	NA	NA	NA
P01A3C	Active facility universe: NPDES non-major individual permits (Current)	Data Quality	Combined			40	NA	NA	NA
P01A4C	Active facility universe: NPDES non-major general permits (Current)	Data Quality	Combined			81	NA	NA	NA
P01B1C	Major individual permits: correctly coded limits (Current)	Goal	Combined	≥ 95%	99.9%	100.0%	47	47	0
C01B2C	Major individual permits: DMR entry rate based on MRs expected (Forms/Forms) (1 Qtr)	Goal	Combined	≥ 95%	94.6%	100.0%	321	321	0
C01B3C	Major individual permits: DMR entry rate based on DMRs expected (Permits/Permits) (1 Qtr)	Goal	Combined	≥ 95%	93.3%	100.0%	47	47	0
P01B4C	Major individual permits: manual RNC/SNC override rate (1 FY)	Data Quality	Combined			0.0%	0	14	14
P01C1C	Non-major individual permits: correctly coded limits (Current)	Informational Only	Combined			100.0%	29	29	0
C01C2C	Non-major individual permits: DMR entry rate based on DMRs expected (Forms/Forms) (1 Qtr)	Informational Only	Combined			89.7%	217	242	25

Metric	Metric Description	Metric Type	Agency	National Goal	National Average	NH metric	Count	Universe	Not Counted
C01C3C	Non-major individual permits: DMR entry rate based on DMRs expected (Permits/Permits) (1 Qtr)	Informational Only	Combined			67.5%	27	40	13
P01D1C	Violations at non-majors: noncompliance rate (1 FY)	Informational Only	Combined			70.0%	28	40	12
C01D2C	Violations at non-majors: noncompliance rate in the annual noncompliance report (ANCR)(1 CY)	Informational Only	Combined			0 / 0	0	0	0
P01D3C	Violations at non-majors: DMR non-receipt (3 FY)	Informational Only	Combined			35	NA	NA	NA
P01E1S	Informal actions: number of major facilities (1 FY)	Data Quality	State			0	NA	NA	NA
P01E1E	Informal actions: number of major facilities (1 FY)	Data Quality	EPA			0	NA	NA	NA
P01E2S	Informal actions: number of actions at major facilities (1 FY)	Data Quality	State			0	NA	NA	NA
P01E2E	Informal actions: number of actions at major facilities (1 FY)	Data Quality	EPA			0	NA	NA	NA
P01E3S	Informal actions: number of non-major facilities (1 FY)	Data Quality	State			0	NA	NA	NA
P01E3E	Informal actions: number of non-major facilities (1 FY)	Data Quality	EPA			0	NA	NA	NA
P01E4S	Informal actions: number of actions at non-major facilities (1 FY)	Data Quality	State			0	NA	NA	NA
P01E4E	Informal actions: number of actions at non-major facilities (1 FY)	Data Quality	EPA			0	NA	NA	NA

Metric	Metric Description	Metric Type	Agency	National Goal	National Average	NH metric	Count	Universe	Not Counted
P01F1S	Formal actions: number of major facilities (1 FY)	Data Quality	State			0	NA	NA	NA
P01F1E	Formal actions: number of major facilities (1 FY)	Data Quality	EPA			5	NA	NA	NA
P01F2S	Formal actions: number of actions at major facilities (1 FY)	Data Quality	State			0	NA	NA	NA
P01F2E	Formal actions: number of actions at major facilities (1 FY)	Data Quality	EPA			5	NA	NA	NA
P01F3S	Formal actions: number of non-major facilities (1 FY)	Data Quality	State			0	NA	NA	NA
P01F3E	Formal actions: number of non-major facilities (1 FY)	Data Quality	EPA			4	NA	NA	NA
P01F4S	Formal actions: number of actions at non-major facilities (1 FY)	Data Quality	State			0	NA	NA	NA
P01F4E	Formal actions: number of actions at non-major facilities (1 FY)	Data Quality	EPA			4	NA	NA	NA
P01G1S	Penalties: total number of penalties (1 FY)	Data Quality	State			0	NA	NA	NA
P01G1E	Penalties: total number of penalties (1 FY)	Data Quality	EPA			0	NA	NA	NA
P01G2S	Penalties: total penalties (1 FY)	Data Quality	State			\$0	NA	NA	NA
P01G2E	Penalties: total penalties (1 FY)	Data Quality	EPA			\$0	NA	NA	NA
P01G3S	Penalties: total collected pursuant to civil judicial actions (3 FY)	Data Quality	State			\$0	NA	NA	NA
P01G3E	Penalties: total collected pursuant to civil judicial actions (3 FY)	Data Quality	EPA			\$0	NA	NA	NA
P01G4S	Penalties: total collected pursuant to administrative actions (3 FY)	Informational Only	State			\$0	NA	NA	NA

Metric	Metric Description	Metric Type	Agency	National Goal	National Average	NH metric	Count	Universe	Not Counted
P01G4E	Penalties: total collected pursuant to administrative actions (3 FY)	Informational Only	EPA			\$0	NA	NA	NA
P01G5S	No activity indicator - total number of penalties (1 FY)	Data Quality	State			\$0	NA	NA	NA
P01G5E	No activity indicator - total number of penalties (1 FY)	Data Quality	EPA			\$0	NA	NA	NA
P02A0S	Actions linked to violations: major facilities (1 FY)	Data Quality	State	≥ 80%		0 / 0	0	0	0
P02A0E	Actions linked to violations: major facilities (1 FY)	Data Quality	EPA	≥ 80%		0.0%	0	5	5
P05A0S	Inspection coverage: NPDES majors (1 FY)	Goal	State	100%	63.9%	95.6%	43	45	2
P05A0E	Inspection coverage: NPDES majors (1 FY)	Goal	EPA	100%	5.8%	11.1%	5	45	40
P05A0C	Inspection coverage: NPDES majors (1 FY)	Goal	Combined	100%	66.7%	95.6%	43	45	2
P05B1S	Inspection coverage: NPDES non-major individual permits (1 FY)	Goal	State			61.5%	24	39	15
P05B1E	Inspection coverage: NPDES non-major individual permits (1 FY)	Goal	EPA			0.0%	0	39	39
P05B1C	Inspection coverage: NPDES non-major individual permits (1 FY)	Goal	Combined			61.5%	24	39	15
P05B2S	Inspection coverage: NPDES non-major general permits (1 FY)	Goal	State			22.2%	18	81	63
P05B2E	Inspection coverage: NPDES non-major general permits (1 FY)	Goal	EPA			0.0%	0	81	81

Metric	Metric Description	Metric Type	Agency	National Goal	National Average	NH metric	Count	Universe	Not Counted
P05B2C	Inspection coverage: NPDES non-major general permits (1 FY)	Goal	Combined			22.2%	18	81	63
P05C0S	Inspection coverage: NPDES other (not 5a or 5b) (1 FY)	Informational Only	State			50.0%	1	2	1
P05C0E	Inspection coverage: NPDES other (not 5a or 5b) (1 FY)	Informational Only	EPA			0.0%	0	2	2
P05C0C	Inspection coverage: NPDES other (not 5a or 5b) (1 FY)	Informational Only	Combined			50.0%	1	2	1
P07A1C	Single-event violations at majors (1 FY)	Review Indicator	Combined			0	NA	NA	NA
P07A2C	Single-event violations at non-majors (1 FY)	Informational Only	Combined			0	NA	NA	NA
P07B0C	Facilities with unresolved compliance schedule violations (at end of FY)	Data Quality	Combined		28.2%	62.5%	5	8	3
P07C0C	Facilities with unresolved permit schedule violations (at end of FY)	Data Quality	Combined		27.0%	31.1%	14	45	31
P07D0C	Percentage major facilities with DMR violations (1 FY)	Data Quality	Combined		53.0%	80.4%	37	46	9
P08A1C	Major facilities in SNC (1 FY)	Review Indicator	Combined			14	NA	NA	NA
P08A2C	SNC rate: percent majors in SNC (1 FY)	Review Indicator	Combined		23.2%	30.4%	14	46	32
P10A0C	Major facilities without timely action (1 FY)	Goal	Combined	< 2%	18.6%	26.1%	12	46	34

APPENDIX C: PDA TRANSMITTAL LETTER

Appendices C, D and E provide 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.

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

May 10, 2010

Susan Studlien
Enforcement Division Director
EPA New England, Region 1
Suite 100
5 Post Office Square
Boston, MA 02109-3912

Dear Susan:

In our opening letter of March 25, 2010, EPA's Office of Enforcement and Compliance Assurance (OECA) notified EPA Region 1 of its intention to begin the State Framework Review of Regions 1's Clean Water Act NPDES Enforcement Program in New Hampshire. As noted, the base year for review will be federal fiscal year 2009. Thank you for providing the requested information and your response to the official data metrics results sent on May 4, 2010. OECA has analyzed the data against set goals and commitments, and with this letter, are transmitting our analysis and the file selection to you.

This follow-up letter includes our preliminary analysis of the EPA Region data metrics results, the official data metrics results spreadsheet(s) with any EPA Region-provided data corrections/discrepancies, our focus areas for the upcoming on-site file review, and the files that have been selected for review.

In this transmittal, we also are outlining any specific conditions or information that we are aware of and may be relevant to the review (for example, credits under Element 13, special situations regarding data flow, etc). We are providing this information to you in advance so that you have adequate time to compile the files that we will review and can begin pulling together any supplemental information that you think may be of assistance during the review. After reviewing the enclosed information, if there are additional circumstances that OECA should consider during the review, please provide that information to us prior to the on-site file review.

OECA has established a cross program team of managers and senior staff to implement the Region 1 review. Melissa Saddler will be OECA's primary contact for the review. She will lead the review team, directing all aspects of the review for the region. Susan Gilbertson is OECA's SRF Team Leader with overall responsibility for the review. The NPDES program expert on the review team will be Allison Donohue. All team members will perform their onsite review of Regions 1's Clean Water Act NPDES Enforcement Program of New Hampshire beginning May 24, 2010 and ending May 27, 2010. OECA is requesting that a room with secure Internet accessibility be available.

Please note that the enclosed preliminary findings are based only on the data metrics results themselves. Final findings may be significantly different based upon the results of the file review and ongoing discussions with you and your staff. If you have any questions about the process that we intend to use, please contact Melissa Saddler.

All information and material used in this review may be subject to federal and/or state disclosure laws. While EPA intends to use this information only for discussions with EPA Region 1, it may be necessary to release information in response to a properly submitted request.

Sincerely,

Chris Knopes, Director, NPMAS

Enclosure 1 – CWA Preliminary Data Analysis of EPA Region’s SRF Data Metrics
Enclosure 2 – CWA Data Metrics Preliminary Data Analysis Worksheet
Enclosure 3 – CWA Explanation of File Selection
Enclosure 4 – CWA Table of Selected Files

cc: Lisa Lund, Director, Office of Compliance
David Hindin, Deputy Director, Office of Compliance

Clean Water Act Enclosure 1
Preliminary Data Analysis of EPA Region's SRF Data Metrics

I. Introduction – Purpose of Preliminary Data Analysis

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

Preliminary review by OECA of CWA SRF data metrics results for the FY 2009 period has identified both positive accomplishments and potential areas of concern that will require a focused dialogue. The SRF on-site file review meeting(s) will cover all SRF metrics (data and file review), including additional Element 13 information if submitted by the Region. This enclosure provides a detailed look at OECA's preliminary data analysis.

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

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

- The SRF Tracker includes the following items that OECA kept in mind during the preliminary data analysis:
 - Region 1 completed all 14 of the identified recommendations for New Hampshire CWA NPDES Enforcement program.

III. Preliminary Data Analysis of EPA Region’s Data Metrics Results

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

Original Data Pulled from Online Tracking Information System (OTIS)									EPA Preliminary Analysis
Metric	Metric Description	Metric Type	Agency	National Goal	National Average	New Hampshire Metric	Count	Universe	Initial Findings
C01C3C	Non-major individual permits: DMR entry rate based on DMRs expected (Permits/Permits) (1 Qtr)	Informational Only	Combined			67.5%	27	40	Below national goal (95%). Should discuss reasons why DMRs entered into database low and when to be corrected.
P01D3C	Violations at non-majors: DMR non-receipt (3 FY)	Informational Only	Combined			35	NA	NA	35 non-majors have DMR non-receipt for 3 years. Additional analysis on this metric should be done.
P01E1E	Informal actions: number of major facilities (1 FY)	Data Quality	EPA			0	NA	NA	No data for this required metric. Files from facilities with informal actions will be examined.
P01E2E	Informal actions: number of actions at major facilities (1 FY)	Data Quality	EPA			0	NA	NA	No data for this required metric. Files from facilities with informal actions will be examined.
P01E3E	Informal actions: number of non-major facilities (1 FY)	Data Quality	EPA			0	NA	NA	No data for this required metric. Files from facilities with informal actions will be examined.
P01E4E	Informal actions: number of actions at non-major facilities (1 FY)	Data Quality	EPA			0	NA	NA	No data for this required metric. Files from facilities with informal actions will be examined.
P01F1E	Formal actions: number of major facilities (1 FY)	Data Quality	EPA			5	NA	NA	Low number of formal actions. Files from facilities with informal actions will be examined.
P01F3S	Formal actions: number of non-major facilities (1 FY)	Data Quality	State			0	NA	NA	No data for this required metric. Files from facilities with informal actions will be examined.
P02A0S	Actions linked to violations: major facilities (1 FY)	Data Quality	State	≥ 80%		0 / 0	0	0	No data for this required metric. Files from facilities with informal actions will be examined.

P02A0E	Actions linked to violations: major facilities (1 FY)	Data Quality	EPA	≥ 80%		0.0%	0	5	Little data for this required metric. Files from facilities with informal actions will be examined.
P05A0E	Inspection coverage: NPDES majors (1 FY)	Goal	EPA	100%	5.8%	11.1%	5	45	Well below the national average, but still exceeds the national average
P05B1E	Inspection coverage: NPDES non-major individual permits (1 FY)	Goal	EPA			0.0%	0	39	Percentage of inspections below 20%
P05B2E	Inspection coverage: NPDES non-major general permits (1 FY)	Goal	EPA			0.0%	0	81	Percentage of inspections below 20%
P07A1C	Single-event violations at majors (1 FY)	Review Indicator	Combined			0	NA	NA	No violations determined through inspections
P08A2C	SNC rate: percent majors in SNC (1 FY)	Review Indicator	Combined		23.2%	30.4%	14	46	Reduction in rate should be discussed
P10A0C	Major facilities without timely action (1 FY)	Goal	Combined	< 2%	18.6%	26.1%	12	46	Average is above national average and SNCs may not have received timely action

Clean Water Act Enclosure 2
CWA Data Metrics Preliminary Data Analysis Worksheet with EPA Region-Provided Data Discrepancies Columns

Original Data Pulled from Online Tracking Information System (OTIS)									EPA Preliminary Analysis
Metric	Metric Description	Metric Type	Agency	National Goal	National Average	New Hampshire Metric	Count	Universe	Initial Findings
P01A1C	Active facility universe: NPDES major individual permits (Current)	Data Quality	Combined			46	NA	NA	
P01A2C	Active facility universe: NPDES major general permits (Current)	Data Quality	Combined			0	NA	NA	
P01A3C	Active facility universe: NPDES non-major individual permits (Current)	Data Quality	Combined			40	NA	NA	
P01A4C	Active facility universe: NPDES non-major general permits (Current)	Data Quality	Combined			81	NA	NA	
P01B1C	Major individual permits: correctly coded limits (Current)	Goal	Combined	≥ 95%	99.9%	100.0%	47	47	Exceeds goal and national average
C01B2C	Major individual permits: DMR entry rate based on MRs expected (Forms/Forms) (1 Qtr)	Goal	Combined	≥ 95%	94.6%	100.0%	321	321	Exceeds goal and national average
C01B3C	Major individual permits: DMR entry rate based on DMRs expected (Permits/Permits) (1 Qtr)	Goal	Combined	≥ 95%	93.3%	100.0%	47	47	Exceeds goal and national average
P01B4C	Major individual permits: manual RNC/SNC override rate (1 FY)	Data Quality	Combined			0.0%	0	14	
P01C1C	Non-major individual permits: correctly coded limits (Current)	Informational Only	Combined			100.0%	29	29	
C01C2C	Non-major individual permits: DMR entry rate based on DMRs expected (Forms/Forms) (1 Qtr)	Informational Only	Combined			89.7%	217	242	Below national goal (95%). Should discuss reasons why and identify when to be corrected.
C01C3C	Non-major individual permits: DMR entry rate based on DMRs expected (Permits/Permits) (1 Qtr)	Informational Only	Combined			67.5%	27	40	Below national goal (95%). Should discuss reasons why DMRs entered into database and when to be corrected.

Metric	Metric Description	Metric Type	Agency	National Goal	National Average	New Hampshire Metric	Count	Universe	Initial Findings
P01D1C	Violations at non-majors: noncompliance rate (1 FY)	Informational Only	Combined			70.0%	28	40	
C01D2C	Violations at non-majors: noncompliance rate in the annual noncompliance report (ANCR)(1 CY)	Informational Only	Combined			0 / 0	0	0	Metric is information only and data not required. No data available to evaluate.
P01D3C	Violations at non-majors: DMR non-receipt (3 FY)	Informational Only	Combined			35	NA	NA	35 non-majors have DMR non-receipt for 3 years. Additional analysis on this metric should be done.
P01E1S	Informal actions: number of major facilities (1 FY)	Data Quality	State			0	NA	NA	No data for this required metric. Files from facilities with informal actions will be examined.
P01E1E	Informal actions: number of major facilities (1 FY)	Data Quality	EPA			0	NA	NA	No data for this required metric. Files from facilities with informal actions will be examined.
P01E2S	Informal actions: number of actions at major facilities (1 FY)	Data Quality	State			0	NA	NA	No data required.
P01E2E	Informal actions: number of actions at major facilities (1 FY)	Data Quality	EPA			0	NA	NA	No data for this required metric. Files from facilities with informal actions will be examined.
P01E3S	Informal actions: number of non-major facilities (1 FY)	Data Quality	State			0	NA	NA	No data required.
P01E3E	Informal actions: number of non-major facilities (1 FY)	Data Quality	EPA			0	NA	NA	No data for this required metric. Files from facilities with informal actions will be examined.
P01E4S	Informal actions: number of actions at non-major facilities (1 FY)	Data Quality	State			0	NA	NA	No data required.
P01E4E	Informal actions: number of actions at non-major facilities (1 FY)	Data Quality	EPA			0	NA	NA	No data for this required metric. Files from facilities with informal actions will be examined.
P01F1S	Formal actions: number of major facilities (1 FY)	Data Quality	State			0	NA	NA	No data required.

Metric	Metric Description	Metric Type	Agency	National Goal	National Average	New Hampshire Metric	Count	Universe	Initial Findings
P01F1E	Formal actions: number of major facilities (1 FY)	Data Quality	EPA			5	NA	NA	Low number of formal actions. Files from facilities with informal actions will be examined.
P01F2S	Formal actions: number of actions at major facilities (1 FY)	Data Quality	State			0	NA	NA	No data required.
P01F2E	Formal actions: number of actions at major facilities (1 FY)	Data Quality	EPA			5	NA	NA	Low number of formal actions. Files from facilities with informal actions will be examined.
P01F3S	Formal actions: number of non-major facilities (1 FY)	Data Quality	State			0	NA	NA	No data required.
P01F3E	Formal actions: number of non-major facilities (1 FY)	Data Quality	EPA			4	NA	NA	Low number of formal actions. Files from facilities with informal actions will be examined.
P01F4S	Formal actions: number of actions at non-major facilities (1 FY)	Data Quality	State			0	NA	NA	No data required.
P01F4E	Formal actions: number of actions at non-major facilities (1 FY)	Data Quality	EPA			4	NA	NA	Low number of formal actions. Files from facilities with informal actions will be examined.
P01G1S	Penalties: total number of penalties (1 FY)	Data Quality	State			0	NA	NA	No data for this required metric. Files from facilities with informal actions will be examined.
P01G1E	Penalties: total number of penalties (1 FY)	Data Quality	EPA			0	NA	NA	No data for this required metric. Files from facilities with informal actions will be examined.
P01G2S	Penalties: total penalties (1 FY)	Data Quality	State			\$0	NA	NA	
P01G2E	Penalties: total penalties (1 FY)	Data Quality	EPA			\$0	NA	NA	
P01G3S	Penalties: total collected pursuant to civil judicial actions (3 FY)	Data Quality	State			\$0	NA	NA	
P01G3E	Penalties: total collected pursuant to civil judicial actions (3 FY)	Data Quality	EPA			\$0	NA	NA	
P01G4S	Penalties: total collected pursuant to administrative actions (3 FY)	Informational Only	State			\$0	NA	NA	

Metric	Metric Description	Metric Type	Agency	National Goal	National Average	New Hampshire Metric	Count	Universe	Initial Findings
P01G4E	Penalties: total collected pursuant to administrative actions (3 FY)	Informational Only	EPA			\$0	NA	NA	
P01G5S	No activity indicator - total number of penalties (1 FY)	Data Quality	State			\$0	NA	NA	
P01G5E	No activity indicator - total number of penalties (1 FY)	Data Quality	EPA			\$0	NA	NA	
P02A0S	Actions linked to violations: major facilities (1 FY)	Data Quality	State	≥ 80%		0 / 0	0	0	No data for this required metric. Files from facilities with informal actions will be examined.
P02A0E	Actions linked to violations: major facilities (1 FY)	Data Quality	EPA	≥ 80%		0.0%	0	5	Little data for this required metric. Files from facilities with informal actions will be examined.
P05A0S	Inspection coverage: NPDES majors (1 FY)	Goal	State	100%	63.9%	95.6%	43	45	Above national average, but below the goal
P05A0E	Inspection coverage: NPDES majors (1 FY)	Goal	EPA	100%	5.8%	11.1%	5	45	Well below the national average, but still exceeds the national average
P05A0C	Inspection coverage: NPDES majors (1 FY)	Goal	Combined	100%	66.7%	95.6%	43	45	Exceeds national average, but below national goal
P05B1S	Inspection coverage: NPDES non-major individual permits (1 FY)	Goal	State			61.5%	24	39	
P05B1E	Inspection coverage: NPDES non-major individual permits (1 FY)	Goal	EPA			0.0%	0	39	Percentage of inspections below 20%
P05B1C	Inspection coverage: NPDES non-major individual permits (1 FY)	Goal	Combined			61.5%	24	39	
P05B2S	Inspection coverage: NPDES non-major general permits (1 FY)	Goal	State			22.2%	18	81	Just above 20% of required inspections
P05B2E	Inspection coverage: NPDES non-major general permits (1 FY)	Goal	EPA			0.0%	0	81	Percentage of inspections below 20%
P05B2C	Inspection coverage: NPDES non-major general permits (1 FY)	Goal	Combined			22.2%	18	81	Just above 20% of required inspections
P05C0S	Inspection coverage: NPDES other (not 5a or 5b) (1 FY)	Informational Only	State			50.0%	1	2	

Metric	Metric Description	Metric Type	Agency	National Goal	National Average	New Hampshire Metric	Count	Universe	Initial Findings
P05C0E	Inspection coverage: NPDES other (not 5a or 5b) (1 FY)	Informational Only	EPA			0.0%	0	2	Metric is information only and data not required. No data available to evaluate.
P05C0C	Inspection coverage: NPDES other (not 5a or 5b) (1 FY)	Informational Only	Combined			50.0%	1	2	
P07A1C	Single-event violations at majors (1 FY)	Review Indicator	Combined			0	NA	NA	No violations determined through inspections
P07A2C	Single-event violations at non-majors (1 FY)	Informational Only	Combined			0	NA	NA	Metric is information only and data not required. No data available to evaluate.
P07B0C	Facilities with unresolved compliance schedule violations (at end of FY)	Data Quality	Combined		28.2%	62.5%	5	8	
P07C0C	Facilities with unresolved permit schedule violations (at end of FY)	Data Quality	Combined		27.0%	31.1%	14	45	
P07D0C	Percentage major facilities with DMR violations (1 FY)	Data Quality	Combined		53.0%	80.4%	37	46	
P08A1C	Major facilities in SNC (1 FY)	Review Indicator	Combined			14	NA	NA	
P08A2C	SNC rate: percent majors in SNC (1 FY)	Review Indicator	Combined		23.2%	30.4%	14	46	Reduction in rate should be discussed
P10A0C	Major facilities without timely action (1 FY)	Goal	Combined	< 2%	18.6%	26.1%	12	46	Average is above national average and SNCs may not have received timely action

Clean Water Act Enclosure 3 Explanation of File Selection

EPA has followed the SRF File Selection Protocol when selecting the listed files. This includes a representative sample of files, and may include supplemental file review. Under the File Selection Protocol, EPA may examine additional files to help better understand whether any potential areas of concern identified via the data metrics review are substantiated. These additional files are noted below.

EPA is requesting 20 files for the CWA Direct Implementation SRF review. The representative file selection method was conducted using the methodology described in the File Selection Protocol (using the OTIS website). Twenty files were selected. There are no additional supplemental files needed to assess an areas of potential concern noted in the preliminary data analysis (no SEVs reported). Supplemental file reviews 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.

**Clean Water Act Enclosure 4
Table of Selected Files**

Name	Program ID	Street	City	State	Zip	Permit	Insp	Viol	SEV	SNC	Inf Act	Frm Act	Penalty	Universe	Select
AVRRDD WWTP	NH0023523	SHELBY ST	BERLIN	NH	03570		1	10	0	0	0	1	0	Minor	accepted _representative
BIO-ENERGY LLC	NH0021652	1994 MAPLE STEET	WEST HOPKINGTON	NH	03229		1	0	0	0	0	0	0	Major	accepted _representative
HENNIKER WASTEWATER TREATMENT FACILITY	NH0100102	199 RAMSDELL RD	HENNIKER	NH	03242	POT	1	0	0	0	0	0	0	Major	accepted _representative
JAFFREY WASTEWATER TREATMENT FACILITY	NH0100595	OLD SHARON ROAD	JAFFREY	NH	03452	POT PRE	3	30	0	3	0	0	0	Major	accepted _representative
KEENE WASTEWATER TREATMENT FACILITY	NH0100790	AIRPORT ROAD	KEENE	NH	03431	POT PRE	1	28	0	3	0	1	0	Major	accepted _representative
LEBANON WWTF	NH0100366	130 SOUTH MAIN STREET	WEST LEBANON	NH	03784	POT	1	6	0	2	0	1	0	Major	accepted _representative
MANCHESTER CITY OF	NH0100447	300 WINSTON STREET	MANCHESTER	NH	03103	CSO POT PRE	3	14	0	4	0	1	0	Major	accepted _representative
MILTON W W T F	NH0100676	ROUTE 125	MILTON	NH	03851	POT	1	12	0	1	0	0	0	Minor	accepted _representative
MONADNOCK PAPER MILLS, INC.	NH0000230	117 ANTRIM ROAD	BENNINGTON	NH	03442		2	4	0	0	0	0	0	Major	accepted _representative
NASHUA WASTEWATER TREATMENT FACILITY	NH0100170	SAWMILL RD	NASHUA	NH	03060	POT PRE CSO	2	14	0	4	0	0	0	Major	accepted _representative
NEWFIELDS W W T F	NH0101192	HERVEY COURT	NEWFIELDS	NH	03856	POT	0	29	0	0	0	0	0	Minor	accepted _representative
NEWPORT WASTEWATER TREATMENT FACILITY	NH0100200	20 PUTNAM ROAD	NEWPORT	NH	03773	POT	1	14	0	2	0	1	0	Major	accepted _representative
PETERBOROUGH WASTEWATER TREATMENT PLANT	NH0100650	110 PHEASANT ROAD	PETERBOROUGH	NH	03458	POT	1	31	0	4	0	0	0	Major	accepted _representative
PLAISTOW MUNICIPAL SEPARATE SANITARY SEWER SYSTEM	NHR041026	TOWNWIDE	PLAISTOW	NH	03865		0	0	0	0	0	1	0	Minor	accepted _representative

Name	Program ID	Street	City	State	Zip	Permit	Insp	Viol	SEV	SNC	Inf Act	Frm Act	Penalty	Universe	Select
PORTSMOUTH CITY OF	NH0100234	END OF PIERCE ISLAND ROAD	PORTSMOUTH	NH	03801	POT CSO	1	15	0	0	0	1	0	Major	accepted _representative
ROCKINGHAM COUNTY	NH0100609	WASTEWATER TREATMENT FACILITY	BRENTWOOD	NH	03833	POT	1	8	0	1	0	0	0	Minor	accepted _representative
ST. GOBAIN PPO/CHEMFAB CORP	NHG250392	701 DANIEL WEBSTER HIGHWAY	MERRIMACK	NH	03054		0	11	0	0	0	0	0	Minor	accepted _representative
U.S ARMY COLD REGIONS RESEARCH ENGR LAB	NH0001619	72 LYME ROAD	HANOVER	NH	03755	SWI	0	5	0	4	0	0	0	Minor	accepted _representative
WATERVILLE WASTEWATER TREATMENT PLANT	NH0100781	TRIPOLI ROAD	WATERVILLE VALLEY	NH	03215	POT	1	0	0	0	0	0	0	Major	accepted _representative
WHITEFIELD WWTP	NH0100510	PARKER RD	WHITEFIELD	NH	03598	POT	1	29	0	0	0	1	0	Minor	accepted _representative

APPENDIX D: PRELIMINARY DATA ANALYSIS CHART

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

Original Data Pulled from Online Tracking Information System (OTIS)									EPA Preliminary Analysis
Metric	Metric Description	Metric Type	Agency	National Goal	National Average	New Hampshire Metric	Count	Universe	Initial Findings
P01A1C	Active facility universe: NPDES major individual permits (Current)	Data Quality	Combined			46	NA	NA	
P01A2C	Active facility universe: NPDES major general permits (Current)	Data Quality	Combined			0	NA	NA	
P01A3C	Active facility universe: NPDES non-major individual permits (Current)	Data Quality	Combined			40	NA	NA	
P01A4C	Active facility universe: NPDES non-major general permits (Current)	Data Quality	Combined			81	NA	NA	
P01B1C	Major individual permits: correctly coded limits (Current)	Goal	Combined	≥ 95%	99.9%	100.0%	47	47	Exceeds goal and national average
C01B2C	Major individual permits: DMR entry rate based on MRs expected (Forms/Forms) (1 Qtr)	Goal	Combined	≥ 95%	94.6%	100.0%	321	321	Exceeds goal and national average

Metric	Metric Description	Metric Type	Agency	National Goal	National Average	New Hampshire Metric	Count	Universe	Initial Findings
C01B3C	Major individual permits: DMR entry rate based on DMRs expected (Permits/Permits) (1 Qtr)	Goal	Combined	≥ 95%	93.3%	100.0%	47	47	Exceeds goal and national average
P01B4C	Major individual permits: manual RNC/SNC override rate (1 FY)	Data Quality	Combined			0.0%	0	14	
P01C1C	Non-major individual permits: correctly coded limits (Current)	Informational Only	Combined			100.0%	29	29	
C01C2C	Non-major individual permits: DMR entry rate based on DMRs expected (Forms/Forms) (1 Qtr)	Informational Only	Combined			89.7%	217	242	Below national goal (95%). Should discuss reasons why and identify when to be corrected.
C01C3C	Non-major individual permits: DMR entry rate based on DMRs expected (Permits/Permits) (1 Qtr)	Informational Only	Combined			67.5%	27	40	Below national goal (95%). Should discuss reasons why DMRs entered into database and when to be corrected.
P01D1C	Violations at non-majors: noncompliance rate (1 FY)	Informational Only	Combined			70.0%	28	40	
C01D2C	Violations at non-majors: noncompliance rate in the annual noncompliance report (ANCR)(1 CY)	Informational Only	Combined			0 / 0	0	0	Metric is information only and data not required. No data available to evaluate.
P01D3C	Violations at non-majors: DMR non-receipt (3 FY)	Informational Only	Combined			35	NA	NA	35 non-majors have DMR non-receipt for 3 years. Additional analysis on this metric should be done.
P01E1S	Informal actions: number of major facilities (1 FY)	Data Quality	State			0	NA	NA	No data for this required metric. Files from facilities with informal actions will be examined.
P01E1E	Informal actions: number of major facilities (1 FY)	Data Quality	EPA			0	NA	NA	No data for this required metric. Files from facilities with informal actions will be examined.
P01E2S	Informal actions: number of actions at major facilities (1 FY)	Data Quality	State			0	NA	NA	No data required.
P01E2E	Informal actions: number of actions at major facilities (1 FY)	Data Quality	EPA			0	NA	NA	No data for this required metric. Files from facilities with informal actions will be examined.

Metric	Metric Description	Metric Type	Agency	National Goal	National Average	New Hampshire Metric	Count	Universe	Initial Findings
P01E3S	Informal actions: number of non-major facilities (1 FY)	Data Quality	State			0	NA	NA	No data required.
P01E3E	Informal actions: number of non-major facilities (1 FY)	Data Quality	EPA			0	NA	NA	No data for this required metric. Files from facilities with informal actions will be examined.
P01E4S	Informal actions: number of actions at non-major facilities (1 FY)	Data Quality	State			0	NA	NA	No data required.
P01E4E	Informal actions: number of actions at non-major facilities (1 FY)	Data Quality	EPA			0	NA	NA	No data for this required metric. Files from facilities with informal actions will be examined.
P01F1S	Formal actions: number of major facilities (1 FY)	Data Quality	State			0	NA	NA	No data required.
P01F1E	Formal actions: number of major facilities (1 FY)	Data Quality	EPA			5	NA	NA	Low number of formal actions. Files from facilities with informal actions will be examined.
P01F2S	Formal actions: number of actions at major facilities (1 FY)	Data Quality	State			0	NA	NA	No data required.
P01F2E	Formal actions: number of actions at major facilities (1 FY)	Data Quality	EPA			5	NA	NA	Low number of formal actions. Files from facilities with informal actions will be examined.
P01F3S	Formal actions: number of non-major facilities (1 FY)	Data Quality	State			0	NA	NA	No data required.
P01F3E	Formal actions: number of non-major facilities (1 FY)	Data Quality	EPA			4	NA	NA	Low number of formal actions. Files from facilities with informal actions will be examined.
P01F4S	Formal actions: number of actions at non-major facilities (1 FY)	Data Quality	State			0	NA	NA	No data required.
P01F4E	Formal actions: number of actions at non-major facilities (1 FY)	Data Quality	EPA			4	NA	NA	Low number of formal actions. Files from facilities with informal actions will be examined.
P01G1S	Penalties: total number of penalties (1 FY)	Data Quality	State			0	NA	NA	No data for this required metric. Files from facilities with informal actions will be examined.
P01G1E	Penalties: total number of penalties (1 FY)	Data Quality	EPA			0	NA	NA	No data for this required metric. Files from facilities with informal actions will be examined.

Metric	Metric Description	Metric Type	Agency	National Goal	National Average	New Hampshire Metric	Count	Universe	Initial Findings
P01G2S	Penalties: total penalties (1 FY)	Data Quality	State			\$0	NA	NA	
P01G2E	Penalties: total penalties (1 FY)	Data Quality	EPA			\$0	NA	NA	
P01G3S	Penalties: total collected pursuant to civil judicial actions (3 FY)	Data Quality	State			\$0	NA	NA	
P01G3E	Penalties: total collected pursuant to civil judicial actions (3 FY)	Data Quality	EPA			\$0	NA	NA	
P01G4S	Penalties: total collected pursuant to administrative actions (3 FY)	Informational Only	State			\$0	NA	NA	
P01G4E	Penalties: total collected pursuant to administrative actions (3 FY)	Informational Only	EPA			\$0	NA	NA	
P01G5S	No activity indicator - total number of penalties (1 FY)	Data Quality	State			\$0	NA	NA	
P01G5E	No activity indicator - total number of penalties (1 FY)	Data Quality	EPA			\$0	NA	NA	
P02A0S	Actions linked to violations: major facilities (1 FY)	Data Quality	State	≥ 80%		0 / 0	0	0	No data for this required metric. Files from facilities with informal actions will be examined.
P02A0E	Actions linked to violations: major facilities (1 FY)	Data Quality	EPA	≥ 80%		0.0%	0	5	Little data for this required metric. Files from facilities with informal actions will be examined.
P05A0S	Inspection coverage: NPDES majors (1 FY)	Goal	State	100%	63.9%	95.6%	43	45	Above national average, but below the goal
P05A0E	Inspection coverage: NPDES majors (1 FY)	Goal	EPA	100%	5.8%	11.1%	5	45	Well below the national average, but still exceeds the national average
P05A0C	Inspection coverage: NPDES majors (1 FY)	Goal	Combined	100%	66.7%	95.6%	43	45	Exceeds national average, but below national goal

Metric	Metric Description	Metric Type	Agency	National Goal	National Average	New Hampshire Metric	Count	Universe	Initial Findings
P05B1S	Inspection coverage: NPDES non-major individual permits (1 FY)	Goal	State			61.5%	24	39	
P05B1E	Inspection coverage: NPDES non-major individual permits (1 FY)	Goal	EPA			0.0%	0	39	Percentage of inspections below 20%
P05B1C	Inspection coverage: NPDES non-major individual permits (1 FY)	Goal	Combined			61.5%	24	39	
P05B2S	Inspection coverage: NPDES non-major general permits (1 FY)	Goal	State			22.2%	18	81	Just above 20% of required inspections
P05B2E	Inspection coverage: NPDES non-major general permits (1 FY)	Goal	EPA			0.0%	0	81	Percentage of inspections below 20%
P05B2C	Inspection coverage: NPDES non-major general permits (1 FY)	Goal	Combined			22.2%	18	81	Just above 20% of required inspections
P05C0S	Inspection coverage: NPDES other (not 5a or 5b) (1 FY)	Informational Only	State			50.0%	1	2	
P05C0E	Inspection coverage: NPDES other (not 5a or 5b) (1 FY)	Informational Only	EPA			0.0%	0	2	Metric is information only and data not required. No data available to evaluate.
P05C0C	Inspection coverage: NPDES other (not 5a or 5b) (1 FY)	Informational Only	Combined			50.0%	1	2	
P07A1C	Single-event violations at majors (1 FY)	Review Indicator	Combined			0	NA	NA	No violations determined through inspections
P07A2C	Single-event violations at non-majors (1 FY)	Informational Only	Combined			0	NA	NA	Metric is information only and data not required. No data available to evaluate.
P07B0C	Facilities with unresolved compliance schedule violations (at end of FY)	Data Quality	Combined		28.2%	62.5%	5	8	
P07C0C	Facilities with unresolved permit schedule violations (at end of FY)	Data Quality	Combined		27.0%	31.1%	14	45	
P07D0C	Percentage major facilities with DMR violations (1 FY)	Data Quality	Combined		53.0%	80.4%	37	46	
P08A1C	Major facilities in SNC (1 FY)	Review Indicator	Combined			14	NA	NA	
P08A2C	SNC rate: percent majors in SNC (1 FY)	Review Indicator	Combined		23.2%	30.4%	14	46	Reduction in rate should be discussed
P10A0C	Major facilities without timely action (1 FY)	Goal	Combined	< 2%	18.6%	26.1%	12	46	Average is above national average and SNCs may not have received timely action

APPENDIX E: PDA WORKSHEET (with EPA Comments)

See Appendix D. No Region 1 corrections to data.

APPENDIX F: FILE SELECTION

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

A File Selection Process

EPA has followed the SRF File Selection Protocol when selecting the listed files. The review team identified the universe of inspection and enforcement files to use in selecting the files for the on-site review. The team downloaded the data metrics and underlying data from the OTIS web site in order to analyze the data and to select the files to be reviewed. The team also used data from ICIS and PCS in order to have the complete list of enforcement actions conducted by the Region in New Hampshire in FY 2009. This includes a representative sample of files.

EPA requested 20 files for the CWA Direct Implementation SRF review. The representative file selection method was conducted using the methodology described in the File Selection Protocol (using the OTIS website). Twenty files were selected. There are no additional supplemental files needed to assess an areas of potential concern noted in the preliminary data analysis (no SEVs reported). Supplemental file reviews 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.

B. File Selection Table

See Appendix C.

APPENDIX G: FILE REVIEW ANALYSIS

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 Metrics Analysis Form in the report only includes metrics where potential concerns are identified, or potential areas of exemplary performance.

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

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

State: New Hampshire

Review Period: FY 2010

CWA Metric #	Description	Numerator	Denominator	Metric Value	Assessment	Initial Findings
2b	% of files reviewed where data is accurately reflected in the national data system	10	20	50.0%	State Improvement	10 out of 20 inspection files were complete. Inspection files are not complete 3560 are generally in the files; however supporting documentation and supporting files are not attached to the 3560's. There are several isolated instances where other required information is not present and has not been entered eg. copy of final permit, dates were missing, signatures missing, etc. Note. Review team did check Region 1 K Share Drive for copies of inspection report narratives for EPA inspections and where present did note and include in their analysis.
4a	% of planned inspections completed. Summarize using the Inspection Commitment Summary Table in the CWA PLG			N/A	Meets Requirements	Region 1 met its commitments for all relevant agreements.

CWA Metric #	Description	Numerator	Denominator	Metric Value	Assessment	Initial Findings
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			N/A	Meets Requirements	Region 1 met its commitments for all relevant agreements.
6a	# of inspection reports reviewed			17		
6b	% of inspection reports reviewed that are complete	2	17	11.8%	State Improvement	2 out of 17 inspection reports reviewed were complete. 3560 are generally in Inspection files, however missing narratives, signatures, dates, copies of final permits, etc.
6c	% of inspection reports reviewed that provide sufficient documentation to lead to an accurate compliance determination	0	17	0.0%	State Improvement	0 out of 17 files where inspection reports reviewed provided sufficient documentation to lead to an accurate compliance determination. Information in the files, or on K Share Drive, were incomplete, and lacked sufficient information to accurately document compliance status.
6d	% of inspection reports reviewed that are timely	10	17	58.8%	State Improvement	10 out of 17 inspection reports completed that were timely. Inspection reports that included dates and accurately provided dates gave evidence that 58% of inspection reports were completed in a timely manner. Facility files and information on the K Share Drive and facility files reviewed lacked specific information to allow the review team to determine if the inspection report was completed in a timely manner.
7e	% of inspection reports or facility files reviewed that led to accurate compliance determinations	1	16	6.3%	State Improvement	1 out of 16 files where inspection reports reviewed that led to accurate compliance determinations. Facility files often contained copies of the 3560's. However, supporting narrative information and documentation was not included. This information is necessary in order to determine that an inspection report is complete, eg. meets the requirements specified in agency guidance.
8b	% of single event violation(s) that are accurately identified as SNC or non-SNC	2	9	22.2%	State Improvement	The review team examined information from ICIS, available DMR's, and information in specific facility files to assess SNC status. However, supporting narrative information and documentation was generally not included. This information is necessary to determine if SEVs were accurately identified.

CWA Metric #	Description	Numerator	Denominator	Metric Value	Assessment	Initial Findings
8c	% of single event violation(s) identified as SNC that are reported timely	4	9	44.4%	State Improvement	The review team examined information from ICIS, available DMR's, and information in specific facility files to assess SNC status. However, supporting narrative information and documentation was not included. This information is necessary in order to reach a determination that an accurate identification has been determined and that meets the requirements specified in agency policy.
9a	# of formal/informal enforcement responses reviewed			16		
9b	% of enforcement responses that have returned or will return a source in noncompliance to compliance	5	6	83.3%	Meets Requirements	
9c	% of enforcement responses that have returned or will returned a source with non-SNC violations to compliance.	8	10	80.0%	Meets Requirements	
10b	% of reviewed enforcement responses to address SNC that are taken in a timely manner	3	6	50.0%	State Attention	Regional performance is generally good, the review team notes that one of the files (Petersborough) was a state lead enforcement response. There is no information for this state formal AO to document timeliness of the enforcement response.
10c	% of enforcement responses reviewed that appropriately address violations	5	6	83.3%	Meets Requirements	
10d	% of enforcement responses reviewed that appropriately address non-SNC violations.	9	11	81.8%	Meets Requirements	
10e	% enforcement responses for non-SNC violations where a response was taken in a timely manner	8	10	80.0%	Meets Requirements	
11a	% of penalty calculations that consider and include where appropriate gravity and economic benefit	0	0	N/A		

CWA Metric #	Description	Numerator	Denominator	Metric Value	Assessment	Initial Findings
12a	% of penalties reviewed that document the difference and rationale between the initial and final assessed penalty	0	1	0.0%	Meets Requirements	
12b	% of enforcement actions with penalties that document collection of penalty	0	1	0.0%	Meets Requirements	