

# **State Review Framework**

Tennessee Department of Environment and  
Conservation  
Round 2 Report  
for Federal Fiscal Year 2010

August 29, 2012

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# **I. EXECUTIVE SUMMARY**

## **Major Issues**

The State Review Framework (SRF) Round 2 review of the Tennessee Department of Environment and Conservation (TDEC) identified the following issues to be the most significant:

- The degree to which data is complete, accurate and entered timely and maintained in the national data systems
- The quality of inspection and compliance evaluation reports in the Clean Air Act (CAA) program and the timely completion of inspection reports in the Resource Conservation and Recovery Act (RCRA) program
- Taking timely enforcement actions for High Priority Violators (HPVs) in the CAA program and Significant Noncompliance (SNCs) and non-SNCs in the Clean Water Act (CWA) program
- Penalty calculations in the RCRA and CWA programs do not include economic benefit documentation

## **Summary of Programs Reviewed**

### **I. Clean Air Act Program**

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

- All Minimum Data Requirements (MDRs) are entered into the Air Facility System (AFS)
- All enforcement and compliance commitments outlined in the Compliance Monitoring Strategy (CMS) and Air Planning Agreement were met
- TDEC makes accurate compliance determinations, however, the appropriate compliance status is not always reported timely into AFS
- High Priority Violations (HPVs) are accurately identified
- Enforcement actions include corrective actions that return facilities to compliance in a specific time frame
- In general, penalty documentation includes both gravity and economic benefit calculations
- TDEC documents the rationale for differences between initial and final penalty and penalty collection

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

- A variety of discrepancies between the files and data in AFS was observed
- The timeliness of data entry for enforcement, compliance monitoring and HPV-related MDRs fell short of the national goal
- TDEC did not conduct reviews of half of the Title V annual compliance certifications
- Full Compliance Evaluations (FCEs) do not have all required elements
- TDEC takes longer than 270 days to address HPVs

## **II. Clean Water Act/National Pollutant Discharge Elimination System Program**

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

- TDEC's timeliness of data entry of the MDRs needs improvement
- TDEC met or exceeded most of the compliance and enforcement commitments in their grant work plan
- TDEC met or exceeded most of the inspection commitments required by the State's Compliance Monitoring Strategy (CMS) and the grant work plan
- The majority of TDEC's inspection reports were of good quality and provided documentation to determine compliance; however, improvements need to be made in the timeliness of the completion of the reports
- TDEC correctly identified SNC violations in all files reviewed
- Enforcement actions include corrective actions that have or will return facilities to compliance
- TDEC documented the difference between initial and final penalties and maintains documentation that the penalty was collected

### **The problems which necessitate state improvement and require recommendations and actions include:**

- TDEC is not entering complete data in ICIS-NPDES
- File reviews indicated missing or inaccurate data in ICIS-NPDES
- TDEC needs to focus efforts to better address unresolved permit schedule violations
- TDEC needs to show improvement in taking timely enforcement for SNCs and non-SNCs
- TDEC does not include documentation of economic benefit in penalty calculations

## **III. Resource Conservation and Recovery Act Program**

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

- TDEC, for the most part, enters MDRs into RCRAInfo
- Some SNCs were entered into RCRAInfo late
- TDEC met its RCRA grant work plan commitments
- TDEC falls slightly short in meeting Large Quantity Generator (LQG) inspection coverage
- TDEC makes accurate compliance determinations in inspection reports but needs to improve the timeliness of entering violation determinations in RCRAInfo
- TDEC takes timely and appropriate enforcement actions
- TDEC documents that penalties are collected but needs to improve the documentation of initial and final penalties when orders are negotiated.

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

- File reviews indicated data inaccuracies in RCRAInfo
- Many inspection reports are not completed in a timely manner and in accordance with the State's enforcement policy
- Significant Non-Compliers (SNCs) are not correctly identified and entered timely in RCRAInfo
- Enforcement responses do not always include documentation that facilities have returned to compliance
- Enforcement cases reviewed did not document economic benefit calculations

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

The State Review Framework (SRF) is a program designed to ensure that 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 state understand the causes of issues, and to seek agreement on identifying the actions needed to address problems.

The reports generated by the reviews are designed to capture the information and agreements developed during the review process in order to facilitate program improvements. The reports are designed to provide factual information and do not make determinations of program adequacy. EPA also uses the information in the reports to draw a “national picture” of enforcement and compliance, and to identify any issues that require a national response. Reports are not used to compare or rank state programs.

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

The information contained in this section, including agency structure, resources, data reporting systems, and accomplishments and priorities was provided by TDEC and was not verified by EPA for the SRF Report.

#### **Agency Structure**

The Tennessee Department of Environment and Conservation (TDEC), established in 1991, is the chief environmental and natural resource regulatory agency in Tennessee. TDEC is headed by a Commissioner appointed by the Governor. TDEC is divided into the Bureau of Conservation and the Bureau of Environment. Within the Bureau of Environment, the Air Pollution Control Division (APC) is responsible for Clean Air Act (CAA) enforcement, the Water Pollution Control Division (WPC) is responsible for Clean Water Act (CWA) National Pollutant Discharge Elimination System (NPDES) enforcement, and the Hazardous Waste Management Program (HWMP), a part of the Division of Solid Waste Management (DSWM), is responsible for Resource Conservation and Recovery Act (RCRA) enforcement. The Bureau has a central office in Nashville with media-specific enforcement and compliance sections and permitting sections, and eight regional field offices located in Memphis, Jackson, Columbia, Nashville, Cookeville, Chattanooga, Knoxville, and Johnson City. While some compliance review, depending on the program, is done by field staff, all enforcement and compliance section staff is located in the central office.

#### **Roles and responsibilities**

Field staff conduct inspections, respond to complaints, and review reports. Field staff may also initiate enforcement action based upon findings from those activities. Central office staff review program and monitoring reports and may initiate enforcement in response to reported violations. For example annual

Title V compliance reports are reviewed by field staff, while NPDES DMRs are reviewed by central office staff. Central office enforcement staff is responsible for drafting administrative orders that are issued under the authority of the Commissioner, the Solid Waste Management and Water Pollution Control Division Directors, or the Technical Secretary of the Air Pollution Control Division. Attorneys in the Department’s Office of General Counsel (OGC) are available to support and review enforcement cases and to prepare department level actions. Appeals of orders are handled by OGC. Criminal cases are referred to the State Attorney General. The Tennessee Highway Patrol (THP), Tennessee Bureau of Investigation (TBI), and State Attorney General’s office, in addition to local law enforcement, also support the enforcement of Tennessee’s environmental laws and regulations. TDEC also maintains an excellent working relationship with EPA Region 4 and EPA criminal investigators. The State coordinates with local Municipal Separate Storm Sewer Systems (MS4) programs on construction storm water issues and with the state Department of Agriculture on forestry and other agriculture-related issues. Currently, MS4s have independent permitting and enforcement programs. TDEC is in the process of developing a Qualified Local Program authorization that would delegate those responsibilities to the MS4s. The State Department of Agriculture (DOA) conducts the initial investigation into water quality problems associated with agriculture or silviculture, and makes the initial efforts at returning a site to compliance. The DoA provides technical assistance to TDEC in the event formal enforcement action is necessary. Four counties in Tennessee have delegated CAA programs but they are not a part of this review. A Round 1 SRF review was conducted for Memphis/Shelby County in 2007 and a review of Knox County will be completed in FY 2012.

**Resources**

**Air Pollution Control**

APC currently has 100 FTE technical staff, 36 of whom work in the field offices as inspectors. There are an additional six vacant positions in the field offices. The Compliance Validation program has six filled positions and three vacancies, the Permitting and Regulatory Development Programs have 38 filled positions and seven vacancies, the Enforcement Program has two filled positions. Remaining technical staff is responsible for ambient monitoring, vehicle inspection and maintenance, data entry to EPA’s technical databases, asbestos, laboratory support, transportation conformity, alternative fuels, and air quality forecasting. TDEC’s Office of General Counsel has 13 attorneys available to all programs in the department on an as-needed basis.

Field Office	APC Inspector FTE
Jackson	5
Columbia	4
Nashville	9
Cookeville	3
Chattanooga	4
Knoxville	7
Johnson City	4
Total	36

There is a hiring freeze that requires approvals before vacancies can be filled. There are proposed cuts of 5% to 10% of state general funds for 2012-13. APC does not yet know their level of cuts but a loss of any currently staffed positions is not anticipated. The numerous program vacancies, as well as positions

lost due to budget issues, have resulted in permitting and enforcement backlogs.

APC facility inspections are conducted by inspectors at seven field offices located in Jackson, Columbia, Nashville, Cookeville, Chattanooga, Knoxville, and Johnson City with support from central office personnel. Field office staff review all part 70 (Title V) synthetic minor annual compliance reports and most Title V annual and semi-annual reports. APC staff report to the Environmental Field Office Manager (EFOM) and an Environmental Program Manager 2 (EPM2) located in the Columbia Environmental Field Office. The EPM2 has statewide responsibilities for the EFOs and reports to the Deputy Director.

APC field office staff routinely answer a variety of questions concerning air pollution, including helping the regulated community understand their permit and when a permit is needed. This is typically on an informal basis over the telephone or during inspections. Some responses are sent in writing via a letter or in the inspection report comments. In addition, facilities typically raise questions during compliance inspections. Field office staff can provide clarifications on the meaning of the regulations in question. As necessary, field office staff coordinate with other field office staff and the central office to ensure consistent opinions are given to the public. They also handle complaints from the public.

The Compliance Validation Program is responsible for all issues related to stack testing, continuous emissions monitors, continuous opacity monitors, and visible emissions. All stack test reports are reviewed by program staff (6 FTE) for compliance with the test methods, adequate parametric monitoring, and proper operation of the source during the test. Compliance Validation conducts Visible Emission Evaluator Certification (VEE) schools to train state and industry personnel to certify compliance with visible emission standards. The staff conducts and observes stack tests, reviews all stack test reports, and reviews Continuous Emissions Monitoring System (CEMS) reports and visible emission evaluations. The manager of this program reports to the Deputy Director.

This Enforcement section works with the inspectors and permit writers to ensure that enforcement actions that are taken are reasonable and appropriate. This section is responsible for calculating and/or approving appropriate fines and establishing or approving compliance schedules for facilities. Supplemental Environmental Projects (SEPs) may be considered to offset a monetary fine. Projects that are considered include those that improve the quality of the community's environment. Compliance schedules provide dates for completion of project milestones. The Enforcement section also fields enforcement related questions from the field office staff, central office staff and the public.

Permitting staff issue permits, write regulations, prepare State Implementation Plan revisions, issue Notices of Violation, review the MACT semi-annual reports and remaining part 70 annual and semiannual reports, and draft enforcement orders. This program consists of the East, Middle, and West Tennessee Permit Programs (all staff are located in the Central Office), the Emission Inventory Program, and the Enforcement Program. The Enforcement Coordinator works within the Permitting and Regulatory Development Program and is aided by one Environmental Specialist 4. The enforcement staff draft approximately half of the Orders issued by the Division. These programs are overseen by an Environmental Protection Specialist 7 (who also serves as the Division's Assistant Director) who reports to the Deputy Director.

One asbestos inspector is located in the Mobile and Air Resource Management Program (MARM), and is responsible for tracking demolition notifications and management of the division's local database.

MARM is also responsible for vehicle emission testing programs in five Tennessee counties. The



manager of this program reports to the Deputy Director.

All of these staff write Notices of Violation when warranted. Enforcement action requests are tracked by the Division's Enforcement Coordinator.

### Hazardous Waste Management Program (HWMP)

The Tennessee Hazardous Waste Management Program is located in TDEC's Division of Solid Waste Management (DSWM). The DSWM has a Central Office in Nashville and eight regional field offices in Memphis, Jackson, Columbia, Nashville, Cookeville, Chattanooga, Knoxville, and Johnson City. The HWMP has staff in each of these offices.

HWMP currently has 42 FTE technical staff, 20 of whom are in the field offices as inspectors. There are an additional 5 vacant positions. (Toxics Program staff are not included in these numbers or in the FTE figures below)

Field Office	HWMP Inspector FTE
Memphis	3
Jackson	3
Columbia	1
Nashville	3.5
Cookeville	0.5
Chattanooga	3
Knoxville	3
Johnson City	3
Total	20

HWMP fee increases in 2009-10 resolved funding issues for several years. There are potential cuts of up to 10% of state general funds for 2012-13. HWMP does not know what the level of cuts could be but it is not anticipated that any currently staffed positions will be impacted as a result of these cuts.

HWMP facility inspections are primarily conducted by inspectors at the eight field offices with support from central office personnel. Enforcement actions requests are referred to the DSWM Enforcement Section in the Central Office. The Enforcement Section is managed by an Environmental Program Manager 1 with an Environmental Specialist 6 that is the lead on HWMP enforcement cases.

The HWMP Waste Activity Audit Section (4 FTEs) is responsible for all notifications, EPA ID issuance, and processing of Annual Reports and verification of the associated fees. They provide a great deal of compliance assistance to the HW regulated community.

The HWMP Regulatory Compliance Section (3.5 FTEs) supports the field office staff as well as coordinates regulatory reviews and variance requests. The section is in charge of updating the HW regulations and preparing authorization applications. They also coordinate HWMP technical training.

Ground water monitoring evaluations (GMEs) are conducted at any new or newly regulated land disposal facility as defined under RCRA §3004(k). Once it is determined that a ground water monitoring system is adequately designed and installed, operation and maintenance (OAM) inspections are conducted at the facility. More frequent GMEs are conducted in situations involving complex compliance or corrective action requirements; inadequate ground water monitoring systems, significant

changes to ground water monitoring systems, and actual or suspected changes in local ground water regimes. Land Disposal Facilities (LDFs) actively receiving waste receive a CEI, OAM or GME inspection at least once every two years. For TSDFs that are no longer in the operating universe but still have requirements to comply with, a CEI, GME, or OAM is conducted every three years. Because of the sporadic nature of this work, less than 0.5 FTE is dedicated.

As provided for by these guidelines, certain TSDFs that were inspected in FY2011 will not be inspected in FY2012 and any TSDF currently receiving waste that was not inspected in FY2011 will be inspected in FY2012. Appendix A of the work plan presents the total TSDF Universe for FY2012, the various RCRA universe classifications that apply to each facility, and the facilities that will be inspected in FY2012.

Tennessee will inspect TSDFs in conformance with the above guidelines that are summarized in the following table:

TYPE OF TSDF	INSPECTION FREQUENCY
Operating TSDFs currently receiving wastes	2 Years
Operating Federal Facilities	Annual
Combustion Facilities	Annual
Commercial facilities	Annual
Facilities receiving wastes from offsite	Annual
Facilities receiving CERCLA Wastes	Annual
State and Local Facilities (none in TN)	Annual
TSDFs no longer in the active operating universe, but with compliance requirements	3 Years

It should be noted that the Hazardous Waste Management Program annually inspects Manufacturing Sciences, TND 987778834, a non RCRA TSDF that treats low-level radioactive wastes by grit blasting and acid treating. EPA added this facility to the CERCLA off-site list during FY1996. These inspections are not shown in the TSDF list of inspections, since the facility is not subject to Subtitle C regulations. EPA also added Waste Management Inc.'s Chestnut Ridge Landfill in Heiskell, TN, a Subtitle D landfill, to the CERCLA off-site list. The Solid Waste Program routinely inspects this facility. Other solid waste landfills are added to the off-site list from time to time. All Subtitle D landfills (non-hazardous waste landfills) are inspected by the Division's Solid Waste Program on a regular basis.

The HWMP regulates facilities that generate hazardous waste as prescribed in Tennessee's Hazardous Waste Act and Regulations. Due to the large number of generators, only a portion of the facilities can be inspected each year. HWMP uses the OECA inspection target of 20% for the Large Quantity Generator (LQG) Universe. The inspection target for Small Quantity Generators (SQG) is 10% of the SQG Universe. There is some degree of discrepancy between the number of generators actually paying fees as LQGs and SQGs versus the generator numbers reported in RCRAInfo and other databases because some facilities opt to maintain LQG status as a precaution, and others may be a different classification on the day of inspection from what they are most of the year. EPA and the Division continue in their efforts to reconcile and correct the different database numbers.

In addition to inspecting large quantity and small quantity generators, the Division also conducts numerous other types of inspections. The types of facilities that are included in these inspections include conditionally exempt small quantity generators (CESQGs), universal waste generators and handlers, non-notifiers, used oil generators and commercial used oil facilities, permitted transporters and facilities

that are the subject of either citizen complaints or emergency response incidents. TDEC tracks and report these inspections. The goal of the compliance program is to ensure that every facility generating, transporting, or handling hazardous waste (including used oil, universal waste, and recyclable, excluded, and exempt materials) recognizes that they are subject to oversight for their hazardous waste and recycling management activities that are regulated by Tennessee's Hazardous Waste law and regulations.

The selection of generators for inspection is done by each field office using guidelines that reflect Tennessee's and EPA's criteria and initiatives. Each field office is sent a list of the generators in their area showing their inspection histories. The HWMP staff in each field office selects the facilities to be inspected, with priority given to facilities as follows:

The Hazardous Waste Management Program will participate with EPA in inspecting any class of facilities that are suspected of widespread noncompliance. HWMP will also participate in any multi-media inspections scheduled by the Region, and any EPA sector initiative inspections.

As noted above, the HWMP has allocated inspections for certain commercial and industrial sites that have not notified the Division of any hazardous waste activity to determine if they are generating hazardous wastes and to evaluate their compliance status. If they are determined to be a SQG or LQG, they will be required to notify the State and comply with all appropriate Rules. Other appropriate enforcement actions will follow. Some of these facilities will be selected by the field offices but HWMP is also considering special sector initiatives that would include compliance assistance and enforcement activities.

The HWMP has planned for inspections of facilities that may be out of compliance, may be non-notifiers or are identified through citizen complaints. In the past, this has been a key component in identifying significant non-compliers. While many complaints prove to be mistaken or invalid, the number of valid complaints justifies the expenditure of state effort in this area. The Division is also conducting universal waste inspections of facilities that generate, or may generate, universal waste.

HWMP Waste Activity Audit Section - Each Environmentalist Specialist or Environmental Protection Specialist in the section is in contact with hundreds of regulated facilities at least once per year. They issue facility ID numbers, answer questions on notification and reporting requirements. They work directly with facilities during the Annual Report process, and in many cases communicate with a facility three or more times during the year to answer specific questions. They provide technical assistance on how to fill out Annual Report forms, how to properly identify their wastes, and how to properly count the amount of waste generated in order to accurately report waste generation and waste minimization activities. They also lead seven free workshops for hazardous waste generators each year on how to complete the annual hazardous waste report and related generation issues.

TDEC Environmental Field Offices – The Division's field office staff routinely field a wide variety of questions concerning the hazardous waste, used oil, and universal waste regulations. This is typically on an informal basis over the telephone or during inspections. Some responses are sent in writing via a letter, e-mail, or in the inspection report comments. In addition, facilities typically raise questions during compliance inspections. Field office staff can provide clarifications on the meaning of the regulations in question. As necessary, field office staff coordinates with other field office staff and the central office to ensure that consistent and accurate guidance is given to the public. Typical issues include; but are not limited to, recycling questions, waste determination questions, regulation reviews, permit compliance

issues, variance requests, and compliance questions.

HWMP Regulatory Compliance Section – This section fields a variety of questions and issues concerning the hazardous waste, used oil, and universal waste regulations. This can be on an informal or formal basis. Numerous facilities and citizens send questions to the Division and request a written response to their questions or requests. The Regulatory Compliance Section coordinates with the affected field office(s) and central office staff in their response, and EPA and other agencies (to include other states) if necessary, to ensure consistent and accurate opinions and guidance are given to the public. Typical issues include; but are not limited to, recycling questions, solid and hazardous waste exclusions and exemption issues, used oil compliance issues, universal waste compliance issues, waste determination questions, regulation reviews, permit compliance issues, variance requests, and compliance questions.

Enforcement Section – This section works with the inspectors to insure that enforcement actions that are taken are reasonable and appropriate. This section is responsible for calculating appropriate fines and/or establishing compliance schedules for facilities. Supplemental Environmental Projects (SEPs) may be considered to offset a monetary fine. Projects that are considered include those that improve the quality of the community's environment. Compliance schedules provide dates for completion of project milestones. The Enforcement section also fields enforcement related questions from other government agencies, the Department, the field office staff, central office staff and the public.

#### Water Pollution Control Division (WPC)

The Tennessee NPDES and CWA Program is administered by TDEC's Division of Water Pollution Control (WPC). WPC has a Central Office in Nashville and eight regional Environmental Field Offices (EFOs) in Memphis, Jackson, Columbia, Nashville, Cookeville, Chattanooga, Knoxville, and Johnson City. The division has staff in each of these offices.

There is currently a hiring freeze in place that requires approvals by the Commissioner before vacancies can be filled. There are proposed cuts of 5% to 10% of state general funds for 2012-13. The numerous program vacancies, as well as positions lost due to budget issues, have created staffing and resource shortages that often affect work flow.

CWA facility inspections are conducted by inspectors at eight field offices located in Memphis, Jackson, Columbia, Nashville, Cookeville, Chattanooga, Knoxville, and Johnson City with support from central office personnel. Field office inspection staff review facility DMRs and MORs (when available) and past compliance histories prior to conducting each inspection. WPC EFO staff report to the Environmental Field Office Manager (EFOM) and to a Deputy Director in the Nashville Central Office who has statewide responsibilities.

WPC EFO Inspectors currently inspect all types of NPDES permits, including individual permits issued to Major and Minor dischargers, General Permits issued to regulated groups such as Ready-Mix Concrete Plants, Water Treatment Plant backwash filters, and Hydrostatic Testing. The division also conducts inspections of NPDES Storm Water permits issued for activities involving runoff from construction and industrial sites. WPC follows the NPDES inspection frequency rates prescribed in TDEC's 106 plan with EPA. These same inspectors are also required to inspect a wide variety of state-issued operating permits not included in the NPDES or CWA program.

WPC EFO staff members routinely answer a variety of questions concerning water pollution issues, including helping the regulated communities understand their permits and when a permit is required for various activities that may affect water quality. This is typically on an informal basis over the telephone or during site inspections. Some responses are sent in writing via official correspondence or in the official inspection report comments. In addition, facilities typically raise technical and compliance questions during compliance evaluation inspections, which are addressed directly by the field inspectors at the site or by official follow-up later. Field Office and Central Office staff both can provide clarifications on the meaning of the regulations in question. When necessary, Field Office staff may coordinate with other Field Offices and the Nashville Central Office to ensure consistent opinions are given to the public and regulated community. Both groups also handle complaints from the public, although these are almost always investigated by the Field Office Inspectors.

At the current time, Water Pollution Control (WPC) has approximately 66 FTE available to participate in the implementation of the NPDES and CWA compliance monitoring and enforcement program, although most of these staff also have other job duties unrelated to the NPDES program. It should also be noted that a majority of these are storm water only. There are 60 CWA field inspectors in the regional offices and 6 technical staff (Enforcement & Compliance Section) in the Central office dedicated to CWA data entry and enforcement. All of these staff members write Notices of Violation when warranted. Enforcement action requests are tracked and managed by the division’s Enforcement & Compliance Section Manager

There are 60 regional environmental field office FTE who participate in CWA inspections, the majority of which are storm water only. As stated above, the majority of these staff also have non-CWA duties. A breakdown is as follows:

Field Office	WPC Inspector FTE
Memphis	8
Jackson	9
Columbia	5
Nashville	7
Cookeville	6
Chattanooga	3
Knoxville	11
Johnson City	11
Total	60

Nashville Central Office - Enforcement & Compliance Section – This section works with the EFO inspectors to insure that enforcement actions that are taken are reasonable, appropriate and timely. This section is responsible for drafting technical enforcement orders and documents, calculating appropriate civil penalties and/or establishing compliance schedules for corrective actions. Supplemental Environmental Projects (SEPs) may be considered to offset a non-contingent civil penalty in certain situations. Projects that are considered include those that improve the environmental quality of the community and that are not activities already required to be completed or done by the Respondents. Compliance schedules provide dates for completion of project milestones, most typically final compliance with the effluent limitations of a permit. The Enforcement section also fields enforcement related questions from EFO staff, other Central Office Staff, the public, and members of the regulated community.

Resource constraints are similar to other state programs, with reduced funding and reduced/inadequate staffing. The TDEC-WPC Enforcement and Compliance Section experienced a loss of 3 positions in 2010. Other positions had been eliminated in previous years. Historically, budgetary restraints prevented the section from being fully staffed in the past, and now only the currently filled positions remain.

### **Staffing and Training**

The Divisions utilize the state's civil service system that scores applicants for each class of positions based on their education and pertinent job experience. Registers are pulled for any vacant position being filled that ranks applicants based on their score. Candidates go through a thorough interview system followed by reference checks. New employees go through training as well as on the job training designed for their assignment as described below. The State of Tennessee has an extensive benefit package to help compensate and retain qualified staff.

On April 24, 2012 Governor Haslam signed the Tennessee Excellence, Accountability and Management (TEAM) Act into law which will take effect on October 1, 2012. The TEAM Act calls for two divisions of state service: preferred service and executive service. Executive service employees remain to serve "at-will" as in the former system. Preferred service replaces the traditional "career service" designation and preserves a streamlined appeals process along with other considerations.

Tennessee continues to pursue training from all sources available including EPA and their contractors, the State of Tennessee, The Southern Environmental Enforcement Network (SEEN), National Enforcement Training Institute (NETI), professional organizations, other public agencies and associations, and private vendors. Training opportunities include conferences, meetings, classroom-based courses, video courses, internet courses, and computer-based courses. TDEC also encourages employees to read appropriate guidance documents and to use the internet to stay up to date on guidance and policies. A key resource is the websites and resources provided by EPA, such as the Healthcare Environmental Resource Center (HERC) for healthcare waste issues. TDEC will continue to emphasize computer-based training since it is more cost effective, eliminates problems in securing travel approvals, eliminates time lost in travel, and typically provides a mechanism that allows employees to learn at their own pace. The Department has video-conferencing capabilities that can be used for some training.

TDEC uses the state Division of Training and Development and the Office of Information Resources (OIR) to provide computer and internet training to its employees. The Department of Human Resources (DOHR) provides training designed to improve employees' job performance in areas such as management, supervision, communications, team building, technical writing, etc. The employee and his/her supervisor determine the need for such courses. All employees, both supervisory and non-supervisory, are required to take the course Respectful Workplace designed to provide the skills and information employees need to identify and stop unlawful harassment of persons in protected classes. In addition, each employee may enroll in one course per semester, tuition free, at a State university or community college. Such courses may or may not be directly job-related.

New employees in the Hazardous Waste Management Program are required to read the RCRA Orientation Manual shortly after reporting to work. Their supervisors are available to discuss and address any of their concerns or questions. New employees who have extensive duties in the field undergo a physical examination (medical monitoring screening) prior to participating in the 40-hour Site Worker Course as required by 29 CFR 1910.120; thereafter, they attend an 8-hour OSHA refresher course on a yearly basis. Employees with extensive field duties will continue to have physical

examinations every two years or as specified by the physician.

### **Data Reporting Systems and Architecture**

During the Round 1 SRF, the Air Pollution Control Division was beginning the process of migrating its enforcement data tracking system from a "siloe" database that no one else in TDEC could directly access. APC's portal SmogLog, which is part of TDEC's enterprise data management system, has been in constant development since.

The following milestones have been reached:

1. Enforcement tracking has been almost completely implemented in SmogLog and the legacy Microsoft Access system is retained only for historical reporting needs.
2. APC's facility data has been integrated.
3. APC's permit data has been integrated.
4. APC is currently in the process of finalizing the integration of permit fees and enforcement penalty data.

All of these advancements have improved APC's tracking and reporting of MDRs:

1. Because of this data integration, there are new reporting tools available that track inspections, the results of ACC (annual compliance certification) and SAR (semi-annual report) report review, and enforcement activity.
2. New Quality Assurance reports are easily and frequently added to monitor data integrity.
3. Because of the web-based nature of SmogLog, this data is readily available to anyone who needs it through a web browser. This allows any APC employee to easily view, and if authorized edit, data. The APC staff responsible for reporting MDRs to EPA make daily use of these tools to improve and enhance reporting.

Accomplishing the above milestones is necessary to improve reporting of MDRs through SmogLog since the MDRs cross the boundaries of all of these data categories. SmogLog is a work in progress that improves on a daily basis.

Hazardous Waste Notifiers are set up in RCRAInfo to allow the state to obtain EPA IDs, a requirement for the program. Subsequent CME data is supplied to that established record from the central office and field office personnel. The State of Tennessee supplies Biennial Report System data to EPA every two years. This data is extracted according to highly specific data editors from Annual Reporting data maintained by Tennessee's Hazardous Waste Auditing Section in the state's TenWaste data system.

Permitting, inspection, and enforcement data is entered into EPA's RCRAInfo database by the field inspectors and central office personnel to keep an accurate record of these activities. This data is extracted by EPA Region 4 to monitor and report on Tennessee's permitting, inspection, and enforcement data. Internal tracking, using Excel spreadsheets, serves as a back-up for the data kept in RCRAInfo during the current inspection year. The summary Excel sheet is shared with EPA Region 4 to report on the program's inspection activities.

TDEC-WPC reports the majority of DMRs directly into the ICIS system. The state does utilize a state system for other data points, some of which are reported back to EPA via reports from the state system. The state is currently working towards being able to batch DMRs and all other data points directly from

the state system into ICIS. This is being accomplished through the use of an EPA grant which is paying for a computer programmer to facilitate these operations. The state system is an Oracle-based database.

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

The information contained in this section was provided by TDEC and was not verified by EPA for the SRF Report.

Small Business Environmental Assistance Program (SBEAP) - Tennessee's program provides free confidential assistance. Services include permitting assistance, onsite visits, training, a toll free hotline, regulatory notifications, outreach, and preventing and eliminating non-compliance situations. A small business is defined as having 100 or fewer employees, not a major stationary source, and meeting the federal Small Business Act's definition of a small business.

- The Nine Metal Fabrication (6X) rule required all sources within certain classification codes to submit rule applicability information. Even if a source wasn't affected by the rule, they were required to submit a statement to that affect. The SBEAP notified 450+ sources in the listed classification codes of their need to meet the rule's notification requirement. Staff assisted sources in determining rule applicability and developed compliance assistance tools.
- Autobody/collision repair shops/Miscellaneous metal surface coating facilities and Paint stripping facilities (6H) that use methylene chloride had a rule compliance date of January 10, 2011. SBEAP staff supplied training materials and notification of on-line training for the classroom portion of the rule requirements. Staff notified auto body sources affected by the new rule of the compliance requirements and deadline. Staff also assisted sources in requesting an exemption from the rule, if applicable.
- Gasoline Dispensing Facilities (6C) had a compliance date of January 10, 2011. SBEAP staff provided regulatory notifications and assistance materials to 2600+ tank owners who have multiple locations and tanks representing 5,200+ active facilities. Compliance materials were developed and information posted on the Program's web page.
- Boiler area source rule (6J) was promulgated on March 21, 2011 with a source notification deadline of September 19, 2011. Portions of the boiler rule are under reconsideration. The area source rule portion is not. SBEAP staff identified 300 owners representing 400+ affected boiler sources, developed assistance tools and notified owners of regulatory requirements.

Annual Permitting Assistance Workshops - The Tennessee Chamber of Commerce and Industry (TCC&I) and the University of Tennessee's Center for Industrial Services have sponsored Permitting Compliance Workshops. Two scheduled workshops are held each year to assist the regulated community understand their permits and the air pollution control regulations. The workshops cover such subjects as the background behind the regulations, current air quality issues, when a permit is needed, and compliance and enforcement issues. These workshops consist of several Power Point presentations and question and answer sessions. These workshops are well attended by representatives from facilities, and are always rated as very helpful by those attending.

Prisons Teleconference – On July 22, 2010, TDEC held a workshop/teleconference for employees of the



Tennessee Department of Corrections (TDOC) and its contractors. The goal of the workshop was to improve these employees' knowledge of environmental regulations. As a result of this workshop, TDOC submitted numerous applications for sources that were once exempt from permitting requirements but must now have permits due to changes in the regulations.

Solid and Hazardous Waste Conference - Each year the Division of Solid Waste Management and the Department hold the Solid and Hazardous Waste Conference. The Conference lasts for two and one half days and is attended by approximately a thousand people. The Conference has grown to include up to seven parallel program tracks that include Solid Waste, Hazardous Waste, Environmental Law, Pollution Prevention, Waste Minimization, UST and Superfund as well as exhibits by many consultants and vendors.

The 41<sup>st</sup> Annual Solid/Hazardous Waste Conference was held April 25-27, 2012. This conference provided employees, as well as the regulated community, with the latest technology and regulatory updates that pertain to the management of solid and hazardous waste. The conference is always an invaluable opportunity for staff to share experiences and learn from the innovations of others. Employees who work directly with the regulated community and know regulations and policies that are a source of confusion/concern selected some of the topics for the sessions to address these issues.

Annual Report Workshops - The HWMP's Waste Activity Audit Section held free workshops in seven cities across Tennessee in January 2012 to train the regulated community in completing the hazardous waste annual report forms that are due on March 1 of each year. This training is designed for the regulated community, but it is also used as a training tool for some new HWMP employees in the Field Offices. Subjects covered include waste characterization and identification, waste stream identification, handling codes, manifest accounting for amounts generated and waste reduction techniques. These workshops consist of Power Point presentations, scenarios, and question and answer sessions. They also include one on one help sessions for individual facilities.

Prior to 2012, the University of Tennessee's Center for Industrial Services (UT CIS) assisted the Division in holding these workshops. Because of budget constraints TDEC reduced funding for services provided by UT CIS and they began charging \$150 per person attending the workshop. These workshops were once free to the regulated community and were well attended by representatives from facilities. The workshops were always rated as very helpful by those attending. After the fee was instituted, attendance declined. The training was provided by the HWMP for free this year in an effort to boost attendance and better educate the regulated community. Attendance did increase significantly and the HWMP will continue to provide the annual workshops for free.

The Solid Waste Management Division held a statewide staff meeting in October 2011. Parallel sessions were held for solid waste and hazardous waste specific topics technical and regulatory issues. Joint sessions were held to communicate on division wide issues. All aspects of program implementation were discussed. The new work plan commitments were gone over in detail. Presentations on new regulations, policies and initiatives are emphasized. Success stories were shared and ideas for improvements are discussed.

The SWM Division holds roundtable meetings/conference calls dedicated to hazardous waste, used oil, and universal waste technical and regulatory issues. The Regulatory Compliance Section coordinates the meetings. Items addressed during the meetings include regulatory interpretations, EPA regulatory amendments, state statute and regulatory amendments, program updates, work plan commitments, compliance and enforcement issues, and in-house training sessions. Both central office and field office

staff moderate discussions and make presentations.

The RCRA Info Database Manager attends the annual RCRA Information System workshops/meetings to keep abreast of any updates or changes in the system and to be able to train other staff as appropriate.

In addition to the broader courses, the various sections/units within the Hazardous Waste Management Program participate in specialized technical training that is relevant to their job responsibilities selected from available courses.

### C. PROCESS FOR SRF REVIEW

The Round 2 review of the Tennessee Department of Environment and Conservation was initiated on August 18, 2011 with a letter from Mary Wilkes, Region 4 Regional Counsel and Director of the Office of Environmental Accountability, to Robert Martineau, Commissioner of TDEC. This letter included the Official Data Set (ODS) for Clean Air Act, Clean Water Act and the Resources Conservation and Recovery Act activities for Federal Fiscal Year (FY) 2010. On October 25, 2011, the Preliminary Data Analysis (PDA) and File Selection for all three media were sent to the State. The onsite file reviews for each media took place during the week of November 7, 2011.

The State and EPA Region 4 contacts for the review were:

	TDEC	EPA Region 4
SRF Coordinator	Chris Moran, Enforcement Coordinator	Becky Hendrix, SRF Coordinator Steve Hitte, OEA Section Chief
CAA	Tammy Gambill, APC Enforcement and Compliance Section Manager	Mark Fite, OEA Technical Authority Kevin Taylor, Air and EPCRA Enforcement Branch
CWA	Patrick Parker, WPC Enforcement and Compliance Section Manager	Ronald Mikulak, OEA Technical Authority Humberto Guzman, Clean Water Enforcement Branch
RCRA	Teresa Boyer, HWMP Enforcement and Compliance Section Manager Garey Mabry, Hazardous Waste Program Manager	Nancy McKee, OEA Technical Authority Hector Danois, RCRA Enforcement Branch

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

The Round 1 SRF review of TDEC’s compliance and enforcement programs, finalized December 28, 2007, identified twenty recommendations to address issues found during the review. TDEC responded to the report by identifying action items and processes to address the recommendations. While some of the Round 1 recommendations were implemented and have resulted in improvements, the table below shows the actions that have not yet been fully and successfully implemented at the time of the Round 2 review. (Appendix A contains a comprehensive list of recommendations from Round 1.)

State	Media	Element	Finding	Recommendation
TN	CAA	E1 Inspection Universe	EPA’s CMS Guidance requires that 100% of Title V ACCs are to be reviewed annually. According to the data metrics, 63% Title V ACCs were received and reviewed by TDEC in FY2006.	TDAPC should examine why some ACCs are not being submitted and/or are not reviewed, and submit recommendations for achieving this goal to EPA.
TN	CAA	E6 Timely & Appropriate Action	According to the CAA data metrics, in FY2006, 31% if of the HPVs went unaddressed longer than 270 days.	TDAPC should examine their HPV resolution practices and develop/implement a plan that will ensure conformance with the enforcement action timelines of the HPV policy.
TN	CAA	E10 Data Timely	The CAA data metrics report on the percent of HPVs entered greater than 60 days after the date that they are designated as an HPV (day zero). TDAPC’s data metrics show 16 of 43 (37.2%) HPVs were entered more than 60 days following their day zero.	TDAPC should propose and implement a plan to ensure that HPVs are entered into AFS in a timely manner.
TN	CWA	E12 Data Completeness	The CWA file review discovered that penalty information, formal and informal enforcement actions and inspection documentation were found to be in the facility file but not entered into PCS consistently	TDEC should institute procedures that assure that all information that should be entered into PCS is routed to data entry staff. Periodic data pulls should be performed from the state database and PCS for all minimum data required reconciling any differences found

TN	CWA	E11 Data Accuracy	The SRF data metrics (dated May 12, 2007) noted major facilities having correctly coded limits for Tennessee at 91%, below the national goal of at or above 95%.	TDEC should strive to achieve the national goal of 95% for data quality with respect to DMR and parameter measurement coding into PCS. Data entry procedures should be developed that account for regular QA/QC of data entered into PCS.
TN	CWA	E6 Timely & Appropriate Action	In the OECA CWA Data Metrics Tennessee is reported at 9.6%, which is above the 2% threshold for SNC facilities beyond enforcement timelines milestones, and above the national average of 8.3%. Eighty-six percent (6 out of 7) of the enforcement actions issued at major facilities were not timely (beyond 180 days from the date the facility was determined to be out of compliance). Many of the formal enforcement actions were taken after the issuance of numerous NOVs.	It is recommended that TDEC establish enforcement response timeframes with OGC to ensure timely resolution of enforcement actions.
TN	CWA	E7 Penalty Calculation	During the CWA file review, it was observed that penalty assessment calculations did not specifically consider economic benefit as a factor. In addition, the CWA EMS does not address changes that TDEC has adopted, including penalty limit increase in the Director's Order and the expedited Director's Orders.	Every reasonable effort must be made to calculate and recover economic benefit and gravity in enforcement penalties. If such assessment is not feasible or is not applicable, a notation in the file should be made with an explanation.
TN	RCRA	E1 Inspection Universe	The TDEC RCRA program met statutory and OECA Guidance requirements for inspections, with the exception of the five-year requirement for LQG inspection coverage. Due to the incorrect status of one	It is recommended that TDEC change the legal status code of the one TSDF that is no longer operating. Additionally, TDEC should clean up RCRAInfo data and identify the accurate LQG universe. Although, TDEC has in their grant work plan that the inspection priority is to identify never inspected LQGs, it is recommended that TDEC add to the grant work plan that all the LQGs need to be inspected during the five-year cycle.

			TSDF in RCRAInfo, the SRF data metrics indicate that Tennessee missed this inspection requirement, while in fact all operating TSDFs were inspected over the two-year period from FY2005-FY2006.	
TN	RCRA	E2 Violations ID'ed Appropriately	TDEC does an excellent job of documenting RCRA inspections, but need to include the use of photographs in the documentation of findings during inspections.	It is recommended that TDEC establish the practice of incorporating photo documentation in the RCRA inspection reports.
TN	RCRA	E3 Violations ID'ed Timely	Of the TDEC RCRA files reviewed, the inspection reports were completed within the following timeframes: Twelve (75 %) were completed within 50 days from the date of the inspection; Four (25 %) were completed between 51 and 100 days from the date of the inspection;	It is recommended that TDEC establish and implement an internal alert mechanism to identify when inspection reports are approaching 50-day time limit.

## **IV. FINDINGS**

Findings represent EPA’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:

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

<p><b>Areas for State * Improvement – Recommendations Required</b></p> <p><b>*Or, EPA Region’s attention where program is directly implemented.</b></p>	<p>This describes activities, processes, or policies that the metrics and/or the file reviews show are being implemented by the state that have significant problems that need to be addressed and that require follow-up EPA oversight. This can describe a situation where a state is implementing either EPA or state policy in a manner requiring EPA attention. For example, these would be areas where the metrics indicate that the state is not meeting its commitments, there is a pattern of incorrect implementation in updating compliance data in the data systems, there are incomplete or incorrect inspection reports, and/or there is ineffective enforcement response. These would be significant issues and not merely random occurrences. Recommendations are required for these problems, and they must have well-defined timelines and milestones for completion. Recommendations will be monitored in the SRF Tracker.</p>
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**Clean Air Act Program**

CAA Element 1 — Data Completeness: Degree to which the Minimum Data Requirements are complete.																										
<b>1</b>	<b>This finding is a(n)</b>	<input type="checkbox"/> Meets SRF Program Requirements <input checked="" type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required <input type="checkbox"/> Good Practice																								
	<b>Finding</b>	TDEC entered all minimum data requirements (MDRs) into AFS.																								
	<b>Explanation</b>	<p>Element 1 of the SRF is designed to evaluate the degree to which the State enters MDRs into the national data system. In the Preliminary Data Analysis (PDA), TDEC was at or near the national goal of 100% for all Data Metrics except one. However, TDEC’s value of 3.7% for Data Metric 1c5 (based on the frozen data) fell significantly short of the national goal. This metric measures the percentage of National Emissions Standards for Hazardous Air Pollutants (NESHAP) sources that have the applicable subpart populated in AFS. This means that of the 135 sources listed in AFS as being subject to NESHAP requirements, only 5 had the applicable subpart recorded in AFS. During the file review, TDEC advised that they had mistakenly coded their gas stations as being subject to the NESHAP. After discovering this error in 2011, they corrected the data in AFS. This single instance does not constitute a pattern of deficiencies or a significant problem. Since TDEC self-corrected without additional EPA oversight, this Element is designated as an area for State Attention, and the State is expected to maintain a high level of performance.</p>																								
	<b>Metric(s) and Quantitative Value(s)</b>	<table border="0" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;"><u>Data Metric</u></th> <th style="text-align: center;"><u>Goal</u></th> <th style="text-align: center;"><u>State</u></th> </tr> </thead> <tbody> <tr> <td>1c4 - % NSPS Facilities with subprogram designation:</td> <td style="text-align: center;">100%</td> <td style="text-align: center;">93.3%</td> </tr> <tr> <td>1c5 -% NESHAP facilities with subprogram designation</td> <td style="text-align: center;">100%</td> <td style="text-align: center;">3.7%</td> </tr> <tr> <td>1c6 - % MACT facilities with subprogram designation</td> <td style="text-align: center;">100%</td> <td style="text-align: center;">97.3%</td> </tr> <tr> <td>1h1 - HPV Day Zero (DZ) Pathway Discovery date: Percent DZs reported after 10/1/05 with discovery</td> <td style="text-align: center;">100%</td> <td style="text-align: center;">97.2%</td> </tr> <tr> <td>1h2 - HPV DZ Pathway Violating Pollutants: Percent DZs reported after 10/1/05</td> <td style="text-align: center;">100%</td> <td style="text-align: center;">100%</td> </tr> <tr> <td>1h3 - Percent DZs reported after 10/1/05 with HPV Violation Type Code</td> <td style="text-align: center;">100%</td> <td style="text-align: center;">91.4%</td> </tr> <tr> <td>1k - Major Sources Missing CMS Policy Applicability</td> <td style="text-align: center;">0</td> <td style="text-align: center;">0</td> </tr> </tbody> </table>	<u>Data Metric</u>	<u>Goal</u>	<u>State</u>	1c4 - % NSPS Facilities with subprogram designation:	100%	93.3%	1c5 -% NESHAP facilities with subprogram designation	100%	3.7%	1c6 - % MACT facilities with subprogram designation	100%	97.3%	1h1 - HPV Day Zero (DZ) Pathway Discovery date: Percent DZs reported after 10/1/05 with discovery	100%	97.2%	1h2 - HPV DZ Pathway Violating Pollutants: Percent DZs reported after 10/1/05	100%	100%	1h3 - Percent DZs reported after 10/1/05 with HPV Violation Type Code	100%	91.4%	1k - Major Sources Missing CMS Policy Applicability	0	0
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	<b>State Response</b>																									



<b>Recommendation</b>	No formal recommendations are being tracked for this Element.
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<b>CAA Element 2 — Data Accuracy: Degree to which data reported in the national system is accurately entered and maintained.</b>		
2	<b>This finding is a(n)</b>	<input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input checked="" type="checkbox"/> Area for State Improvement – Recommendations Required <input type="checkbox"/> Good Practice
	<b>Finding</b>	Several enforcement and compliance activities were missing or inaccurately reported, and a variety of discrepancies between the files and AFS were identified in most files reviewed.
	<b>Explanation</b>	<p>Data Metric 2a compares the number of HPVs identified in AFS during the review year to the number of major sources listed in AFS as “in violation” or “meeting compliance schedule.” All HPVs are to be assigned a Compliance Status code that represents the source as either in violation or meeting a schedule until all penalties are paid and all injunctive relief is completed. Because HPV facilities are only a subset of violating facilities, this metric provides a strong indication of whether Compliance Status is being accurately reported. Typically, a state may find two, three, or more violators for every HPV, so the ratio of HPVs to all violating sources should be at or below 50%. Based on TDEC’s value for Metric 2a of 78.8%, supplemental files were selected for further evaluation. From this additional evaluation, EPA discovered several enforcement actions in the files which had not been entered into AFS. TDEC explained that they were only entering HPV enforcement actions into AFS, which is why Data Metric 2a was significantly higher the 50%. To assist the State in better understanding what actions should be reported into AFS, EPA provided TDEC with the recent clarification memo on federally reportable violations (FRVs).</p> <p>Data Metric 2b1 measures the percentage of stack tests without a results code reported into AFS. TDEC’s value of 0% means all stack test result codes are in AFS, thus the national goal is met.</p> <p>Based on File Review Metric 2c, 7 of the 32 files reviewed (22 %) documented all MDRs being reported accurately into AFS. The remaining 25 files had one or more discrepancies identified. Twelve files had minor discrepancies such as an incorrect facility name, zip, pollutant or Standard Industrial Classification (SIC) code. More significantly, eight files had missing or incorrect air programs (e.g. MACT, NSPS) or subparts in AFS. Another sixteen files reflected missing or inaccurate activities (e.g. FCE's, NOV's, enforcement actions, stack tests, etc.) in AFS versus what was observed in the file.</p>

		<p>Finally, five files indicated inaccurate or missing HPV or compliance status information in AFS.</p> <p>The missing enforcement actions and the other missing or inaccurate data in AFS make this element an area for State improvement.</p>																		
	<b>Metric(s) and Quantitative Value(s)</b>	<table border="1"> <thead> <tr> <th>Data Metric</th> <th>National Goal</th> <th>State</th> </tr> </thead> <tbody> <tr> <td>2a - # of HPVs / # of Noncompliance sources</td> <td>-</td> <td>78.8%</td> </tr> <tr> <td>2b1- % Stack Tests without Pass/Fail result</td> <td>0%</td> <td>0%</td> </tr> <tr> <td>2b2 - Number of Stack Test Failures</td> <td>-</td> <td>2</td> </tr> <tr> <th>File Review Metric</th> <th></th> <th>State</th> </tr> <tr> <td>2c - % files with all MDR data accurate in AFS</td> <td>-</td> <td>22%</td> </tr> </tbody> </table>	Data Metric	National Goal	State	2a - # of HPVs / # of Noncompliance sources	-	78.8%	2b1- % Stack Tests without Pass/Fail result	0%	0%	2b2 - Number of Stack Test Failures	-	2	File Review Metric		State	2c - % files with all MDR data accurate in AFS	-	22%
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File Review Metric		State																		
2c - % files with all MDR data accurate in AFS	-	22%																		
	<b>State Response</b>	Division concurs and will address this issue through new and enhanced processes in its enterprise database portal.																		
	<b>Recommendation</b>	By December 31, 2012, TDEC should submit and implement revised procedures to EPA to ensure accurate reporting of enforcement and compliance MDRs into AFS. The procedures should be designed to address the causes of the inaccurate reporting. EPA's Air and EPCRA Enforcement Branch (AEEB) will monitor the improvement of the accuracy of TDEC's MDR data entry through the existing oversight calls and other periodic data reviews conducted by EPA. If by March 31, 2013 these periodic reviews indicate that the revised procedures appear to be adequate to meet the national goal, the recommendation will be considered completed.																		

**CAA Element 3 — Timeliness of Data Entry: Degree to which the Minimum Data Requirements are timely.**

<b>3</b>	<b>This finding is a(n)</b>	<input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input checked="" type="checkbox"/> Area for State Improvement – Recommendations Required <input type="checkbox"/> Good Practice
	<b>Finding</b>	The timeliness of data entry for enforcement, compliance monitoring, and HPV-related MDRs fell short of the national goal.
	<b>Explanation</b>	<p>TDEC's performance in FY 2010 for timely entry of enforcement, compliance monitoring, and HPV-related MDRs fell short of the national goal of 100%. This issue was also identified as a concern during the Round 1 SRF review. Therefore, this is designated as an area for State improvement.</p> <p>With respect to HPV data entry (Data Metric 3a), 14 of the 35 HPVs were entered within 60 days of day zero. Timeframes for late entry ranged from 66 to 634 days. TDEC advises that the staff responsible for making HPV determinations are permit writers, and they have had competing priorities because of significant permit backlogs. However, TDEC has recently realigned staff assignments for three of these</p>

	<p>permit writers to make compliance and enforcement their primary responsibility. This staffing change is expected to improve the timeliness of HPV reporting.</p> <p>Data Metric 3b1 indicates that just over half of the compliance monitoring MDRs (54%, or 986 of 1819) were entered within 60 days. Of the late entries, most related to Title V annual compliance certifications and FCEs.</p> <p>Data Metric 3b2 indicates that 63% of the enforcement-related MDRs (34 of 54) were entered within 60 days. Two-thirds of the late entries were administrative orders, and the remainder were NOV.s. TDEC noted that they currently do not utilize the universal interface (UI) to upload data from the state data system to AFS. Rather, information management staff manually enters data directly into AFS.</p>																
<b>Metric(s) and Quantitative Value(s)</b>	<table border="1"> <thead> <tr> <th>Data Metric</th> <th>National Goal</th> <th>National Average</th> <th>State</th> </tr> </thead> <tbody> <tr> <td>3a - % HPVs entered in ≤ 60 days</td> <td>100%</td> <td>34.7%</td> <td>40.0%</td> </tr> <tr> <td>3b1 - % Compliance Monitoring MDRs entered in ≤ 60 days</td> <td>100%</td> <td>59.0%</td> <td>54.2%</td> </tr> <tr> <td>3b2 - % Enforcement MDRs entered in ≤ 60 days</td> <td>100%</td> <td>70.3%</td> <td>63.0%</td> </tr> </tbody> </table>	Data Metric	National Goal	National Average	State	3a - % HPVs entered in ≤ 60 days	100%	34.7%	40.0%	3b1 - % Compliance Monitoring MDRs entered in ≤ 60 days	100%	59.0%	54.2%	3b2 - % Enforcement MDRs entered in ≤ 60 days	100%	70.3%	63.0%
Data Metric	National Goal	National Average	State														
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3b2 - % Enforcement MDRs entered in ≤ 60 days	100%	70.3%	63.0%														
<b>State Response</b>	<p>Division concurs and will address this issue through new and enhanced processes in its enterprise database portal.</p> <p>The Division has assigned 3 permitting staff to drafting orders and evaluating violations for HPV status. These permit writers will dedicate approximately 50% of their time to these duties.</p>																
<b>Recommendation</b>	<p>By December 31, 2012, TDEC should evaluate how their current data management practices contribute to late data entry, and submit and implement revised procedures to EPA which ensure timely reporting of MDRs into AFS. EPA AEEB will monitor the improvement of TDEC's timeliness of MDR reporting through periodic data reviews conducted by EPA. If by March 31, 2013 these periodic reviews indicate that the revised procedures appear to be adequate to meet the national goal, the recommendation will be considered completed.</p>																

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

<b>4</b>	<b>This finding is a(n)</b>	<input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required <input type="checkbox"/> Good Practice						
	<b>Finding</b>	TDEC met its enforcement and compliance commitments outlined in the CMS and Air Planning Agreement.						
	<b>Explanation</b>	TDEC follows a traditional Compliance Monitoring Strategy (CMS) plan. Just under half of their Title V sources and all of their Conditional Major sources (Synthetic Minors) were targeted for evaluation in FY 2010. TDEC completed FCEs at 495 sources (133 Majors and 362 SMs) against a commitment of 468 in their CMS plan. In addition TDEC met all of its enforcement and compliance commitments (100%) under the FY 2010 Air Planning Agreement with EPA Region 4. Therefore, this element meets SRF program requirements.						
	<b>Metric(s) and Quantitative Value(s)</b>	<table border="0"> <tr> <td><u>File Review</u></td> <td style="text-align: right;"><u>State</u></td> </tr> <tr> <td>4a - Planned evaluations completed for year of review pursuant to CMS plan</td> <td style="text-align: right;">100%</td> </tr> <tr> <td>4b – Planned commitments completed</td> <td style="text-align: right;">100%</td> </tr> </table>	<u>File Review</u>	<u>State</u>	4a - Planned evaluations completed for year of review pursuant to CMS plan	100%	4b – Planned commitments completed	100%
<u>File Review</u>	<u>State</u>							
4a - Planned evaluations completed for year of review pursuant to CMS plan	100%							
4b – Planned commitments completed	100%							
	<b>State Response</b>							
	<b>Recommendation</b>	No action needed.						

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

<b>5</b>	<b>This finding is a(n)</b>	<input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input checked="" type="checkbox"/> Area for State Improvement – Recommendations Required <input type="checkbox"/> Good Practice
	<b>Finding</b>	TDEC reported completion of a full compliance evaluation (FCE) at most sources during the review period. However, only half of the required Title V Annual Compliance Certification reviews were completed.

<b>Explanation</b>	<p>Based on the Data Metrics 5a1 and 5b1, TDEC reported completing FCEs at 92.4% of its Major and 100% of its SM80 sources during the applicable CMS timeframe. Since FY 2010 is the 4<sup>th</sup> year of the CMS cycle for SM80 sources, TDEC's value of 100% for Data Metric 5b1 exceeds the national goal of 80%.</p> <p>Data Metric 5g indicates that only half of the Title V ACC reviews were conducted as required by the CMS. Supplemental file reviews confirmed that several Major sources did not have an ACC review completed during the review period. Further discussion of these observations and their implications related to the state's FCEs is presented under Element 6. This issue was also noted as a problem during the Round 1 SRF review. Therefore, this is designated as an area for State improvement, and the recommendation is discussed below.</p>																																				
<b>Metric(s) and Quantitative Value(s)</b>	<table border="1"> <thead> <tr> <th data-bbox="462 630 901 709">National Data Metrics</th> <th data-bbox="901 630 1047 709">National Goal</th> <th data-bbox="1047 630 1258 709">Average</th> <th data-bbox="1258 630 1481 709">State</th> </tr> </thead> <tbody> <tr> <td data-bbox="462 709 901 781">5a1 - FCE coverage Majors (last completed CMS cycle)</td> <td data-bbox="901 709 1047 781">100%</td> <td data-bbox="1047 709 1258 781">89.2%</td> <td data-bbox="1258 709 1481 781">92.4%</td> </tr> <tr> <td data-bbox="462 781 901 852">5a2 - FCE coverage All Majors (last 2 FY)</td> <td data-bbox="901 781 1047 852">100%</td> <td data-bbox="1047 781 1258 852">84.4%</td> <td data-bbox="1258 781 1481 852">91.8%</td> </tr> <tr> <td data-bbox="462 852 901 924">5b1 - FCE coverage SM80 (current CMS cycle)</td> <td data-bbox="901 852 1047 924">20-100%</td> <td data-bbox="1047 852 1258 924">92.0%</td> <td data-bbox="1258 852 1481 924">100%</td> </tr> <tr> <td data-bbox="462 924 901 995">5b2 - FCE coverage CMS SM80 (last 5 FY)</td> <td data-bbox="901 924 1047 995">100%</td> <td data-bbox="1047 924 1258 995">92.4%</td> <td data-bbox="1258 924 1481 995">100%</td> </tr> <tr> <td data-bbox="462 995 901 1066">5c - FCE/PCE coverage All SMs (last 5 FY)</td> <td data-bbox="901 995 1047 1066">N/A</td> <td data-bbox="1047 995 1258 1066">79.2%</td> <td data-bbox="1258 995 1481 1066">100%</td> </tr> <tr> <td data-bbox="462 1066 901 1138">5d - FCE/PCE coverage other minors (5 FY)</td> <td data-bbox="901 1066 1047 1138">N/A</td> <td data-bbox="1047 1066 1258 1138">28.8%</td> <td data-bbox="1258 1066 1481 1138">48.4%</td> </tr> <tr> <td data-bbox="462 1138 901 1209">5e - Sources with unknown compliance status</td> <td data-bbox="901 1138 1047 1209">N/A</td> <td data-bbox="1047 1138 1258 1209">-</td> <td data-bbox="1258 1138 1481 1209">40</td> </tr> <tr> <td data-bbox="462 1209 901 1297">5g - Review of Self Certifications completed</td> <td data-bbox="901 1209 1047 1297">100%</td> <td data-bbox="1047 1209 1258 1297">94.3%</td> <td data-bbox="1258 1209 1481 1297">50.2%</td> </tr> </tbody> </table>	National Data Metrics	National Goal	Average	State	5a1 - FCE coverage Majors (last completed CMS cycle)	100%	89.2%	92.4%	5a2 - FCE coverage All Majors (last 2 FY)	100%	84.4%	91.8%	5b1 - FCE coverage SM80 (current CMS cycle)	20-100%	92.0%	100%	5b2 - FCE coverage CMS SM80 (last 5 FY)	100%	92.4%	100%	5c - FCE/PCE coverage All SMs (last 5 FY)	N/A	79.2%	100%	5d - FCE/PCE coverage other minors (5 FY)	N/A	28.8%	48.4%	5e - Sources with unknown compliance status	N/A	-	40	5g - Review of Self Certifications completed	100%	94.3%	50.2%
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5g - Review of Self Certifications completed	100%	94.3%	50.2%																																		
<b>State Response</b>	<p>All SARs and ACCs for a specific facility may not be reviewed during one Federal FY because of when the reports come due (they are staggered) and where the due dates fall in the inspection schedule. From talking to Dick Dubose and Beverly Spagg on two different occasions, it is our understanding that SAR/ACC reports do not have to be reviewed in the Federal FY they are submitted, as long as they are reviewed in a timely manner after they are received. Our records show that SARs and ACCs are being reviewed in a timely manner.</p> <p>SARs and ACCs assigned for review by field staff now are to be reviewed within 20 days of receipt in the EFO so if there is an issue of non-compliance the NOV can be issued within 30 days of receipt in the EFO.</p>																																				
<b>Recommendation</b>	<p>By December 31, 2012, TDEC should submit and implement revised procedures to EPA which ensure that the State conduct timely reviews of the Annual Compliance Certification for every Title V source each year. If these revised procedures appear to be adequate to meet the national goal, the recommendation will be considered completed.</p>																																				

**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	<b>This finding is a(n)</b>	<input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input checked="" type="checkbox"/> Area for State Improvement – Recommendations Required <input type="checkbox"/> Good Practice								
	<b>Finding</b>	<p>Most compliance monitoring reports (CMRs) properly documented observations and included an accurate description of observations. However, about one-fourth of the full compliance evaluations (FCEs) did not address the review of required reports or the evaluation of required performance parameters.</p>								
	<b>Explanation</b>	<p>File Review Metric 6b evaluates whether all applicable elements of an FCE have been addressed. Based on the file review, 73% of the files reviewed (22 of 30) had all documentation in the files showing that they contained all of the elements of the FCE, per the CMS. The remaining 8 files were missing one or more of the seven required elements of an FCE. The most common issue was failure to conduct and document the review of a Title V Annual Compliance Certification. Other files indicated a failure to perform a Visible Emissions (VE) analysis, stack test, or other performance evaluation. Therefore this is designated as an area for State improvement, and a recommendation is included below. This issue was also identified as a concern during the Round 1 review, and at that time, EPA recommended that TDEC develop a checklist to ensure that all elements of an FCE have been completed prior to entering the FCE into AFS. EPA reiterates this recommendation and would be happy to share sample checklists developed by other states.</p> <p>For File Review Metric 6c, 90% of the files reviewed (27 of 30) contained all of the CMR requirements listed in the CMS, providing sufficient documentation to determine compliance at the facility.</p>								
	<b>Metric(s) and Quantitative Value(s)</b>	<table border="1"> <thead> <tr> <th>File Review Metric</th> <th>State</th> </tr> </thead> <tbody> <tr> <td>6a - Number of FCEs reviewed</td> <td>30</td> </tr> <tr> <td>6b - % FCEs that meet definition</td> <td>73%</td> </tr> <tr> <td>6c - % CMRs sufficient for compliance determination</td> <td>90%</td> </tr> </tbody> </table>	File Review Metric	State	6a - Number of FCEs reviewed	30	6b - % FCEs that meet definition	73%	6c - % CMRs sufficient for compliance determination	90%
File Review Metric	State									
6a - Number of FCEs reviewed	30									
6b - % FCEs that meet definition	73%									
6c - % CMRs sufficient for compliance determination	90%									
	<b>State Response</b>	<p>As mentioned above, SARs and ACCs assigned for review by field staff now are to be reviewed within 20 days of receipt in the EFO so if there is an issue of non-compliance the NOV can be issued within 30 days of receipt in the EFO.</p> <p>VEEs are not made if no visible emissions are seen. The inspection report documents that fact when a VEE is not conducted.</p>								

		<p>FCE checklist usefulness is in question based upon the way our agency is set up. The Division will evaluate the usefulness of FCE Checklist to the program and implement a checklist if it will improve the process.</p> <p>Field staff will start using a revised inspection report format 10-1-12 to better capture elements of an FCE they are responsible for.</p>
	<b>Recommendation</b>	<p>By December 31, 2012, TDEC should develop and submit to EPA an FCE checklist and revised procedures which ensure that all required elements of an FCE have been completed prior to entry of the FCE into AFS. If the checklist and revised procedures appear to be adequate to meet the CMS policy, the recommendation will be considered completed.</p>

<p><b>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.</b></p>		
7	<b>This finding is a(n)</b>	<input type="checkbox"/> Meets SRF Program Requirements <input checked="" type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required <input type="checkbox"/> Good Practice
	<b>Finding</b>	<p>The file review indicated that the State is making accurate compliance determinations based on inspection reports and other compliance monitoring information. However, the appropriate compliance status is not always reported timely into AFS.</p>
	<b>Explanation</b>	<p>File Metric 7a indicates that most compliance monitoring reports (CMRs) reviewed (93% or 28 of 30) led to an accurate compliance determination.</p> <p>With respect to File Review Metric 7b, half of the files reviewed with non-HPV violations (3 of 6) had the compliance status reported accurately and timely into AFS. All three of the sources that did not have the appropriate compliance status in AFS involved an NOV which was not recorded in AFS. In discussions with TDEC, the State advised that they did not realize that non-HPV violations were federally reportable. Therefore, several MDRs, including enforcement activities (NOVs, AOs), and Compliance Status, were not entered into AFS for these violations. Since this has been identified as a concern under Element 2, the recommendation under that element is expected to address the problem.</p> <p>Data Metrics 7c1 and 7c2 are “review indicator” metrics designed to measure the compliance status reporting of the State program. Whereas 7c2 exceeded the national goal, 7c1 fell slightly below the national goal</p>

		of 11.2%. A supplemental file was selected to further evaluate this potential concern, and that file demonstrated that TDEC had accurately and timely reported the compliance status in that instance. Therefore, since these are minor issues that the State should be able to correct without additional EPA oversight based on a better understanding of the FRV Guidance, this is designated as an area for State attention.																												
	<b>Metric(s) and Quantitative Value(s)</b>	<table border="0"> <tr> <td colspan="3"><u>File Review Metrics</u></td> <td><u>State</u></td> </tr> <tr> <td>7a - % CMRs leading to accurate compliance determination</td> <td></td> <td></td> <td>93%</td> </tr> <tr> <td>7b - % non-HPVs with timely compliance determination in AFS</td> <td></td> <td></td> <td>50%</td> </tr> <tr> <td colspan="3"><u>Data Metrics</u></td> <td><u>State</u></td> </tr> <tr> <td></td> <td>National Goal</td> <td>National Average</td> <td></td> </tr> <tr> <td>7c1 - % facilities in noncompliance with FCE, stack test, or enforcement (1 FY)</td> <td>&gt;11.2%</td> <td>22.3%</td> <td>9.9%</td> </tr> <tr> <td>7c2 - % facilities with failed stack test and have noncompliance status (1 FY)</td> <td>&gt;22.0%</td> <td>44.0%</td> <td>100%</td> </tr> </table>	<u>File Review Metrics</u>			<u>State</u>	7a - % CMRs leading to accurate compliance determination			93%	7b - % non-HPVs with timely compliance determination in AFS			50%	<u>Data Metrics</u>			<u>State</u>		National Goal	National Average		7c1 - % facilities in noncompliance with FCE, stack test, or enforcement (1 FY)	>11.2%	22.3%	9.9%	7c2 - % facilities with failed stack test and have noncompliance status (1 FY)	>22.0%	44.0%	100%
<u>File Review Metrics</u>			<u>State</u>																											
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7c2 - % facilities with failed stack test and have noncompliance status (1 FY)	>22.0%	44.0%	100%																											
	<b>State Response</b>																													
	<b>Recommendation</b>	No formal recommendations are being tracked for this Element.																												

**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.**

<b>8</b>	<b>This finding is a(n)</b>	<input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required <input type="checkbox"/> Good Practice
	<b>Finding</b>	High Priority Violations (HPVs) are accurately identified.
	<b>Explanation</b>	TDEC exceeded the national goal for all of the data metrics in this element. File reviews supported this data. Therefore, this element meets SRF requirements.



		<table border="1"> <thead> <tr> <th><u>Data Metrics</u></th> <th><u>National Goal</u></th> <th><u>State</u></th> </tr> </thead> <tbody> <tr> <td>8a - HPV discovery rate - Majors sources</td> <td>&gt;3.2%</td> <td>9.1%</td> </tr> <tr> <td>8b - HPV discovery rate - SM sources</td> <td>&gt;0.2%</td> <td>1.1%</td> </tr> <tr> <td>8c - % formal actions with prior HPV - Majors (1 yr)</td> <td>&gt;33.9%</td> <td>100%</td> </tr> <tr> <td>8e - % sources with failed stack test actions that received HPV listing - Majors and Synthetic Minors</td> <td>&gt;20.3%</td> <td>100%</td> </tr> <tr> <td colspan="2"><u>File Review Metrics</u></td> <td><u>State</u></td> </tr> <tr> <td>8f - % accurate HPV determinations</td> <td></td> <td>100%</td> </tr> </tbody> </table>	<u>Data Metrics</u>	<u>National Goal</u>	<u>State</u>	8a - HPV discovery rate - Majors sources	>3.2%	9.1%	8b - HPV discovery rate - SM sources	>0.2%	1.1%	8c - % formal actions with prior HPV - Majors (1 yr)	>33.9%	100%	8e - % sources with failed stack test actions that received HPV listing - Majors and Synthetic Minors	>20.3%	100%	<u>File Review Metrics</u>		<u>State</u>	8f - % accurate HPV determinations		100%
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	<b>State Response</b>																						
	<b>Recommendation</b>	No action is needed.																					

**CAA Element 9 — Enforcement Actions Promote Return to Compliance: Degree to which 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.**

<b>9</b>	<b>This finding is a(n)</b>	<input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required <input type="checkbox"/> Good Practice						
	<b>Finding</b>	Enforcement actions include corrective actions that return facilities to compliance in a specific time frame, or facilities are brought back into compliance prior to issuance of a final enforcement order.						
	<b>Explanation</b>	All enforcement action files reviewed (17 of 17) returned the source to compliance. For enforcement actions that were penalty only actions, the files documented the actions taken by the facility to return to compliance prior to issuance of the order.						
	<b>Metric(s) and Quantitative Value(s)</b>	<table border="1"> <thead> <tr> <th><u>File Review</u></th> <th><u>State</u></th> </tr> </thead> <tbody> <tr> <td>9a – number of enforcement actions reviewed</td> <td>17</td> </tr> <tr> <td>9b - % enforcement actions returning source to compliance</td> <td>100%</td> </tr> </tbody> </table>	<u>File Review</u>	<u>State</u>	9a – number of enforcement actions reviewed	17	9b - % enforcement actions returning source to compliance	100%
<u>File Review</u>	<u>State</u>							
9a – number of enforcement actions reviewed	17							
9b - % enforcement actions returning source to compliance	100%							
	<b>State Response</b>							
	<b>Recommendation</b>	No action is needed.						

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

10	<b>This finding is a(n)</b>	<input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input checked="" type="checkbox"/> Area for State Improvement – Recommendations Required <input type="checkbox"/> Good Practice															
	<b>Finding</b>	TDEC takes appropriate enforcement action in accordance with EPA policy to address HPVs through the issuance of formal enforcement actions. However, over half of these actions took longer than 270 days to address.															
	<b>Explanation</b>	Based on File Review Metric 10c, TDEC took appropriate enforcement action to resolve 100% of its HPVs through a formal enforcement action with penalty. However, both the PDA and File Review indicated that HPV actions were not addressed in a timely manner. Data Metric 10a shows that in the last two years, over one-third of TDEC’s HPV actions (31 of 86) have taken longer than 270 days to address. Most of the late actions (22 of 31) have taken a year or more to address, with timeframes ranging from 372 days to 746 days. File Review Metric 10b (60%) further supports this finding, indicating that 6 of the 15 HPV actions addressed in the review year (FY2010) took longer the 270 days to resolve. This issue was also identified as a concern during the Round 1 review. Therefore, this is designated as an area for State improvement.															
	<b>Metric(s) and Quantitative Value(s)</b>	<table border="0"> <tr> <td style="text-align: left;"><u>Data Metrics</u></td> <td style="text-align: center;"><u>National Average</u></td> <td style="text-align: right;"><u>State</u></td> </tr> <tr> <td>10a - % HPVs not timely (2 FY)</td> <td style="text-align: center;">36.4%</td> <td style="text-align: right;">36.0%</td> </tr> <tr> <td colspan="2"><u>File Review Metrics</u></td> <td style="text-align: right;"><u>State</u></td> </tr> <tr> <td>10b - % timely HPV enforcement actions</td> <td></td> <td style="text-align: right;">60%</td> </tr> <tr> <td>10c - % HPVs appropriately addressed</td> <td></td> <td style="text-align: right;">100%</td> </tr> </table>	<u>Data Metrics</u>	<u>National Average</u>	<u>State</u>	10a - % HPVs not timely (2 FY)	36.4%	36.0%	<u>File Review Metrics</u>		<u>State</u>	10b - % timely HPV enforcement actions		60%	10c - % HPVs appropriately addressed		100%
<u>Data Metrics</u>	<u>National Average</u>	<u>State</u>															
10a - % HPVs not timely (2 FY)	36.4%	36.0%															
<u>File Review Metrics</u>		<u>State</u>															
10b - % timely HPV enforcement actions		60%															
10c - % HPVs appropriately addressed		100%															
	<b>State Response</b>	<p>The Division concurs and will work to address this issue through new and enhanced processes in its enterprise database portal.</p> <p>The Division has assigned 3 permitting staff to drafting orders and evaluating violations for HPV status. These permit writers will dedicate approximately 50% of their time to these duties.</p>															
	<b>Recommendation</b>	By December 31, 2012, TDEC should submit and implement revised procedures to improve the timeliness of HPV addressing actions. These procedures should identify and address the causes of the untimely actions, include notification to EPA when the complexity of a case may warrant additional time, and identify other enforcement mechanisms available when negotiations become protracted. The timeliness of HPV addressing actions will be monitored by AEEB through the existing monthly oversight calls between TDEC and EPA and through a formal consultation on or around day 150. If by March 31, 2013, these periodic															

		reviews indicate that the revised procedures appear to be adequate to meet the national goal, the recommendation will be considered completed.
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**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.**

<b>11</b>	<b>This finding is a(n)</b>	<input type="checkbox"/> Meets SRF Program Requirements <input checked="" type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required <input type="checkbox"/> Good Practice				
	<b>Finding</b>	In general, TDEC’s penalty documentation includes both gravity and economic benefit calculations. In addition, TDEC has developed a state-specific methodology based on the BEN model to calculate economic benefit.				
	<b>Explanation</b>	The penalties reviewed during the file review were well documented using a detailed penalty worksheet. All of the penalties reviewed included a gravity portion, and 15 of 17 (88%) provided sufficient documentation of economic benefit. TDEC’s “Uniform Guidance for the Calculation of Civil Penalties” dated May 23, 2011, outlines a clear expectation that economic benefit should be recovered. In addition, the agency has developed its own economic benefit model (BEN-TN) based on EPA’s BEN model. Therefore, the two files that did not address economic benefit appear to be infrequent instances that do not constitute a pattern of deficiencies or a significant problem. TDEC should be able to self correct without additional EPA oversight. Therefore, this is designated as an area for State attention.				
	<b>Metric(s) and Quantitative Value(s)</b>	<table border="0"> <tr> <td><u>File Review</u></td> <td style="text-align: right;"><u>State</u></td> </tr> <tr> <td>11a - % penalty calculations that consider &amp; include gravity and economic benefit</td> <td style="text-align: right;">88%</td> </tr> </table>	<u>File Review</u>	<u>State</u>	11a - % penalty calculations that consider & include gravity and economic benefit	88%
<u>File Review</u>	<u>State</u>					
11a - % penalty calculations that consider & include gravity and economic benefit	88%					
	<b>State Response</b>	The Division will continue to use the economic benefit checklist to ensure proper documentation of evaluation of economic benefit.				
	<b>Recommendation</b>	No formal recommendations are being tracked for this Element.				

**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	<b>This finding is a(n)</b>	<input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required <input type="checkbox"/> Good Practice																		
	<b>Finding</b>	TDEC documents the rationale for any difference between the initial and final penalty. In addition, TDEC maintains documentation that the penalty was collected.																		
	<b>Explanation</b>	<p>Data Metric 12b indicates that 83.3% of HPV actions (15 of 18) had a penalty assessed.</p> <p>File Review Metric 12c indicates that 94% of the penalty actions reviewed (16 of 17) provided documentation of the rationale for the difference between the initial and final penalty. In a single instance, TDEC proposed an initial penalty to the company of \$1,500, but the final administrative order signed by the company reflected a final penalty of \$0, and the file provided no explanation or documentation as to why the penalty was reduced. This is an isolated occurrence and does not constitute a pattern of deficiencies; therefore this element meets SRF program requirements.</p> <p>Finally, File Metric 12d indicates that 100% of the penalty actions reviewed (17 of 17) documented collection of the assessed penalty. Therefore, this element meets SRF Program requirements.</p>																		
	<b>Metric(s) and Quantitative Value(s)</b>	<table border="1"> <thead> <tr> <th data-bbox="479 1222 998 1255">Data Metrics</th> <th data-bbox="998 1222 1291 1255">National Goal</th> <th data-bbox="1291 1222 1388 1255">State</th> </tr> </thead> <tbody> <tr> <td data-bbox="479 1255 998 1289">12a - Actions with penalties</td> <td data-bbox="998 1255 1291 1289">N/A</td> <td data-bbox="1291 1255 1388 1289">25</td> </tr> <tr> <td data-bbox="479 1289 998 1323">12b - % HPV actions with penalty</td> <td data-bbox="998 1289 1291 1323">-</td> <td data-bbox="1291 1289 1388 1323">83.3%</td> </tr> <tr> <th colspan="2" data-bbox="479 1365 1291 1398">File Review Metrics</th> <th data-bbox="1291 1365 1388 1398">State</th> </tr> <tr> <td colspan="2" data-bbox="479 1398 1291 1474">12c - % actions documenting difference between initial &amp; final penalties</td> <td data-bbox="1291 1398 1388 1474">94%</td> </tr> <tr> <td colspan="2" data-bbox="479 1474 1291 1507">12d - % files that document collection of penalty</td> <td data-bbox="1291 1474 1388 1507">100%</td> </tr> </tbody> </table>	Data Metrics	National Goal	State	12a - Actions with penalties	N/A	25	12b - % HPV actions with penalty	-	83.3%	File Review Metrics		State	12c - % actions documenting difference between initial & final penalties		94%	12d - % files that document collection of penalty		100%
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	<b>State Response</b>																			
	<b>Recommendation</b>	No action is needed.																		

**Clean Water Act Program**

CWA Element 1 — Data Completeness: Degree to which the Minimum Data Requirements are complete.																							
<b>1</b>	<b>This finding is a(n)</b>	<input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input checked="" type="checkbox"/> Area for State Improvement – Recommendations Required <input type="checkbox"/> Good Practice																					
	<b>Finding</b>	TDEC entered the majority of the Minimum Data Requirements in the National data system. However, there are significant discrepancies in the areas related to facility universe and inspections conducted between the National data system and Tasks 11 and 15 of the State’s FY 2010 Final §106 Work Plan that require improvement.																					
	<b>Explanation</b>	<p>CWA Element 1 evaluates the completeness of 41 data metrics. Three of the Element 1 Data Metrics have National Performance Goals:</p> <p><u>Data Metric 1b1</u>: % of National Pollutant Discharge Elimination System (NPDES) major facilities with individual permits that have permit limits in ICIS-NPDES. The National Performance Goal for this metric is <math>\geq 95\%</math>;</p> <p><u>Data Metric 1b2</u>: % of outfalls for which Discharge Monitoring Report (DMR) data is entered in the National database. The National Performance Goal for this metric is <math>\geq 95\%</math>; and</p> <p><u>Data Metric 1b3</u>: % of NPDES major facilities with individual permits that have DMR data in ICIS-NPDES. The National Performance Goal for this metric is <math>\geq 95\%</math>.</p> <p>TDEC exceeded the National Performance Goals for Data Metrics 1b2 and 1b3 and fell short of the National Performance Goal for 1b1 (88.7% or 133/150).</p> <p>Additionally, there are significant discrepancies between the TDEC’s Frozen Data Set and the FY 2010 Final §106 Work Plan as follows:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;"><u>Data Metric</u></th> <th style="text-align: center;"><u>Frozen Data Set</u></th> <th style="text-align: center;"><u>§106 Work Plan</u></th> </tr> </thead> <tbody> <tr> <td>Data Metric 1a1 - majors universe:</td> <td style="text-align: center;">151</td> <td style="text-align: center;">166</td> </tr> <tr> <td>Data Metric 1a3 - minors universe:</td> <td style="text-align: center;">896</td> <td style="text-align: center;">958</td> </tr> <tr> <td>Data Metric 1a4 - non-majors general permits universe:</td> <td style="text-align: center;">563</td> <td style="text-align: center;">500</td> </tr> <tr> <td>Data Metric 5a - majors inspected:</td> <td style="text-align: center;">94</td> <td style="text-align: center;">126</td> </tr> <tr> <td>Data Metric 5b1 - minors inspected:</td> <td style="text-align: center;">81</td> <td style="text-align: center;">416</td> </tr> <tr> <td>Data Metric 5b2 - non-major general permits inspected:</td> <td style="text-align: center;">13</td> <td style="text-align: center;">108</td> </tr> </tbody> </table> <p>Additionally, in their review of the Official Data Set, TDEC noted that due to staffing and resource shortages, they are not up to date on</p>	<u>Data Metric</u>	<u>Frozen Data Set</u>	<u>§106 Work Plan</u>	Data Metric 1a1 - majors universe:	151	166	Data Metric 1a3 - minors universe:	896	958	Data Metric 1a4 - non-majors general permits universe:	563	500	Data Metric 5a - majors inspected:	94	126	Data Metric 5b1 - minors inspected:	81	416	Data Metric 5b2 - non-major general permits inspected:	13	108
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		entering Enforcement Actions into ICIS-NPDES and that many non-receipt violations are erroneous and are currently being investigated.  Data completeness was an issue that was raised during the Round 1 SRF review. Steps taken by TDEC in response to the Round 1 recommendation have not fully addressed this issue and the issue remains during round 2.												
	<b>Metric(s) and Quantitative Value(s)</b>	<table border="1"> <thead> <tr> <th><u>Data Metrics</u></th> <th><u>National Goal</u></th> <th><u>State</u></th> </tr> </thead> <tbody> <tr> <td>1b1: Facilities with permit limits</td> <td>≥95%</td> <td>88.7%</td> </tr> <tr> <td>1b2: DMR Entry Rate</td> <td>≥95%</td> <td>99.9%</td> </tr> <tr> <td>1b3: DMR with permit limits</td> <td>≥95%</td> <td>100 %</td> </tr> </tbody> </table>	<u>Data Metrics</u>	<u>National Goal</u>	<u>State</u>	1b1: Facilities with permit limits	≥95%	88.7%	1b2: DMR Entry Rate	≥95%	99.9%	1b3: DMR with permit limits	≥95%	100 %
<u>Data Metrics</u>	<u>National Goal</u>	<u>State</u>												
1b1: Facilities with permit limits	≥95%	88.7%												
1b2: DMR Entry Rate	≥95%	99.9%												
1b3: DMR with permit limits	≥95%	100 %												
	<b>State Response</b>	Although TDEC exceeded the national performance goals regarding metrics 1b2 and 1b3, it did not meet the national performance goal in regards to metric 1b1, Individual NPDES permits with limits that were timely set up in ICIS. TDEC has been working to improve the timeliness and correctness of setting up permit limits in ICIS since the data migration in 2008, and is currently developing electronic batch processes with EPA Grant assistance. TDEC is also developing a new internal process between the permit writers and E&C staff that will expedite the electronic batching of permit information and limit sets directly into ICIS. Once the batch processes are operational, there should be no significant delays between permit issuance and ICIS setup.												
	<b>Recommendation</b>	TDEC should continue to emphasize this issue in an attempt to resolve these data completeness problems. TDEC should take steps to ensure that all data required by the State's §106 Work Plan are thoroughly and completely entered into ICIS-NPDES. EPA Region 4's Clean Water Enforcement Branch (CWEB) will monitor the TDEC's data entry and verify progress during Quarterly Pacesetter calls. If, by June 30, 2013, a pattern of accurate data entry is observed, the recommendation will be considered completed.												

<b>CWA Element 2 — Data Accuracy: Degree to which data reported in the national system is accurately entered and maintained.</b>		
<b>2</b>	<b>This finding is a(n)</b>	<input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input checked="" type="checkbox"/> Area for State Improvement – Recommendations Required <input type="checkbox"/> Good Practice
	<b>Finding</b>	The File Review indicated that 69% of the files contained information reported accurately into ICIS-NPDES.

	<b>Explanation</b>	<p>CWA SRF Element 2, which measures the accuracy of data the State has entered in ICIS-NPDES, is supported by Data Metric 2a and File Metric 2b. A facility record is considered accurate when data points in ICIS-NPDES are the same as the information found in the facility files.</p> <p>Data Metric 2a addresses the percent of enforcement actions linked to violations for major facilities.</p> <p>File Metric 2b addresses the percent of files reviewed where data is accurately reflected in the National data system. Specifically, 26 files were reviewed to examine the accuracy of data between the information in the State’s facility file and ICIS-NPDES. EPA’s Quality Assurance Guidance Manual establishes a goal of 95 percent accuracy rate for data accuracy. Of the 26 facilities randomly selected for this review, 18 files (69%) documented that the selected data points were reported accurately into ICIS-NPDES.</p> <p>The File Review noted eight facilities with missing or inaccurate data between the files and ICIS-NPDES. Examples of data inaccuracies include inspections not reflected in ICIS-NPDES (7 inspections for 3 facilities), Notices of Violations (NOVs) not in ICIS-NPDES (5 facilities), and inspections reports not in the file (1 facility). The File Review results reflect data inaccuracies which, therefore, warrant State improvement.</p> <p>Data quality was an issue that was raised during the Round 1 SRF review. Procedures that were developed in response to the Round 1 recommendation have not been fully implemented and the issue remains during Round 2.</p>												
	<b>Metric(s) and Quantitative Value(s)</b>	<table border="1"> <thead> <tr> <th><u>Data Metric</u></th> <th><u>National Goal</u></th> <th><u>State</u></th> </tr> </thead> <tbody> <tr> <td>2a: Actions linked to violation major facilities</td> <td></td> <td>80%</td> </tr> <tr> <th><u>File Review Metric</u></th> <th></th> <th><u>State</u></th> </tr> <tr> <td>2b: Files reviewed where data is accurately reflected in the data system (18/26)</td> <td></td> <td>69%</td> </tr> </tbody> </table>	<u>Data Metric</u>	<u>National Goal</u>	<u>State</u>	2a: Actions linked to violation major facilities		80%	<u>File Review Metric</u>		<u>State</u>	2b: Files reviewed where data is accurately reflected in the data system (18/26)		69%
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<u>File Review Metric</u>		<u>State</u>												
2b: Files reviewed where data is accurately reflected in the data system (18/26)		69%												
	<b>State Response</b>	<p>Although TDEC does attempt to enter all NPDES inspection data, TDEC has not historically entered NOVs into either PCS or ICIS, due to limitations on staffing and resources. TDEC will develop and submit revised SOPs to Region 4’s CWEB, to address data accuracy. TDEC will also be evaluating staffing resources and procedures to determine if efficiencies can be located that will help facilitate the required entry of NOVs into ICIS.</p>												

	<b>Recommendation</b>	<p>By March 31, 2013, TDEC should develop and submit Standard Operating Procedures (SOPs) to Region 4's CWEB to address accurately entering data into ICIS-NPDES. The CWEB is available to assist TDEC in the development of these procedures.</p> <p>TDEC's progress on the implementation of these procedures will be reviewed during the routine Quarterly Pacesetter calls. If, by June 30, 2013, this data is being accurately entered into ICIS-NPDES, this recommendation will be considered complete.</p>
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**CWA Element 3 — Timeliness of Data Entry: Degree to which the Minimum Data Requirements are timely.**

3	<b>This finding is a(n)</b>	<input type="checkbox"/> Meets SRF Program Requirements <input checked="" type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required <input type="checkbox"/> Good Practice
	<b>Finding</b>	TDEC's timely entry of the Minimum Data Requirements needs improvement.
	<b>Explanation</b>	<p>CWA Element 3 addresses the timely entry of data into ICIS-NPDES. EPA's Quality Assurance Guidance notes that "(T)imeliness refers to the 'punctuality' of information in the data base – as measured by the length of time between the actual event (or receipt of information about the event) and its appearance in the data base. Targets for timeliness vary by the type of data being entered into the system." The longest timeframe specified in the Manual is ten days.</p> <p>Timeliness of data is determined by comparing the frozen data (i.e., data which is frozen in ICIS-NPDES after the end of each fiscal year) with the current production data that is pulled at the beginning of the SRF evaluation. Both sets of data, called the Official Data Set (ODS), were sent to TDEC in the SRF kick-off letter. TDEC's data for FY 2010 was frozen in February 2011 and the ODS was sent in March 2011. If data was entered in a timely manner then the frozen data and the production data would be the same.</p> <p>Seventeen of thirty-one (55%) of the required frozen data elements from the ODS were timely. Fourteen of the thirty-one data elements were not timely. The difference in the reported numbers is not appreciable for twelve of these fourteen elements. Two of the required data elements dealing with active facility universe numbers did, however, have appreciable differences between the frozen data elements and the production data elements as shown below. Although universe numbers are important to keep accurate, it is not uncommon for universe counts to fluctuate, especially for non-major facilities.</p>



		TDEC's data entry of the Minimum Data Requirements was an issue that was raised during the Round 1 SRF review. Steps taken by TDEC in response to the Round 1 recommendation have not fully addressed this issue and the issue remains as an area for State attention during Round 2.									
	<b>Metric(s) and Quantitative Value(s)</b>	<table border="1"> <thead> <tr> <th>Data Metrics</th> <th>Frozen</th> <th>Production</th> </tr> </thead> <tbody> <tr> <td>1a3: Active facility universe: NPDES non-major individual permits (Current)</td> <td>896</td> <td>859</td> </tr> <tr> <td>1a4: Active facility universe: NPDES non-major general permits (Current)</td> <td>563</td> <td>390</td> </tr> </tbody> </table>	Data Metrics	Frozen	Production	1a3: Active facility universe: NPDES non-major individual permits (Current)	896	859	1a4: Active facility universe: NPDES non-major general permits (Current)	563	390
Data Metrics	Frozen	Production									
1a3: Active facility universe: NPDES non-major individual permits (Current)	896	859									
1a4: Active facility universe: NPDES non-major general permits (Current)	563	390									
	<b>State Response</b>	TDEC is pleased that there was no appreciable difference for 12 of the 14 elements, and believes that this is indicative of significant improvement. TDEC is currently developing electronic batch processes that will improve data accuracy.									
	<b>Recommendation</b>	No formal recommendation is being tracked for this Element.									

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

<b>4</b>	<b>This finding is a(n)</b>	<input type="checkbox"/> Meets SRF Program Requirements <input checked="" type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required <input type="checkbox"/> Good Practice
	<b>Finding</b>	For FY 2010, TDEC met or exceeded most of the compliance and enforcement commitments from their CWA §106 Grant Work Plan.
	<b>Explanation</b>	The compliance and enforcement aspects of TDEC's FY 2010 CWA §106 Grant Work Plan describe planned inspection requirements; data management requirements; reporting/enforcement requirements; pretreatment facilities requirements; and policy, strategy and management requirements for the fiscal year. TDEC's FY 2010 Grant Work Plan contained 28 compliance and enforcement tasks/commitments. Based on Region 4's FY 2010 106 Annual Report Checklist, twenty-seven (96%) of the Grant Work Plan tasks were met. The one Grant Work Plan deficiency is:

		<p>Task #16 - Enter and maintain data in ICIS-NPDES for all formal and informal enforcement actions, including penalties assessed and collected. TDEC did not meet this commitment.</p> <p>Since one work plan deficiency was noted and this issue will be addressed by the recommendations in Elements 1 and 2, this is an area for State attention.</p> <p>Additionally, there are significant discrepancies for several Data Metrics between the ICIS-NPDES and TDEC's accomplishments as reflected in the end-of-year Work Plan review. Therefore, it appears that TDEC exceeded the inspection commitment for 5a, but did not meet the commitments for 5b1 and 5b2. Given this level of performance and since the issues of data completeness and data accuracy will be addressed by the recommendations in Elements 1 and 2, this Element remains an area for State attention.</p>
	<p><b>Metric(s) and Quantitative Value(s)</b></p>	<p><u>Metric</u></p> <p>4a – Planned inspections completed/committed:</p> <p>Majors: 94 completed/83 committed;  Minors: 81 completed/192 committed;  General Permits: 13 completed/100 committed;  MS4 Phase I Audits/Inspections: 0 completed/1 committed;  MS4 Phase II Audits/Inspections: 23 audits and 11 inspections completed/ 11 committed;  Industrial Stormwater: 394 completed/247 committed;  Phase II Construction Stormwater: 1,506 completed/597 committed;  Large/Medium CAFOs: 80 completed/65 committed;  Major CSO Inspections: 1 completed;  Minor CSO Inspections: 1 completed;  Major SSO Inspections: 8 completed;  Minor SSO Inspections: 2 completed.</p> <p>4b – Planned commitments complete: 96% (27/28)</p>
	<p><b>State Response</b></p>	<p>Regarding Task #16: Historically, due to staffing and resource issues, TDEC has not routinely entered CWA Enforcement data directly into ICIS. Recognizing the importance of this metric, the EMS and Section Policy will be revised to require that all NPDES Enforcement actions are entered into ICIS in a timely fashion. Institution of batch processes should result in this metric being improved significantly.</p>
	<p><b>Recommendation</b></p>	<p>No formal recommendation is being tracked for this Element.</p>

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

5	<b>This finding is a(n)</b>	<input type="checkbox"/> Meets SRF Program Requirements <input checked="" type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required <input type="checkbox"/> Good Practice
	<b>Finding</b>	TDEC met or exceeded most of the inspection commitments required by TDEC’s Compliance Monitoring Strategy (CMS) and the State’s FY 2010 CWA §106 Work Plan.
	<b>Explanation</b>	<p>Element 5 measures the degree of the State’s core inspection coverage. TDEC’s CMS set a goal of 100% inspections of major permittees every two fiscal years; and an inspection frequency of at least once in each five-year permit term for “traditional” minor permittees. The State submits a detailed inspection plan that lays out the inspection framework for the coming year. In TDEC’s FY 2010 CWA §106 Work Plan, TDEC committed to inspect 50% of their NPDES majors and 20% of their NPDES minor facilities which meets the annual inspection frequency. Additionally, TDEC committed to inspect 100 facilities with General Permits.</p> <p>Per the review of the data metrics (shown below) TDEC met or exceeded many of their FY 2010 core inspection commitments. However, significant discrepancies exist for several Data Metrics between ICIS-NPDES and the State’s accomplishments as reflected in the review of the end-of-year Work Plan. For example, Data Metric 5a, ICIS-NPDES shows 94 majors inspected and the review of the end-of-year Work Plan shows 126 majors inspected; Data Metric 5b1, ICIS-NPDES shows 81 non-majors inspected and the end-of-year review of the Work Plan shows 416 inspected; and Data Metric 5b2, ICIS-NPDES shows 13 facilities with non-major general permits inspected and the end-of-year review of the Work Plan shows 108 facilities with non-major general permits inspected.</p> <p>The review of the end-of-year Work Plan shows that TDEC’s inspection coverage meets program expectations, however, the official record for inspection accomplishments is ICIS-NPDES. Therefore, as reflected in ICIS-NPDES, it appears that TDEC exceeded the inspection commitment for 5a, but did not meet the commitments for 5b1 and 5b2. Given this level of performance and since the issues of data completeness and data accuracy are addressed by the recommendations in SRF Elements 1 and 2, this is an area for State attention.</p>



	<b>Explanation</b>	<p>Element 6 is supported by SRF File Metrics 6a (number of inspection reports reviewed), 6b (inspection report completeness), 6c (if a compliance determination could be drawn from documentation found in the inspection files), and 6d (timeliness of the inspection reports).</p> <p>Thirty-two inspection reports for twenty-six different facilities were reviewed for Element 6 (File Metric 6a).</p> <p>File Metric 6b assesses the completeness of inspection reports. Completeness is based on the SRF CWA Plain Language Guide (PLG) and is examined to see if inspection reports contain sufficient information to make an accurate determination of the conditions at a facility. Of the inspection reports reviewed, 31 of 32 (97%) were considered to be complete. The one inspection report that was considered incomplete was due to the lack of a manager’s signature on the inspection report.</p> <p>File Metric 6c addresses whether the inspection reports provided sufficient information to determine the compliance status of the facility. Of the 32 inspection reports reviewed, all had adequate documentation to determine compliance.</p> <p>File Metric 6d measures the timely completion of inspection reports. Section II.A. of TDEC’s Water Pollution Enforcement Management Strategy dated June 2008 establishes the following criteria: <i>“Notices of Violation (NOV) are formal correspondence sent by the Division to persons notifying them that a violation has occurred. A NOV is either hand-delivered or sent by certified mail to the alleged violator and should be issued within 30 days of documenting the violation.”</i></p> <p>Of the 32 inspection reports reviewed, 26 reports (81%) were completed within 30 days. For the six reports that were not timely and impacted TDEC’s timeliness in issuing NOVs, the timeframes ranged from 37 to 210 days. While the majority of inspection reports were completed in a timely manner, this is an area for State attention, and it is suggested that TDEC examine and implement steps to identify efficiencies to improve the timely completion of inspection reports.</p>										
	<b>Metric(s) and Quantitative Value(s)</b>	<table border="1"> <thead> <tr> <th data-bbox="475 1551 1133 1587"><u>File Review Metrics</u></th> <th data-bbox="1133 1551 1482 1587"><u>State Performance</u></th> </tr> </thead> <tbody> <tr> <td data-bbox="475 1587 1133 1623">6a: # of inspection reports reviewed</td> <td data-bbox="1133 1587 1482 1623">32</td> </tr> <tr> <td data-bbox="475 1623 1133 1659">6b: % of inspection reports that are complete (31 of 32)</td> <td data-bbox="1133 1623 1482 1659">97%</td> </tr> <tr> <td data-bbox="475 1659 1133 1694">6c: % of inspection reports with sufficient documentation</td> <td data-bbox="1133 1659 1482 1694">100%</td> </tr> <tr> <td data-bbox="475 1694 1133 1730">6d: % of inspection reports that are timely (26 of 32)</td> <td data-bbox="1133 1694 1482 1730">81%</td> </tr> </tbody> </table>	<u>File Review Metrics</u>	<u>State Performance</u>	6a: # of inspection reports reviewed	32	6b: % of inspection reports that are complete (31 of 32)	97%	6c: % of inspection reports with sufficient documentation	100%	6d: % of inspection reports that are timely (26 of 32)	81%
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6c: % of inspection reports with sufficient documentation	100%											
6d: % of inspection reports that are timely (26 of 32)	81%											
	<b>State Response</b>	TDEC has initiated an evaluation and assessment of the CWA inspection and reporting process, and will include steps to identify efficiencies to improve the timely completion of inspection reports.										
	<b>Recommendation</b>	No formal recommendation is being tracked for this Element.										

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.							
<b>7 This finding is a(n)</b>	<input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input checked="" type="checkbox"/> Area for State Improvement – Recommendations Required <input type="checkbox"/> Good Practice						
<b>Finding</b>	Compliance determinations were accurately made and Single Event Violations (SEVs) were reported, however, TDEC should focus on efforts to better address unresolved permit schedule violations.						
<b>Explanation</b>	<p>Data Metrics 7a1 and 7a2 track SEVs for active majors and non-majors, respectively, which are reported in ICIS-NPDES. SEVs are one-time or long-term violations discovered by TDEC, typically during inspections and not through automated reviews of Discharge Monitoring Reports (DMRs). Per Agency guidance, TDEC should ensure major facility SEVs are entered into ICIS-NPDES. In FY 2010, TDEC entered 3 SEVs for majors and 0 SEVs for non-majors. The FY 2010 level of data entry for SEVs is higher than SEV data entry over the last few years. Since TDEC has maintained a level of SEV data entry, no action is needed.</p> <p>Data Metrics 7b and 7c address the percent of facilities with unresolved compliance schedule violations at the end of FY 2010, and the percent of facilities with unresolved permit schedule violations at the end of FY 2010, respectively. For Data Metric 7b, TDEC data show none (0/2) of the facilities with unresolved compliance schedule violations. For Data Metric 7c, TDEC shows 7 of 12 facilities (58%) with unresolved permit schedule violations at the end of the Fiscal Year. The National Average for this Data Metric is 18.9%. This is a carryover issue from Round 1 and remains an area for State Improvement.</p> <p>Data Metric 7d addresses the percent of major facilities with DMR violations in ICIS-NPDES. For TDEC, 103 of 151 major facilities (68%) have DMR violations reported in ICIS-NPDES. Since the percent of major facilities with DMR violations for TDEC is not significantly different from the National Average of 52.2%, no further action is needed.</p> <p>File Review Metric 7e shows the percent of inspection reports reviewed that led to an accurate compliance determination. Accurate compliance determinations were made for each cited violation.</p>						
<b>Metric(s) and Quantitative</b>	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;">Data Metrics</th> <th style="text-align: right;">State</th> </tr> </thead> <tbody> <tr> <td>7a1: # SEVs at active majors</td> <td style="text-align: right;">3</td> </tr> <tr> <td>7a2: # SEVs at non-majors</td> <td style="text-align: right;">0</td> </tr> </tbody> </table>	Data Metrics	State	7a1: # SEVs at active majors	3	7a2: # SEVs at non-majors	0
Data Metrics	State						
7a1: # SEVs at active majors	3						
7a2: # SEVs at non-majors	0						

<b>Value(s)</b>	<p>7b: % facilities with unresolved compliance schedule violations 0%</p> <p>7c: % facilities with unresolved permit schedule violations 58%</p> <p>7d: Major facilities with DMR violations 68%</p> <hr/> <p>File metric State</p> <p>7e: % inspection reports reviewed that led to an accurate compliance determination (32 of 32) 100%</p>
<b>State Response</b>	TDEC will evaluate and revise current SOP regarding permit schedule violations, to ensure that all permit schedules are correctly entered into ICIS with the permit and then tracked and acted upon appropriately.
<b>Recommendation</b>	TDEC should evaluate their current SOP to determine what additional measures are needed to improve the effective resolution of permit schedule violations. TDEC should then develop such additional measures and implement the SOP to ensure the effective resolution of permit schedule violations. TDEC should submit any improvements to their current SOP to the EPA Region 4 Clean Water Enforcement Branch (CWEB) for review by March 31, 2013. The CWEB will evaluate efforts to resolve permit schedule violations being taken by TDEC through the Quarterly Pacesetter calls and/or other routine calls. If, by June 30, 2013, permit schedule violations have been substantially addressed and reflected in ICIS-NPDES, this recommendation will be considered complete.

<b>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.</b>		
8	<b>This finding is a(n)</b>	<input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required <input type="checkbox"/> Good Practice
	<b>Finding</b>	TDEC correctly identified SNC violation determinations in all files reviewed.
	<b>Explanation</b>	<p>Element 8 addresses the accurate identification of SNCs and the timely entry of SEVs that are SNCs into ICIS-NPDES.</p> <p>In addressing the accurate identification of SNCs, Data Metric 8a1, focuses on active major facilities in SNC during the reporting year. In FY 2010, TDEC listed 34 facilities in SNC.</p>

		<p>Data Metric 8a2 focuses on the percent of active major facilities in SNC during the reporting year. In FY 2010, 22.5% (34/151) of TDEC's major sources were SNCs; the National Average is 23.1%. To verify the accuracy of SNC data in ICIS-NPDES, 11 SNC facilities were evaluated during the SRF File Review process to determine if the SNC designations were supported by the files. Of the facilities reviewed, all 11 had information in the files that matched the information in the data system and supported the SNC designation.</p> <p>File Metric 8b addresses SEVs that are accurately identified as SNC or non-SNC, and File Metric 8c addresses the timely reporting of SEVs that are SNCs into ICIS-NPDES.</p> <p>Only one of the files reviewed showed a SEV and it was correctly and timely reported in ICIS-NPDES</p> <p>For File Metric 8c, the one file with a SEV was reported in a timely manner.</p> <p>This Element meets the SRF Program Requirements.</p>																		
	<p><b>Metric(s) and Quantitative Value(s)</b></p>	<table border="1"> <thead> <tr> <th><u>Data Metric</u></th> <th><u>National Average</u></th> <th><u>State</u></th> </tr> </thead> <tbody> <tr> <td>8a1: Number of major facilities in SNC</td> <td>NA</td> <td>34</td> </tr> <tr> <td>8a2: % active major facilities in SNC (34/151)</td> <td>23.1%</td> <td>22.5%</td> </tr> <tr> <td colspan="2"><u>File Metric</u></td> <td><u>State</u></td> </tr> <tr> <td>8b: % SEVs that are accurately reported as SNCs or non-SNCs (1/1)</td> <td></td> <td>100%</td> </tr> <tr> <td>8c: % SEVs that are SNCs timely reported in ICIS-NPDES (1/1)</td> <td></td> <td>100%</td> </tr> </tbody> </table>	<u>Data Metric</u>	<u>National Average</u>	<u>State</u>	8a1: Number of major facilities in SNC	NA	34	8a2: % active major facilities in SNC (34/151)	23.1%	22.5%	<u>File Metric</u>		<u>State</u>	8b: % SEVs that are accurately reported as SNCs or non-SNCs (1/1)		100%	8c: % SEVs that are SNCs timely reported in ICIS-NPDES (1/1)		100%
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	<p><b>State Response</b></p>																			
	<p><b>Recommendation</b></p>	<p>No further action is needed.</p>																		



**CWA Element 9 — Enforcement Actions Promote Return to Compliance: Degree to which 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	<b>This finding is a(n)</b>	<input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required <input type="checkbox"/> Good Practice								
	<b>Finding</b>	TDEC’s enforcement actions include complying or corrective action that have returned or will return facilities to compliance.								
	<b>Explanation</b>	<p>Element 9 addresses the degree to which State enforcement actions include required corrective action that will return facilities to compliance in a specific time frame.</p> <p>File Metric 9a establishes the universe of formal/informal enforcement responses reviewed in calculating percentages in File Metrics 9b and 9c.</p> <p>Files selected for EPA’s File Review for Element 9 encompassed 26 total facilities (16 major facilities and 10 minor facilities) and 22 enforcement actions (9 formal and 13 informal actions).</p> <p>File Metric 9b is the percentage of enforcement responses reviewed that have returned or will return a SNC to compliance. The CWA Plain Language Guide notes that this File Metric pertains only to major facilities, since these facilities are the only ones for which national criteria for SNC violations have been established. Of the four formal enforcement actions at major SNC facilities, all enforcement responses have returned or will return the source to compliance.</p> <p>File Metric 9c is the percentage of enforcement responses reviewed that have returned or will return a minor or non-SNC major facility to compliance. Of the 15 formal and informal actions at minor and non-SNC major facilities, 14 of 15 (93%) enforcement responses have returned or will return the source to compliance.</p> <p>This Element meets the SRF Program Requirements.</p>								
	<b>Metric(s) and Quantitative Value(s)</b>	<table border="1"> <thead> <tr> <th data-bbox="480 1549 1284 1581">File Metric</th> <th data-bbox="1284 1549 1403 1581">State</th> </tr> </thead> <tbody> <tr> <td data-bbox="480 1619 1284 1650">9a: # of Enforcement Actions Reviewed for all sources</td> <td data-bbox="1284 1619 1403 1650">22</td> </tr> <tr> <td data-bbox="480 1650 1284 1724">9b: % of Enforcement Responses for major SNCs that have or will return SNC to compliance (4/4)</td> <td data-bbox="1284 1650 1403 1724">100%</td> </tr> <tr> <td data-bbox="480 1724 1284 1797">9c: % of Enforcement Responses have or will return Sources with non-SNC violations to compliance (14/15)</td> <td data-bbox="1284 1724 1403 1797">93%</td> </tr> </tbody> </table>	File Metric	State	9a: # of Enforcement Actions Reviewed for all sources	22	9b: % of Enforcement Responses for major SNCs that have or will return SNC to compliance (4/4)	100%	9c: % of Enforcement Responses have or will return Sources with non-SNC violations to compliance (14/15)	93%
File Metric	State									
9a: # of Enforcement Actions Reviewed for all sources	22									
9b: % of Enforcement Responses for major SNCs that have or will return SNC to compliance (4/4)	100%									
9c: % of Enforcement Responses have or will return Sources with non-SNC violations to compliance (14/15)	93%									
	<b>State Response</b>									

	<b>Recommendation</b>	No action is needed.
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**CWA Element 10 — Timely and Appropriate Action: Degree to which state takes timely and appropriate enforcement actions in accordance with policy relating to specific media.**

10	<b>This finding is a(n)</b>	<input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input checked="" type="checkbox"/> Area for State Improvement – Recommendations Required <input type="checkbox"/> Good Practice
	<b>Finding</b>	TDEC needs to show improvement in taking timely enforcement action for SNCs and non-SNCs in accordance with the NPDES Enforcement Management System (EMS) and TDEC’s EMS.
	<b>Explanation</b>	<p>Element 10 addresses the degree to which the State takes timely and appropriate enforcement actions. The 1989 National EMS and the May 29, 2008, memo <i>Clarification of NPDES EMS Guidance on Timely and Appropriate Response to Significant Noncompliance</i> defines what a timely and appropriate enforcement response is for SNC violations at major facilities. These documents state that timely action is where a formal enforcement action is taken within 60 days of the SNC violation appearing on a second Quarterly Non-Compliance Report (QNCR).</p> <p>Data Metric 10a is a Goal Metric that identifies the percentage of major facilities in which enforcement actions that were taken to address SNC violations were not timely. TDEC’s Data Metric 10a shows 24.5% (37 of 151) major facilities without timely action. The National Goal for this Data Metric is less than 2%. Therefore, TDEC’s performance does not meet the National Goal and is an area for State improvement.</p> <p>File Metric 10b addresses the percent of reviewed enforcement responses that have been taken to address major SNCs in a timely manner and is used to assess the accuracy of Data Metric 10a. Of the major SNCs reviewed, 4 had formal enforcement actions that addressed SNC issues; 3 of the 4 (75%) were not timely. This finding supports Data Metric 10a in that the National Goal of less than 2% is not being met and further highlights the need for State improvement in the timeliness of enforcement responses for major SNCs.</p> <p>File Metric 10c assesses whether the enforcement action taken for a SNC is appropriate, meaning whether a formal enforcement action was taken or the source returned to compliance by no later than the time the same SNC violation appears on the second official QNCR. Based on the National EMS, the State is also required to have a written record to justify informal enforcement actions. Of the 4 major SNC files</p>

		<p>reviewed, 4 (100%) contained a formal enforcement action (including date of compliance and complying action) for major SNCs.</p> <p>File Metric 10d assesses whether the enforcement action taken for “violations at minor permittees, and non-SNC violations at major permittees” is appropriate. TDEC had taken a total of 18 actions at 18 non-SNC major and minor facilities; 5 formal enforcement actions and 13 informal enforcement actions. All 18 enforcement responses reviewed were appropriate.</p> <p>File Metric 10e examines the timeliness of enforcement for non-SNCs. TDEC’s June 2008 Water Pollution EMS addresses time-frames for issuing Notices of Violation (NOVs): “A NOV is either hand-delivered or sent by certified mail to the alleged violator and should be issued within 30 days of documenting the violation.” The EMS further notes that the “(m)ajority of NOVs issued by the Division are in response to violations that are self-reported in Discharge Monitoring Reports, violations observed during site inspections, or to persons failing to complete a filing requirement.” Of the 18 non-SNC enforcement responses examined during the File Review, 14 (78%) of the enforcement actions (i.e., NOVs) were considered to be timely. There is, however, no Federal or State benchmark to conclude if this level of performance is appropriate.</p> <p>The degree to TDEC takes timely and appropriate enforcement actions was an issue raised during the Round 1 SRF review. Steps taken by TDEC in response to the Round 1 recommendation have not fully addressed the issue and the issue remains during Round 2.</p>																					
	<p><b>Metric(s) and Quantitative Value(s)</b></p>	<table border="1"> <thead> <tr> <th data-bbox="475 1186 943 1220">Data Metric</th> <th data-bbox="943 1186 1289 1220">National Goal</th> <th data-bbox="1289 1186 1395 1220">State</th> </tr> </thead> <tbody> <tr> <td data-bbox="475 1262 943 1331">10a: Major facilities without timely action</td> <td data-bbox="943 1262 1289 1331">&lt;2%</td> <td data-bbox="1289 1262 1395 1331">24.5%</td> </tr> <tr> <td data-bbox="475 1409 943 1442"><u>File Metric</u></td> <td data-bbox="943 1409 1289 1442"></td> <td data-bbox="1289 1409 1395 1442"><u>State</u></td> </tr> <tr> <td data-bbox="475 1442 943 1476">10b: % timely SNC enforcement responses (1 of 4)</td> <td data-bbox="943 1442 1289 1476"></td> <td data-bbox="1289 1442 1395 1476">25%</td> </tr> <tr> <td data-bbox="475 1476 943 1545">10c: % of enforcement responses that appropriately address SNC violations (4 of 4)</td> <td data-bbox="943 1476 1289 1545"></td> <td data-bbox="1289 1476 1395 1545">100%</td> </tr> <tr> <td data-bbox="475 1545 943 1617">10d: % of enforcement responses that appropriately address non-SNC violations (18 of 18)</td> <td data-bbox="943 1545 1289 1617"></td> <td data-bbox="1289 1545 1395 1617">100%</td> </tr> <tr> <td data-bbox="475 1617 943 1650">10e: % timely non-SNC enforcement responses (14 of 18)</td> <td data-bbox="943 1617 1289 1650"></td> <td data-bbox="1289 1617 1395 1650">78%</td> </tr> </tbody> </table>	Data Metric	National Goal	State	10a: Major facilities without timely action	<2%	24.5%	<u>File Metric</u>		<u>State</u>	10b: % timely SNC enforcement responses (1 of 4)		25%	10c: % of enforcement responses that appropriately address SNC violations (4 of 4)		100%	10d: % of enforcement responses that appropriately address non-SNC violations (18 of 18)		100%	10e: % timely non-SNC enforcement responses (14 of 18)		78%
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	<p><b>State Response</b></p>	<p>TDEC had previously followed a policy of automatically including a 2 year compliance review in Orders issued to major dischargers receiving enforcement as the result of a QNCR or Watch List review. As an unintended result, this policy artificially made it appear that TDEC was always late to enforce on those facilities. Once this was realized during the SRF Round 2 post-audit discussions with EPA, this policy was eliminated. TDEC expects this change alone to significantly improve</p>																					

		metric 10a.
	<b>Recommendation</b>	TDEC should evaluate their current SOP to determine what additional measures are needed to improve the timely enforcement at SNCs and non-SNCs as established by the NPDES EMS and TDEC's EMS. TDEC should then develop additional measures and implement the SOP to ensure that TDEC takes timely and appropriate enforcement actions. TDEC should submit any SOP improvements to the EPA Region 4 Clean Water Enforcement Branch (CWEB) by March 31, 2013. The CWEB will evaluate any SOP improvements and the subsequent enforcement responses being taken by TDEC against SNCs through the Quarterly Pacesetter calls and/or other routine calls. If, by December 31, 2013, timely enforcement responses are being observed, this issue will be considered concluded.

**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.**

<b>1</b>	<b>This finding is a(n)</b>	<input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input checked="" type="checkbox"/> Area for State Improvement – Recommendations Required <input type="checkbox"/> Good Practice
	<b>Finding</b>	TDEC documents initial penalty calculations that include gravity, however, documentation of economic benefit in the penalty calculations is not included.
	<b>Explanation</b>	<p>Element 11 addresses whether penalty calculations consider and include a gravity portion and, where appropriate, economic benefit.</p> <p>For File Metric 11a, there were nine initial penalty calculations evaluated as part of the File Review. The penalty calculations reviewed were documented and incorporated a penalty calculation and/or narrative that included a gravity component.</p> <p>As to economic benefit, none of the nine files reviewed provided sufficient documentation of the appropriate economic benefit component of the penalty.</p> <p>As noted in EPA's Policy, <i>Oversight of State and Local Penalty Assessments: Revisions to the Policy Framework for State/EPA Enforcement Agreements</i>, from Steven A. Herman, Assistant</p>

	<p><i>Administrator, June 23, 1993</i>, settlements should not be for less than the amount of economic benefit of noncompliance, where it is possible to calculate it, unless (1) the benefit component is a <i>de minimis</i> amount, (2) a violator demonstrates an inability to pay, (3) there is a compelling public concern, or (4) there are litigation-related reasons for such settlement. Additionally, Section II. D. (Penalty Assessment) of TDEC’s EMS, notes that “(e)conomic benefit of failure to comply” should be considered in a request for a civil penalty assessment.</p> <p>TDEC needs to better document its rationale for how economic benefit is considered and, if determined to be nonexistent or <i>de minimis</i>, the rationale for that decision should be documented in the penalty calculation. Penalty calculations were an issue raised during the Round 1 SRF review. Steps taken by TDEC in response to the Round 1 recommendation have not fully addressed this issue and it remains as an area for State improvement.</p>				
<b>Metric(s) and Quantitative Value(s)</b>	<table border="0"> <tr> <td><u>File Metric</u></td> <td style="text-align: right;"><u>State</u></td> </tr> <tr> <td>11a: % of penalty calculations reviewed that consider and include where appropriate gravity and economic benefit (0 of 9)</td> <td style="text-align: right;">0%</td> </tr> </table>	<u>File Metric</u>	<u>State</u>	11a: % of penalty calculations reviewed that consider and include where appropriate gravity and economic benefit (0 of 9)	0%
<u>File Metric</u>	<u>State</u>				
11a: % of penalty calculations reviewed that consider and include where appropriate gravity and economic benefit (0 of 9)	0%				
<b>State Response</b>	<p>Following Round 1, TDEC developed an Economic Benefit calculation worksheet to be included in CWA enforcement case files, but the EMS was not adequately modified to address additional Economic Benefit calculations. The EMS will be revised to provide better and more specific guidance for calculating Economic Benefit to be added to penalties, even if it is only partial in nature. Additionally TDEC will modify its enforcement data management system to include this as part of penalty calculation where appropriate.</p>				
<b>Recommendation</b>	<p>TDEC needs to better demonstrate implementation of EPA’s Policy and the State’s EMS in documenting its rationale for considering economic benefit in penalty calculations. The EPA Region 4 CWEB will evaluate TDEC’s penalty calculations through the review of TDEC’s draft penalty orders, including penalty calculations that document how environmental benefit has been considered, the Quarterly Pacesetter calls and other routine calls, as needed. If, by June 30, 2013, improvement in penalty calculations is being observed, this issue will be considered concluded.</p>				

**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	This finding is a(n)	<input type="checkbox"/> Meets SRF Program Requirements <input checked="" type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required <input type="checkbox"/> Good Practice				
	Finding	TDEC documents collection of all final penalties. It is, however, difficult to determine the extent to which TDEC has documented the difference between initial and final penalties because in only one instance was there a difference between the initial and final assessed penalty.				
	Explanation	<p>File Metric 12a addresses the percent of penalties reviewed that document the difference and rationale between the initial and final assessed penalty. In reviewing 9 penalty cases, there was no difference in the initial and final assessed penalty in 8 instances. In one case there was a difference between the initial and final assessed penalty, however, the rationale for the difference was not included in the documentation. Because of the small sample size of files in which there is a difference between the initial and final assessed penalty, it is not possible to comprehensively evaluate the files under File Metric 12a. Since the one file that did contain a difference between the initial and final assessed penalty did not document the rationale for the difference, this is an area for State attention.</p> <p>File Metric 12b addresses the percent of enforcement actions with penalties that document the collection of the penalty. Of the 9 penalty cases, 6 enforcement actions with penalties documented collection of the penalty. The remaining 3 cases noted that the penalties were contingent on specific actions that were required by the facility to undertake. At the time of the File Review, the facilities were all on schedule in what they were required to do and there was no requirement for penalties to be paid. Therefore, all 9 penalty cases had documentation of penalty collection or that sufficient progress had been made by the facility to avoid penalty payment. No further action is needed for this File Metric.</p> <p>The degree to which TDEC documents differences between the initial and final penalty in the file was an issue raised during the Round 1 SRF review. Steps taken by TDEC in response to the Round 1 recommendation have not fully addressed this issue and it remains as an area for State attention.</p>				
	Metric(s) and Quantitative Value(s)	<table border="1"> <tr> <td data-bbox="475 1780 1284 1814">File Metric</td> <td data-bbox="1284 1780 1390 1814">State</td> </tr> <tr> <td data-bbox="475 1814 1284 1927">12a: % of formal enforcement actions that document the difference and rationale between initial and final assessed penalty (0 of 1)</td> <td data-bbox="1284 1814 1390 1927">0%</td> </tr> </table>	File Metric	State	12a: % of formal enforcement actions that document the difference and rationale between initial and final assessed penalty (0 of 1)	0%
File Metric	State					
12a: % of formal enforcement actions that document the difference and rationale between initial and final assessed penalty (0 of 1)	0%					

		12b: % of final enforcement actions that document collection of final penalty (9 of 9)	100%
	<b>State Response</b>	Regarding metric 12a, differences between initial and final penalties are the result of the order appeal process, in which penalties may be reduced as part of settlement negotiations. The EMS will be revised to require that in applicable cases, Division staff include a Penalty Differential memo in the case file to document and explain differences between initial and final penalty amounts.	
	<b>Recommendation</b>	No formal recommendation is being tracked for this Element.	

**Resource Conservation and Recovery Act Program**

**RCRA Element 1 — Data Completeness: Degree to which the Minimum Data Requirements are complete.**

<b>1</b>	<b>This finding is a(n)</b>	<input type="checkbox"/> Meets SRF Program Requirements <input checked="" type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required <input type="checkbox"/> Good Practice																								
	<b>Finding</b>	The majority of TDEC’s Minimum Data Requirements for compliance monitoring and enforcement activities were entered into RCRAInfo.																								
	<b>Explanation</b>	<p>RCRA Element 1 is supported by SRF Data Metrics 1a through 1g, and measures the completeness of the data in RCRAInfo, which is the National Database for the RCRA Program.</p> <p>The SRF data below was provided to TDEC during the preliminary data analysis. Although TDEC did not provide any comments on the completeness of the RCRA data, during the file review there were many data discrepancies found (see Data Accuracy findings under Element 2). Inconsistencies were found in the total number of operating TSDs, final penalty data, and the number of SNCs identified by TDEC.</p> <p>Data completeness was an issue in the Round 1 SRF. TDEC has already corrected some of the Round 2 data completeness issues, and has committed to addressing the rest. Any data accuracy issues will be addressed in the recommendation for Element 2. This element is an area for State attention.</p>																								
	<b>Metric(s) and Quantitative Value(s)</b>	<table border="0" style="width: 100%;"> <thead> <tr> <th style="text-align: left;"><u>Data Metrics</u></th> <th style="text-align: right;"><u>Frozen RCRAInfo Data (in total numbers)</u></th> </tr> </thead> <tbody> <tr> <td>1a1 – Operating TSDs</td> <td style="text-align: right;">22</td> </tr> <tr> <td>1a2 – Active LQGs</td> <td style="text-align: right;">520</td> </tr> <tr> <td>1a3 – Active SQGs</td> <td style="text-align: right;">724</td> </tr> <tr> <td>1a5 – LQGs (per latest official biennial report)</td> <td style="text-align: right;">292</td> </tr> <tr> <td>1b1 – Inspections Conducted (inspection types: CAC, CDI, CEI, CSE, FCI, GMI and OAM)</td> <td style="text-align: right;">539</td> </tr> <tr> <td>1c1 – Sites with Violations</td> <td style="text-align: right;">254</td> </tr> <tr> <td>1d2 – Informal Actions</td> <td style="text-align: right;">228</td> </tr> <tr> <td>1e1 – Sites with new SNC determinations</td> <td style="text-align: right;">29</td> </tr> <tr> <td>1e2 – Current SNCs</td> <td style="text-align: right;">37</td> </tr> <tr> <td>1f2 – Formal Actions</td> <td style="text-align: right;">15</td> </tr> <tr> <td>1g – Final Penalties</td> <td style="text-align: right;">\$59,100</td> </tr> </tbody> </table>	<u>Data Metrics</u>	<u>Frozen RCRAInfo Data (in total numbers)</u>	1a1 – Operating TSDs	22	1a2 – Active LQGs	520	1a3 – Active SQGs	724	1a5 – LQGs (per latest official biennial report)	292	1b1 – Inspections Conducted (inspection types: CAC, CDI, CEI, CSE, FCI, GMI and OAM)	539	1c1 – Sites with Violations	254	1d2 – Informal Actions	228	1e1 – Sites with new SNC determinations	29	1e2 – Current SNCs	37	1f2 – Formal Actions	15	1g – Final Penalties	\$59,100
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1f2 – Formal Actions	15																									
1g – Final Penalties	\$59,100																									
	<b>State Response</b>	TDEC has instituted management and organizational changes that will improve program implementation in the Field Offices. The position of Deputy Director for Field Operations (DDFO) has been created in each environmental Division with the responsibility to achieve high quality																								



	<p>and consistency in implementation of each Division’s programs in their Field Office across the state. Each of the DSWM Field Office Managers will report directly to the DSWM DDFO instead of the Bureau of Environment Field Office Director in each Field Office, which was the previous system.</p> <p>Tennessee has also instituted a new SMART Job Planning and Performance Evaluation Process. SOPs for field and central office HWMP duties are being developed that incorporate quality and timeliness standards that are at least as stringent as EPA’s. The SMART Job Plans for each HWMP employee will reference the SOPs related to their assignments and their job performance will be measured against the SOP standards. SOPs will include utilization of RCRAInfo reports and other reports that evaluate program implementation. Training on the new SOPs will be a critical part of this improvement process.</p> <p>The finding regarding final penalty data relates to HWMP policy of offering a facility the opportunity for a Show Cause Meeting. This allows an entity to present any pertinent information prior to issuance of an Order which is then final unless appealed. The HWMP had in fact entered all penalties assessed and collected into RCRAInfo using the heading of Proposed Penalties Paid for un-appealed orders that included civil penalties that were assessed and collected. All penalties associated with appealed Orders were entered as Final Penalties Collected once the order was final. In the future the HWMP will enter all civil penalties associated with an Order under the Proposed heading and will then re-enter all civil penalties under the Final Penalty heading. Note that following receipt of this draft SRF comment, TDEC has retroactively entered all civil penalties collected into RCRAInfo over the past six years as final penalties.</p> <p>The finding regarding SNC identification also relates to the HWMP’s enforcement protocol regarding Show Cause Meetings before issuing Orders. The number of SNCs identified was the result of Tennessee’s procedure that if facility violations warranted an Enforcement Action Request (EAR), it warranted a SNC classification. This procedure had been noted by and discussed with EPA personnel in previous reviews, but the HWMP was advised not to change their procedure until further notice from EPA. After recent clarifications by EPA, the HWMP will now make SNC determinations after Show Cause Meetings. All facilities that are SNCs will receive formal enforcement. Facilities that are SVs will receive Warning Letters.</p>
<p><b>Recommendation</b></p>	<p>No formal recommendation is being tracked for this Element.</p>

**RCRA Element 2 — Data Accuracy: Degree to which data reported in the national system is accurately entered and maintained.**

2	<b>This finding is a(n)</b>	<input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input checked="" type="checkbox"/> Area for State Improvement – Recommendations Required <input type="checkbox"/> Good Practice
	<b>Finding</b>	<p>During the SRF review, there were data accuracy issues identified related to facility status, compliance and enforcement data in RCRAInfo.</p>
	<b>Explanation</b>	<p>RCRA Element 2 measures the accuracy of data in RCRAInfo, and is supported by Data Metrics 2a, 2b and File Review Metric 2c.</p> <p>Metric 2a evaluates if there is a delay in SNC entry into RCRAInfo, which can lead to inaccurate facility compliance status information. TDEC had 15 formal actions in FY 2010, and SNCs were entered into RCRAInfo for all 15 actions before the enforcement actions were taken, in accordance with the RCRA Enforcement Response Policy (ERP). Therefore, delayed SNC entry into RCRAInfo is not a concern.</p> <p>Data Metric 2b showed nine secondary violator (SV) facilities that had violations open for longer than 240 days. Upon further investigation, it was found seven of the SVs had actually been resolved, but the return to compliance dates were entered after the SRF data had been pulled, or the cases were resolved after the data pull. TDEC should ensure that SVs are resolved within the ERP timeframes, and RCRAInfo is updated to accurately reflect facility compliance status. Two SVs did not appear to be addressed by any enforcement (This issue is addressed by the recommendation in Element 9.)</p> <p>File Review Metric 2c verifies that data in the file is accurately reflected in RCRAInfo. A file is considered inaccurate if the information about the facility regulatory status, the inspection reports, enforcement actions, compliance documentation is missing or reported inaccurately in RCRAInfo.</p> <p>For File Review Metric 2c, 33 files were reviewed. Out of the 33 files, 14 files (or 42%) had inaccurate data input into RCRAInfo. Each of the 14 files had several pieces of information that were missing, including compliance evaluations, violation data, enforcement actions, return to compliance dates, and/or inaccurate information about compliance inspection dates and generator status. As noted throughout this report, the results of the inaccurate data had effects on several findings in the SRF evaluation. Examples of problems identified in the review include the following:</p>

		<ul style="list-style-type: none"> <li>• Due to an internal enforcement process (described in more detail in Element 8), TDEC was entering several non-SNC facilities as SNCs in RCRAInfo.</li> <li>• The total number of TSDs should be 20, as two facilities were identified as having an improper status in RCRAInfo. Since the SRF review, this data inaccuracy has been corrected by TDEC.</li> <li>• The majority of the RCRA enforcement actions issued by TDEC are unilateral orders, and the penalty is entered into RCRAInfo under initial penalty only, leaving the final penalty amount blank. Therefore most of the final penalties issued by TDEC in FY 2010 were missing from the database. TDEC committed to recording future unilateral penalties in both fields.</li> <li>• Some of the SNCs were not linked to the final enforcement actions in RCRAInfo, which is required to show the violations as being resolved.</li> </ul> <p>The file review and the data review results both reflect data inaccuracies, which warrant state improvement. TDEC must ensure that data in the file is accurately entered into RCRAInfo.</p>												
	<b>Metric(s) and Quantitative Value(s)</b>	<table border="0"> <thead> <tr> <th style="text-align: left;"><u>Data Metrics</u></th> <th style="text-align: right;"><u>State (number of sites)</u></th> </tr> </thead> <tbody> <tr> <td>2a1 – SNC determinations made on day of formal action</td> <td style="text-align: right;">0</td> </tr> <tr> <td>2a2 – SNC determinations made within one week of formal action</td> <td style="text-align: right;">0</td> </tr> <tr> <td>2b – SV facilities in violation greater than 240 days</td> <td style="text-align: right;">9</td> </tr> <tr> <td colspan="2"><u>File Review Metric</u></td> </tr> <tr> <td>2c – Files with accurate data elements in RCRAInfo (percentage)</td> <td style="text-align: right;">58%</td> </tr> </tbody> </table>	<u>Data Metrics</u>	<u>State (number of sites)</u>	2a1 – SNC determinations made on day of formal action	0	2a2 – SNC determinations made within one week of formal action	0	2b – SV facilities in violation greater than 240 days	9	<u>File Review Metric</u>		2c – Files with accurate data elements in RCRAInfo (percentage)	58%
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<u>File Review Metric</u>														
2c – Files with accurate data elements in RCRAInfo (percentage)	58%													
	<b>State Response</b>	<p>TDEC has instituted management and organizational changes that will improve program implementation in the Field Offices. The position of Deputy Director for Field Operations (DDFO) has been created in each environmental Division with the responsibility to achieve high quality and consistency in implementation of each Division’s programs in their Field Office across the state. Each of the DSWM Field Office Managers will report directly to the DSWM DDFO instead of the Bureau of Environment Field Office Director in each Field Office, which was the previous system.</p> <p>Tennessee has also instituted a new SMART Job Planning and Performance Evaluation Process. SOPs for field and central office HWMP duties are being developed that incorporate quality and timeliness standards that are at least as stringent as EPA’s. The SMART Job Plans for each HWMP employee will reference the SOPs related to their assignments and their job performance will be measured against the SOP standards. SOPs will include utilization of RCRAInfo reports and other reports that evaluate program implementation. Training on the new SOPs will be a critical part of this improvement process.</p> <p>As discussed in Element 1, a facility will undergo a SNC determination</p>												

		after the Show Cause meeting has been held (or the facility has declined to participate in a Show Cause Meeting). All facilities determined to be a SNC will receive formal enforcement and the data will be entered into RCRAInfo. Facilities that are SVs will receive Warning Letters.
	<b>Recommendation</b>	By January 31, 2013, TDEC should develop and implement procedures for timely and accurate entry of data into RCRAInfo. The procedures should be submitted to EPA. If needed, EPA is available to assist TDEC in the development of these procedures.  Concurrent with the annual review of the TDEC grant work plan in the spring of 2013, EPA will conduct a file review to assess progress in implementation of the improvements. If by September 30, 2013, significant improvement in the timely and accurate entry of data into RCRAInfo is observed, this recommendation will be considered complete.

<b>RCRA Element 3 — Timeliness of Data Entry: Degree to which the Minimum Data Requirements are timely.</b>						
<b>3</b>	<b>This finding is a(n)</b>	<input type="checkbox"/> Meets SRF Program Requirements <input checked="" type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required <input type="checkbox"/> Good Practice				
	<b>Finding</b>	Data indicates several SNCs were entered into RCRAInfo more than two months after the SNC determination date.				
	<b>Explanation</b>	<p>RCRA Element 3 is supported by SRF Data Metric 3a, which measures the percentage of RCRA SNCs that are entered into RCRAInfo more than 60 days after the SNC determination date. This metric is used as an indicator of late data entry. According to the RCRA ERP, SNCs should be entered into RCRAInfo upon SNC determination and not withheld to enter at a later time.</p> <p>Data Metric 3 found that three out of 24 SNCs were entered into RCRAInfo more than 60 days after the date that TDEC recorded the SNC determination. These appear to be infrequent instances that do not constitute a significant concern, and is considered an area for state attention. TDEC should examine procedures for entering SNC data into RCRAInfo to ensure timely data entry.</p>				
	<b>Metric(s) and Quantitative Value(s)</b>	<table border="0"> <tr> <td><u>Data Metrics</u></td> <td style="text-align: right;"><u>State</u></td> </tr> <tr> <td>3a – SNCs that were entered into RCRAInfo &lt; or = 60 days</td> <td style="text-align: right;">88%</td> </tr> </table>	<u>Data Metrics</u>	<u>State</u>	3a – SNCs that were entered into RCRAInfo < or = 60 days	88%
<u>Data Metrics</u>	<u>State</u>					
3a – SNCs that were entered into RCRAInfo < or = 60 days	88%					

<b>State Response</b>	The SOPs and the Smart Job Planning and Performance Evaluation Processes described in Element 2 will incorporate standards that address these requirements.
<b>Recommendation</b>	No formal recommendation is being tracked for this Element.

<b>RCRA Element 4 — Completion of Commitments: Degree to which all enforcement/compliance commitments in relevant agreements are met and any products or projects are completed.</b>								
<b>4</b>	<b>This finding is a(n)</b>	<input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required <input type="checkbox"/> Good Practice						
	<b>Finding</b>	TDEC’s RCRA Program met its FY 2010 RCRA Grant Work Plan commitments.						
	<b>Explanation</b>	<p>TDEC’s FY 2010 RCRA Grant Work Plan includes projected commitments for compliance monitoring activities, including inspections and financial record reviews. For FY 2010, TDEC committed to inspecting 50% of the Full Enforcement TSD Universe, for a total of 55 TSDs. The Full Enforcement TSD universe is the entire universe of TSDs that could potentially undergo a CEI inspection. This universe captures currently operating TSDs, as well as closed but not yet certified closed TSDs. TDEC exceeded this commitment by inspecting 39 Full Enforcement TSDs (of which 20 were operating TSDs).</p> <p>For FY 2010, TDEC committed to inspecting 20% of the LQG universe and 15% of the SQG universe. According to frozen SRF data metrics, TDEC inspected 102 LQGs (34.9%), exceeding the 20% commitment. TDEC also inspected 108 SQGs during FY 2010, exceeding their commitment to inspect 80 (15%) SQG facilities.</p> <p>TDEC committed to 92 update reviews of closure/post-closure cost estimates, and financial responsibility documents at facilities that have previously had a full record review. In FY 2010, TDEC reviewed 112, far exceeding their commitment.</p> <p>Based on the review of the FY 2010 RCRA Grant Work Plan, TDEC met all of its FY 2010 grant commitments.</p>						
	<b>Metric(s) and Quantitative Value(s)</b>	<table border="0"> <tr> <td><u>File Review Metric</u></td> <td><u>Finding</u></td> </tr> <tr> <td>4a – Planned inspections complete</td> <td>100%</td> </tr> <tr> <td>4b – Planned commitments complete</td> <td>100%</td> </tr> </table>	<u>File Review Metric</u>	<u>Finding</u>	4a – Planned inspections complete	100%	4b – Planned commitments complete	100%
<u>File Review Metric</u>	<u>Finding</u>							
4a – Planned inspections complete	100%							
4b – Planned commitments complete	100%							
	<b>State Response</b>							

	<b>Recommendation</b>	No action is needed.
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**RCRA Element 5 — Inspection Coverage: Degree to which state completed the universe of planned inspections/compliance evaluations.**

5	<b>This finding is a(n)</b>	<input type="checkbox"/> Meets SRF Program Requirements <input checked="" type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required <input type="checkbox"/> Good Practice
	<b>Finding</b>	TDEC completes core inspection coverage for Treatment, Storage and Disposal (TSD) facilities (two-year coverage) and Large Quantity Generator (LQG) facilities (one-year coverage) but falls slightly short of meeting the 5-year LQG inspection coverage.
	<b>Explanation</b>	<p>RCRA Element 5 is supported by SRF Data Metrics 5a, 5b and 5c. The EPA annual National Program Managers (NPM) Guidance provides the core program inspection coverage for RCRA facilities that are permitted for TSDs, and for LQGs.</p> <p>TDEC met the two-year TSD inspection coverage by completing inspections at 100% of the TSD universe over a two-year period. Although the data metrics indicates that 91% (20 of 22) of the TSDs were inspected, as referenced in Element 1, there were two facilities that were incorrectly identified in RCRAInfo as TSDs. Since the SRF review, the status of these facilities has been corrected in RCRAInfo. Thus, TDEC actually conducted inspections at 100% of the TSD universe.</p> <p>The national guidance also provides that 20% of the LQGs be inspected annually and every five years, that 100% of the LQG universe is inspected. TDEC exceeded the one-year LQG inspection coverage by completing inspections at 35% of the universe (102 of 292 LQG facilities).</p> <p>TDEC did not complete the five-year LQG inspection coverage (between FY 2006 and FY 2010). The initial data metrics indicated that only 86% of the universe was inspected over a 5-year period. To examine if this was due to fluctuating LQG universe, EPA evaluated the facilities that were not inspected to see if there were facilities that were not LQGs during this time period. Once those facilities were removed, the inspection coverage was still only 89% over five years. In Round 1 of the SRF, the 5-year LQG inspection coverage was found to be at only 65.6%, so TDEC has made considerable improvement since that time. This is considered an area for state attention, and during the negotiation of the annual RCRA grant work plans, TDEC and EPA will continue the review LQG universe to ensure the 5-year LQG coverage requirement is being met.</p>

	<b>Metric(s) and Quantitative Value(s)</b>	<u>Data Metrics</u> 5a – Two-year TSD inspection coverage 5b – One-year LQG inspection coverage 5c – Five-year LQG inspection coverage	<u>National Goal</u> 100% 20% 100%	<u>State</u> 90.9% (100% corrected) 34.9% 86.0% (89% corrected)
	<b>State Response</b>	The SOPs and the Smart Job Planning and Performance Evaluation Process described in Element 2 will incorporate standards that address data base cleanups, universe determinations and mandated inspections.		
	<b>Recommendation</b>	No formal recommendation is being tracked for this Element.		

<b>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.</b>		
<b>6</b>	<b>This finding is a(n)</b>	<input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input checked="" type="checkbox"/> Area for State Improvement – Recommendations Required <input type="checkbox"/> Good Practice
	<b>Finding</b>	TDEC’s inspection reports provide sufficient documentation to determine compliance at the facility. However, many reports were not completed in accordance with TDEC’s enforcement policy.
	<b>Explanation</b>	<p>RCRA Element 6 is supported by SRF File Review Metrics 6a, 6b and 6c. Thirty-four inspection reports were reviewed under File Review Metric 6a.</p> <p>File Review Metric 6b assesses the completeness of inspection reports and whether they provide sufficient documentation to determine compliance at the facility. Of the inspection reports reviewed, 94% (32 of 34) were complete and had sufficient documentation to determine compliance at the facility. There were two inspection reports that were incomplete due to missing photo documentation. One of these reports was also missing a description of the facility. Since Round 1 of the SRF, TDEC has taken steps to incorporate photo documentation into RCRA inspection reports, improving the overall quality of the compliance documentation. However, in Round 2, it was found that proper photo documentation was not being implemented consistently across all TDEC field offices. While the incomplete reports are isolated, consistency in inspection documentation should still be emphasized.</p>

	<p>File Review Metric 6c measures the timely completion of inspection reports. The Tennessee Division of Solid Waste Management Hazardous Waste Program Enforcement Policy (July 2009) recommends that inspection reports should be completed within 45 days of the first date of inspection. In the file review, it was found that 62% (21 of 34) of the reports were completed in this timeframe. For the late reports, the range of days it took to complete the inspection reports was from 47 days to 157 days. In the Round 1 SRF report, EPA recommended that TDEC implement an alert mechanism to identify when inspection reports are approaching the time limit. This is a continuing concern in SRF Round 2, and is identified as an area for state improvement.</p>								
<b>Metric(s) and Quantitative Value(s)</b>	<table border="0"> <thead> <tr> <th><u>File Review Metric</u></th> <th><u>Finding</u></th> </tr> </thead> <tbody> <tr> <td>6a – Number of inspection reports reviewed</td> <td>34</td> </tr> <tr> <td>6b – Percentage of inspection reports found to be complete</td> <td>94%</td> </tr> <tr> <td>6c – Percentage of inspection reports found to be timely</td> <td>62%</td> </tr> </tbody> </table>	<u>File Review Metric</u>	<u>Finding</u>	6a – Number of inspection reports reviewed	34	6b – Percentage of inspection reports found to be complete	94%	6c – Percentage of inspection reports found to be timely	62%
<u>File Review Metric</u>	<u>Finding</u>								
6a – Number of inspection reports reviewed	34								
6b – Percentage of inspection reports found to be complete	94%								
6c – Percentage of inspection reports found to be timely	62%								
<b>State Response</b>	<p>The SOPs and the Smart Job Planning and Performance Evaluation Processes described in Element 2 will incorporate standards that address these requirements. We have purchased cameras to make sure they are available for every inspection. As part of TDEC’s Customer Focused Government initiative, we are reviewing areas of inconsistency throughout the enforcement process and will implement measures to improve inspection documentation consistency across field offices.</p>								
<b>Recommendation</b>	<p>By January 31, 2013, TDEC should develop and implement procedures to ensure the timely completion of inspection reports. These procedures should be submitted to EPA. If needed, EPA is available to assist TDEC in the development of these procedures.</p> <p>Concurrent with the annual review of the TDEC grant work plan in the spring of 2013, EPA will conduct a file review to assess progress in implementation of the improvements. If by September 30, 2013, improvement in the timely completion of inspection reports is observed, this recommendation will be considered complete.</p>								



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

<b>7</b>	<b>This finding is a(n)</b>	<input type="checkbox"/> Meets SRF Program Requirements <input checked="" type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required <input type="checkbox"/> Good Practice
	<b>Finding</b>	TDEC makes accurate compliance determinations in the RCRA inspection reports reviewed during the SRF. However, emphasis is needed to ensure the timely entry of violation determinations into RCRAInfo.
	<b>Explanation</b>	<p>RCRA Element 7 is supported by SRF File Review Metrics 7a and 7b.</p> <p>File Review Metric 7a assesses whether accurate compliance determinations were made based on inspection reports. All 34 inspection reports reviewed during the files review had accurate compliance determinations</p> <p>File Review Metric 7b assesses whether violations were determined within 150 days and entered into RCRAInfo. This Metric looks at the timely reporting of violations. There were 26 evaluations that had violations and six were entered into RCRAInfo after 150 days or were not entered at all. Thus 20 inspection reports (or 77%) were entered into RCRAInfo by Day 150, as outlined in the RCRA ERP. This is an area for state attention, and can be addressed by recommendations in Elements 2 and 8 of this report regarding timely and accurate RCRAInfo data entry.</p>
	<b>Metric(s) and Quantitative Value(s)</b>	<p><u>File Review Metric</u></p> <p>7a – Percentage of inspection reports that led to accurate compliance determinations 100%</p> <p>7b – Percentage of violation determinations that were reported by Day 150 77%</p>
	<b>State Response</b>	The SOPs and the Smart Job Planning and Performance Evaluation Processes described in Element 2 will incorporate standards that address these requirements.
	<b>Recommendation</b>	No formal recommendation is being tracked for this Element.

**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	<b>This finding is a(n)</b>	<input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input checked="" type="checkbox"/> Area for State Improvement – Recommendations Required <input type="checkbox"/> Good Practice
	<b>Finding</b>	TDEC has issues related to the accurate identification of SNCs and the timely entry of the SNC data into RCRAInfo.
	<b>Explanation</b>	<p>RCRA Element 8 is supported by RCRA Data Metrics 8a and 8b and File Review Metric 8d.</p> <p>During the file review, it was found that an internal enforcement process at TDEC was leading to non-SNC facilities being designated as SNCs in RCRAInfo. A field office refers a facility to Hazardous Waste Division’s Enforcement Section for potential enforcement through the submittal of Enforcement Action Request (EAR). While this is the initial step in the process, it is not always fully determined at that time if the facility is actually a SNC. As part of an internal process, however, the facility was being automatically coded into RCRAInfo as a SNC when the EAR was received. Some of these cases eventually turned out to be secondary violators (non-SNCs), which resulted in several “false” SNCs being recorded in RCRAInfo. The correct identification of SNC is important in presenting accurate facility compliance status for both the regulators and the public.</p> <p>Data Metric 8a identifies the percent of facilities that received a SNC designation in FY 2010. TDEC’s SNC identification rate is 6.5% which is above the national average. It is recognized that due to the process identified above, this percentage may have been inflated due to the inclusion of false SNCs in this calculation.</p> <p>Data Metric 8b measures the number of SNC determinations that were made within 150 days of the first day of inspection. Timely SNC designation is important so that significant problems are addressed in a timely manner. In FY 2010, TDEC reported 75% (21 out of 28) of their SNC designations by Day 150. The national goal is 100%.</p> <p>File Review Metric 8d measures the percentage of violations in the files that were accurately determined to be a SNC. Of the 21 SNC determinations in the files reviewed, seven actions were actually false SNCs from the enforcement process described above. Thus, the percentage of files reviewed where the violation was accurately determined to a SNC was 67% (or 14 out of 21).</p>

		Timely and accurate SNC identification is important so that significant problems are addressed in a timely manner. This is an area for State improvement.										
	<b>Metric(s) and Quantitative Value(s)</b>	<table border="0"> <tr> <td><u>Data Metrics</u></td> <td style="text-align: right;"><u>State</u></td> </tr> <tr> <td>8a – SNC identification rate</td> <td style="text-align: right;">6.5%</td> </tr> <tr> <td>8b – Percentage of SNC determinations entered into RCRAInfo by Day 150</td> <td style="text-align: right;">75.0%</td> </tr> <tr> <td><u>File Review Metric</u></td> <td style="text-align: right;"><u>Finding</u></td> </tr> <tr> <td>8d – Percentage of violations in files reviewed that were accurately determined to be SNCs</td> <td style="text-align: right;">67%</td> </tr> </table>	<u>Data Metrics</u>	<u>State</u>	8a – SNC identification rate	6.5%	8b – Percentage of SNC determinations entered into RCRAInfo by Day 150	75.0%	<u>File Review Metric</u>	<u>Finding</u>	8d – Percentage of violations in files reviewed that were accurately determined to be SNCs	67%
<u>Data Metrics</u>	<u>State</u>											
8a – SNC identification rate	6.5%											
8b – Percentage of SNC determinations entered into RCRAInfo by Day 150	75.0%											
<u>File Review Metric</u>	<u>Finding</u>											
8d – Percentage of violations in files reviewed that were accurately determined to be SNCs	67%											
	<b>State Response</b>	See our comments in Element 1. The SOPs and the Smart Job Planning and Performance Evaluation Processes described in Element 2 will incorporate standards that address these requirements.										
	<b>Recommendation</b>	<p>By January 31, 2013, TDEC should develop and implement procedures to ensure that SNC determinations are made within 150 days and properly recorded in RCRAInfo. These procedures should also be submitted to EPA. TDEC should also ensure these procedures include the accurate identification of SNCs. If needed, EPA is available to assist TDEC in the development of these procedures.</p> <p>Concurrent with the annual review of the TDEC’s grant work plan in the spring of 2013, EPA will conduct a file review to assess progress in implementation of the improvements. If by September 30, 2013, sufficient improvement in SNC determination and proper recording in RCRAInfo is observed, this recommendation will be considered complete.</p>										

**RCRA Element 9 — Enforcement Actions Promote Return to Compliance: Degree to which 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.**

<b>9</b>	<b>This finding is a(n)</b>	<input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input checked="" type="checkbox"/> Area for State Improvement – Recommendations Required <input type="checkbox"/> Good Practice
	<b>Finding</b>	TDEC generally issues enforcement responses that have returned or will return a facility in SNC or SV to compliance. However, of the files reviewed, seven enforcement actions did not have documentation that facilities had returned to compliance.

	<b>Explanation</b>	<p>RCRA Element 9 is supported by SRF File Review Metrics 9a, 9b and 9c. Under File Review Metric 9a, EPA reviewed a total of 26 enforcement responses, including 14 SNCs and 12 SVs.</p> <p>File Review Metric 9b shows the percentage of SNC enforcement responses reviewed that have documentation that the facility has returned or will return to compliance. From a review of the files, 11 out of 14 (or 79%) SNCs had documentation in the files showing that the facility had returned to compliance or that the enforcement action required them to return to compliance within a certain timeframe.</p> <p>File Review Metric 9c gives the percentage of SV enforcement responses reviewed that have documentation that the facility has returned or will return to compliance. From a review of the files, 8 out of 12 (67%) SVs had documentation in the files showing that the facility had returned to compliance or that the enforcement action required them to return to compliance within a certain timeframe. The four SV enforcement responses without documentation include the two identified in Element 2.</p> <p>The review of this Metric showed that a number of enforcement responses for SNCs and SVs do not document return to compliance. This is an area for State improvement.</p>								
	<b>Metric(s) and Quantitative Value(s)</b>	<table border="0"> <thead> <tr> <th style="text-align: left;"><u>File Review Metric</u></th> <th style="text-align: right;"><u>Finding</u></th> </tr> </thead> <tbody> <tr> <td>9a – Number of enforcement responses reviewed</td> <td style="text-align: right;">14 SNCs 12 SVs</td> </tr> <tr> <td>9b – Percentage of enforcement responses that returned the SNC to compliance</td> <td style="text-align: right;">79%</td> </tr> <tr> <td>9c – Percentage of enforcement responses that returned the SV to compliance</td> <td style="text-align: right;">67%</td> </tr> </tbody> </table>	<u>File Review Metric</u>	<u>Finding</u>	9a – Number of enforcement responses reviewed	14 SNCs 12 SVs	9b – Percentage of enforcement responses that returned the SNC to compliance	79%	9c – Percentage of enforcement responses that returned the SV to compliance	67%
<u>File Review Metric</u>	<u>Finding</u>									
9a – Number of enforcement responses reviewed	14 SNCs 12 SVs									
9b – Percentage of enforcement responses that returned the SNC to compliance	79%									
9c – Percentage of enforcement responses that returned the SV to compliance	67%									
	<b>State Response</b>	<p>The SOPs and the Smart Job Planning and Performance Evaluation Processes described in Element 2 will incorporate standards that address these requirements.</p> <p>As part of TDEC’s Customer Focused Government initiative, we are reviewing ways to improve documentation at all stages of the enforcement process. That review will include an evaluation of the current process for documenting return to compliance. Short comings in that process will be addressed.</p>								
	<b>Recommendation</b>	<p>By January 31, 2013, TDEC should develop and implement procedures to ensure all enforcement actions return a facility to compliance by a specified time frame. These procedures should also be submitted to EPA. If needed, EPA is available to assist TDEC in the development of these procedures.</p> <p>During the annual review of the TDEC grant work plan in the spring of 2013, EPA will conduct a file review to assess progress in implementation of the improvements. If by September 30, 2013,</p>								

		enforcement actions document return to compliance by a specified time frame, this recommendation will be considered complete.
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**RCRA Element 10 — Timely and Appropriate Action: Degree to which state takes timely and appropriate enforcement actions in accordance with policy relating to specific media.**

<b>10</b>	<b>This finding is a(n)</b>	<input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required <input type="checkbox"/> Good Practice
	<b>Finding</b>	TDEC takes timely and appropriate enforcement actions.
	<b>Explanation</b>	<p>RCRA Element 10 is supported by RCRA Data Metrics 10a and SRF File Review Metrics 10c and 10d.</p> <p>Data Metric 10a initially indicated that TDEC completed only 41% (12 out of 29) of the formal enforcement actions at SNC facilities within 360 days of the first day of inspection, as outlined in the RCRA ERP. The national goal is 80%. After reviewing the enforcement files, it was determined that actually 94% of the enforcement actions were timely. The 17 untimely enforcement cases in Data Metric 10a were found to include the following:</p> <ul style="list-style-type: none"> <li>• There were 13 false SNCs entered into RCRAInfo, as discussed in Element 8. This reduces the denominator of true SNCs to 16 SNCs from 29 SNCs in Data Metric 10a;</li> <li>• Enforcement actions resolving three SNCs were either not linked to the SNC determination, or were not entered into the database (as mentioned in Element 2);</li> <li>• There was only one enforcement action that exceeded the 360 day timeline.</li> </ul> <p>When the data is adjusted for these data discrepancies 94% (15 of 16) of the enforcement actions were timely, which meets the SRF program requirements. The SNC data discrepancies are already being addressed through the recommendations in Elements 2 and 8.</p> <p>File review Metric 10c measures the combined percentage of enforcement responses reviewed that are taken in a timely manner (for both SV and SNC facilities). There is no specific goal for the combined metric. Twenty-five of the 26 (or 96%) of the enforcement actions reviewed were addressed within the 2003 RCRA ERP timeframes, as outlined below:</p>

	<ul style="list-style-type: none"> <li>◦ <u>SV Timeliness</u>: All 12 SV enforcement responses were taken in a timely manner (i.e., within 240 days)</li> <li>◦ <u>SNC Timeliness</u>: Fifteen of 16 (94%) SNC enforcement actions at SNCs were conducted within 360 days.</li> </ul> <p>This supports the adjusted data in metric 10a.</p> <p>File Review Metric 10d assesses the appropriateness of enforcement actions for SVs and SNCs, as defined by the RCRA ERP. For TDEC, 100% (26 of 26) of their enforcement responses that were reviewed addressed the violations appropriately.</p>																		
<b>Metric(s) and Quantitative Value(s)</b>	<table border="0"> <tr> <td><u>Data Metrics</u></td> <td><u>National Goal</u></td> <td><u>State</u></td> </tr> <tr> <td>10a – Timely SNC actions</td> <td>80%</td> <td>41% (94% corrected)</td> </tr> <tr> <td><u>File Review Metric</u></td> <td></td> <td><u>Finding</u></td> </tr> <tr> <td>10c – Enforcement actions taken in a timely manner:</td> <td>SV 100% (12/12)</td> <td>SNCs 94% (15/16)</td> </tr> <tr> <td></td> <td>Combined 96% (27/28)</td> <td></td> </tr> <tr> <td>10d – Enforcement actions appropriate to the violations</td> <td>100% (26/26)</td> <td></td> </tr> </table>	<u>Data Metrics</u>	<u>National Goal</u>	<u>State</u>	10a – Timely SNC actions	80%	41% (94% corrected)	<u>File Review Metric</u>		<u>Finding</u>	10c – Enforcement actions taken in a timely manner:	SV 100% (12/12)	SNCs 94% (15/16)		Combined 96% (27/28)		10d – Enforcement actions appropriate to the violations	100% (26/26)	
<u>Data Metrics</u>	<u>National Goal</u>	<u>State</u>																	
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	Combined 96% (27/28)																		
10d – Enforcement actions appropriate to the violations	100% (26/26)																		
<b>State Response</b>																			
<b>Recommendation</b>	No action is needed.																		

<b>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.</b>		
<b>11</b>	<b>This finding is a(n)</b>	<input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input checked="" type="checkbox"/> Area for State Improvement – Recommendations Required <input type="checkbox"/> Good Practice
	<b>Finding</b>	TDEC’s penalties include a gravity component in each enforcement case reviewed but none of the actions included an economic benefit component.
	<b>Explanation</b>	Element 11 examines the state documentation of penalty calculations. Specifically, file review Metric 11 determines if the state penalty includes gravity and economic benefit considerations. Fourteen penalty calculations were reviewed. All 14 enforcement actions (or 100%) included a gravity component in the penalty calculation. Each penalty worksheet also included the statement that economic benefit was

		considered, but no enforcement cases included any economic benefit calculations. From conversations with TDEC during the file review, it was conveyed that TDEC did not have a sound knowledge of the procedures for determining the economic benefit of noncompliance. Following the file review, EPA shared guidance and policies to assist TDEC in the calculations. This is considered an area of State improvement.
	<b>Metric(s) and Quantitative Value(s)</b>	<u>File Review Metric</u> 11a – Penalty calculations include a gravity portion, and where appropriate, an economic benefit portion
		<u>Finding</u> 0%
	<b>State Response</b>	As part of TDEC’s Customer Focused Government initiative, we are reviewing areas of inconsistency throughout the enforcement process and will implement measures to make evaluation, assessment and collection of economic benefit penalties consistent across the agency . TDEC is committed to assessing and collecting economic benefit penalties where appropriate to nullify any economic advantage gained through non-compliance and level the playing field for regulated entities.
	<b>Recommendation</b>	By January 31, 2013, TDEC should ensure that all RCRA enforcement cases are evaluated for economic benefit on noncompliance, using the BEN model or a state method that is equivalent to and consistent with national policy. As needed, EPA is available to assist TDEC in training enforcement personnel on economic benefit calculations.

**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	<b>This finding is a(n)</b>	<input type="checkbox"/> Meets SRF Program Requirements <input checked="" type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required <input type="checkbox"/> Good Practice
	<b>Finding</b>	TDEC documents collection of all final penalties. Most of TDEC’s penalties are non-negotiated penalties, but the one instance where a penalty was negotiated, the file did not contain the needed documentation to show the difference between the initial and final penalty.
	<b>Explanation</b>	Metric 12, which is comprised of Metric 12a and 12b, is used to assess the degree to which differences between the initial and final penalty are documented in the file along with a record that the final penalty was collected.

	<p>Metric 12a gives the percentage of formal enforcement responses reviewed that documented the difference and rationale between the initial and final assessed penalty. TDEC typically addresses violations through the issuance of a unilateral order. Since this order is not negotiated, there is only the initial penalty that is documented in the files. However, there was one penalty that was negotiated, but the difference between the initial and final penalty was not documented in the file. This represents a small sample size for evaluation and it is not a comprehensive analysis of penalty documentation procedures. It appears to be an isolated occurrence, and is considered an area for state attention. TDEC should be documenting penalty differences when orders are negotiated.</p> <p>Metric 12b gives the percentage of enforcement files reviewed that document the collection of a penalty. Of the 14 formal enforcement actions that were reviewed, all of the actions had documentation that the facility paid their penalty or were on a penalty payment plan.</p>						
<b>Metric(s) and Quantitative Value(s)</b>	<table border="0"> <thead> <tr> <th><u>File Review Metric</u></th> <th><u>Finding</u></th> </tr> </thead> <tbody> <tr> <td>12a – Formal enforcement actions that document the difference and rationale between the initial and final penalty</td> <td>0%</td> </tr> <tr> <td>12b – Final formal actions that documented the collection of a final penalty</td> <td>100%</td> </tr> </tbody> </table>	<u>File Review Metric</u>	<u>Finding</u>	12a – Formal enforcement actions that document the difference and rationale between the initial and final penalty	0%	12b – Final formal actions that documented the collection of a final penalty	100%
<u>File Review Metric</u>	<u>Finding</u>						
12a – Formal enforcement actions that document the difference and rationale between the initial and final penalty	0%						
12b – Final formal actions that documented the collection of a final penalty	100%						
<b>State Response</b>	See our response in Program Element 1.						
<b>Recommendation</b>	No formal recommendation is being tracked for this Element.						



## **V. ELEMENT 13 SUBMISSION**

TDEC did not provide a submission for Element 13.

## APPENDIX A: STATUS OF RECOMMENDATIONS FROM PREVIOUS REVIEWS

During the first SRF review of Tennessee's compliance and enforcement programs, Region 4 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.

State	Status	Due Date	Media	Element	Finding	Recommendation	Completion Status
TN - R1	Completed	3/31/2008	RCRA E1	Insp Universe	The TDEC RCRA program met statutory and OECA Guidance requirements for inspections, with the exception of the five-year requirement for LQG inspection coverage. Due to the incorrect status of one TSDf in RCRAInfo, the SRF data metrics indicate that Tennessee missed this inspection requirement, while in fact, all operating TSDFs were inspected over the two year period (FY2005-FY2006)	It is recommended that TDEC change the legal status code of the one TSDf that is no longer operating. <b>Additionally, TDEC should clean up RCRAInfo data and identify the accurate LQG universe.</b>	<b>TDEC will incorporate the five-year goal into the workplan and strive to achieve 100% coverage in the future.</b>
TN - R1	Completed	3/31/2008	RCRA E2	Violations ID'ed Appropriately	TDEC does an excellent job of documenting RCRA inspections, but need to include the use of photographs in the documentation of findings during inspections.	It is recommended that TDEC establish the practice of incorporating photo documentation in the RCRA inspection reports.	The field office inspectors have been instructed to incorporate the photo documentation in the RCRA inspection reports and the enforcement policy will be changed to incorporate the requirement.
TN - R1	Completed	3/31/2008	RCRA E3	Violations ID'ed Timely	Of the TDEC RCRA files reviewed, the inspection reports were completed within the following timeframes: Twelve (75 %) were completed within 50 days from the date of the inspection; Four (25 %) were completed between 51 and 100 days from the date of the inspection.	It is recommended that TDEC establish and implement an internal alert mechanism to identify when inspection reports are approaching 50-day time limit.	A new enforcement tracking system is being developed by TDEC that will allow tracking of important time-frames. Each field office has been instructed to track the inspection report times until the new system is put into place.
TN - R1	Completed	3/31/2008	RCRA E6	Timely & Appropriate Actions	In the sixteen RCRA TDEC enforcement files that were reviewed, fourteen (87%) of the enforcement actions met the RCRA ERP timelines. The other two (13%) orders were Commissioner's Orders (CO's) that exceeded over Day 360.	It is recommended that TDEC establish enforcement response timeframes with OGC to ensure timely resolution of enforcement actions.	OGC has established procedures and timeframes. However, all cases received by OGC must be assigned a priority and moved towards resolution accordingly. Due to the large number of cases OGC handles in any given time period, resolution cannot always be met.

TN - R1	Completed	3/31/2008	RCRA E7	Penalty Calculations, Penalties Collected	TDEC considers the economic benefit from noncompliance in each RCRA penalty calculation. However, based on conversation with TDEC, it was determined that if the facilities did not gain economic benefit for non-compliance, then this factor was not included.	TDEC should calculate and document the consideration of the economic benefit of noncompliance in each enforcement action. The documentation should take place even in cases where no economic benefit was gained by the facility.	Since this SRF was conducted, TDEC has put in place procedures that require all enforcement programs to conduct an economic benefit review for all enforcement cases. Enforcement files will clearly document that economic benefit was considered.
TN - R1	Completed	3/31/2008	RCRA E9, E12	Grant Commitments, Data Complete	A review of the State Review Framework Metrics showed that the universe for TSDf, LQG and SQG are 24, 556 and 728 facilities, respectively. TDEC's grant workplan for FY2006 shows that the universe for TSDf, LQG and SQG are 56, 395 and 685 facilities.	TDEC needs to verify and update facility status codes in RCRAInfo.	TDEC concurs with this recommendation.
TN - R1		3/31/2008	CWA E2	Violations ID'ed Appropriately	The quality of CWA inspection reports varied from well documented inspection findings with supporting photographic evidence to very brief with little to no description.	TDEC should make it a practice to supplement or enhance the current CWA inspection checklist used to specify areas evaluated during the inspection such as site specific records reviewed (permit, DMRs, lab sheets, SWPPP, etc.) and physical areas evaluated	The TDEC Water Pollution Control Division will be developing a state-wide format for an inspection checklist, in order to make the reporting of inspection data more uniform.
TN - R1	Completed	3/31/2008	CWA E4	SNC Accuracy	CWA Single Event Violations (SEVs) are discretionary for the state with respect to their designations and entry into PCS as significant noncompliance. TDEC has not entered any SEVs into PCS.	Tennessee is encouraged to identify and track SEVs in PCS. EPA has recently clarified its expectations for reporting SEV, and future reviews of this element will include assessment of the states' performance against the revised expectations.	TDEC has proposed a state-wide inspection checklist that will include a clarification of SEV codes and will be designed to promote the identification and reporting of SEVs. TDEC will consider reviewing the EMS and if it is determined that it requires modification or updating.
TN - R1	Completed	3/31/2008	CWA E5	Return to Compliance	Storm water industrial expedited orders were missing documentation in the files, including a verification of a return to compliance.	All documentation related to the facility compliance status determination, enforcement for noncompliance and subsequent return to compliance should be maintained in the facility enforcement and compliance files.	Since the SRF evaluation, TDEC has clarified that the compliance condition of the waiver contained in the Orders would apply as long as no additional incidents of non-compliance were documented within the 12 months following issuance of the Order.

TN - R1		3/31/2008	CWA E6	Timely & Appropriate Actions	In the OECA CWA Data Metrics Tennessee is reported at 9.6%, which is above the 2% threshold for SNC facilities beyond enforcement timelines milestones, and above the national average of 8.3%. Eighty-six percent (6 out of 7) of the enforcement actions issued at major facilities were not timely (beyond 180 days from the date the facility was determined to be out of compliance). Many of the formal enforcement actions were taken after the issuance of numerous NOVs.	Tennessee should evaluate its enforcement response policies to determine ways to ensure that the state enforcement action response is timely, striving to maintain the less than two percent national goal for major facilities without timely action.	TDEC clarified that during the time period addressed by the SRF evaluation, TDEC's WPC Enforcement and Compliance Section experienced a 50 percent loss of technical staff that was engaged in the drafting and issuance of formal enforcement actions, as well
TN - R1		3/31/2008	CWA E7	Penalty Calculations	During the CWA file review, it was observed that penalty assessment calculations did not specifically consider economic benefit as a factor. In addition, the CWA EMS does not address changes that TDEC has adopted, including penalty limit increase in the Director's Order and the expedited Director's Orders.	Every reasonable effort must be made to calculate and recover economic benefit and gravity in enforcement penalties. If such assessment is not feasible or is not applicable, a notation in the file should be made with an explanation.	TDEC has put in place procedures that require all enforcement programs to conduct an economic benefit review for all enforcement cases. Enforcement files will clearly document that economic benefit was considered.
TN - R1	Completed	3/31/2008	CWA E8	Penalties Collected	In CWA enforcement, Tennessee oftentimes designated a significant portion of the penalty as "contingent" and due if there is not timely compliance with the specified corrective action.	TDEC should pursue collection of assessed penalties to promote compliance by deterring future violations. Penalty reduction due to a facility's claim of inability to pay should only be considered upon review of appropriate supporting financial documentation.	Since the SRF evaluation, TDEC has reduced the incidence of non-contingent penalty reduction with regard to Agreed Orders, which are the types of Orders which allow for such reductions. WPC will develop a process to document the rationale for reductions that are allowed in the future.

TN - R1	Completed	3/31/2008	CWA E9, E10	Grant Commitments, Data Timely	TDEC met or exceeded most requirements of their NPDES compliance and enforcement FY2006 CWA §106 workplan with the exception of data management requirements. This includes the entering and maintaining of data in PCS for all formal enforcement actions, including penalty data (assessed and collected amounts and date of collection), entering inspection data within 30 days of issuance of the action, and entering and tracking designated SEV into PCS.	TDEC should ensure that all negotiated grant workplan commitments are met. Anticipated concerns that may impact meeting workplan commitments (i.e. limited resources) should be discussed during the workplan development phase.	TDEC concurs with this recommendation.
TN - R1		3/31/2008	CWA E11	Data Accurate	The SRF data metrics (dated May 12, 2007) noted major facilities having correctly coded limits for Tennessee at 91%, below the national goal of at or above 95%.	TDEC should strive to achieve the national goal of 95% for data quality with respect to DMR and parameter measurement coding into PCS. Data entry procedures should be developed that account for regular QA/QC of data entered into PCS.	TDEC concurs with this recommendation.
TN - R1		3/31/2008	CWA E12	Data Complete	The CWA file review discovered that penalty information, formal and informal enforcement actions and inspection documentation were found to be in the facility file but not entered into PCS consistently.	TDEC should institute procedures that assure that all information that should be entered into PCS is routed to data entry staff. Periodic data pulls should be performed from the state database and PCS for all minimum data required reconciling any differences found.	Since EPA does not require construction permits to be entered in the PCS, corresponding inspections cannot be entered either. TDEC is willing to share such information with EPA in printed or electronic format. Until batch upload processes are defined and available, TDEC cannot commit to entering this data manually.
TN - R1		3/31/2008	CAA E1	Insp Universe	EPA's CMS Guidance requires that 100% of Title V ACCs are to be reviewed annually. According to the data metrics, 63% Title V ACCs were received and reviewed by TDEC in FY2006.	TDAPC should examine why some ACCs are being not submitted and/or are not reviewed, and submit recommendations for achieving this goal to EPA.	The state is now using the web-based Oracle Application Express® application to track FCEs and enhance the FCE coverage percentage. The AFS data management group will be able to provide reports on a monthly basis which show the permitting managers the ACCs that have been received but not reviewed.

TN - R1	Completed	3/31/2008	CAA E2	Violations ID'ed Appropriately	In 40% of files reviewed, one or more of the FCE elements were not documented. Examples of missing elements were no review of the semi-annual monitoring reports (Title V and MACT), the ACC, excess emission reports, stack tests and start-up, shutdown and malfunction reports.	TDAPC should develop and implement a plan that ensures all elements of a FCE are consistently completed and documented in the source files. Proper recording of the FCE should be part of this plan. TDAPC should consider a FCE checklist in this plan.	TDEC created an Oracle Application Express® to address the shortcomings of the current paper-based FCE tracking system. This web-enabled process will allow field inspection staff and central office enforcement and AFS staff to view, edit, and track FCE-related data in real time.
TN - R1		3/31/2008	CAA E6	Timely & Appropriate Actions	According to the CAA data metrics, in FY2006, 31% if of the HPVs went unaddressed longer than 270 days.	TDAPC should examine their HPV resolution practices and develop/implement a plan that will ensure conformance with the enforcement action timelines of the HPV policy.	Due to the increased emphasis of management to resolve HPVs, TDAPC has had fewer HPVs go over 270 days after several changes were implemented. Unfortunately, this improvement is not reflected in the FY2006 data used in the SRF evaluation.
TN - R1	Completed	3/31/2008	CAA E8	Penalties Collected	In reviewing the CAA enforcement cases, 68% (13 cases) addressed the gravity component and economic component where applicable, and 32% (6 cases) addressed the gravity component but were silent on economic benefit.	Tennessee needs to propose and implement a plan that ensures that the economic benefit component of a penalty calculation worksheet is considered and documented in the file	TDAPC now requires an economic benefit checklist to be completed and attached to each penalty memo drafted after September 1, 2007.
TN - R1		3/31/2008	CAA E10	Data Timely	The CAA data metrics report on the percent of HPVs entered greater than 60 days after the date that they are designated as an HPV (day zero). TDAPC's data metrics show 16 of 43 (37.2%) HPVs were entered more than 60 days following their day zero.	TDAPC should propose and implement a plan to ensure that HPVs are entered into AFS in a timely manner.	TDAPC has streamlined the time frame between the NOV being drafted and the HPV being entered into AFS. Prior to the SRF evaluation, NOVs were sent to the Enforcement Program once per month. Currently, all NOVs to permitted facilities are being sent to the Enforcement Program as they are issued.

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

The enclosed Official Data Set (ODS) was pulled from the Online Tracking Information System (OTIS) Web site using FY 2010 data that was “frozen” in February 2011. It is accessible online with additional links and information on the OTIS site. EPA also will send an electronic version in Excel format by email.

The state had an opportunity to quality check this data before it was “frozen” but in the spirit of transparency we want to offer another opportunity to check this data for accuracy before it is used in the SRF process. 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 Round 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. The reasons for noting the discrepancies are: (1) it is important for EPA to understand these differences in the course of its work, and (2) in the event of a Freedom of Information Act 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/cgi-bin/stateframework.cgi>. 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 September 9, 2011, with an indication of whether you agree or not with the ODS data. This can be submitted electronically to Becky Hendrix, the Region 4 SRF Coordinator, at [hendrix.becky@epa.gov](mailto:hendrix.becky@epa.gov). Becky can also be reached at (404) 562-8342 with any questions. If you do not respond by this date, EPA will proceed with our preliminary data analysis under the assumption that the ODS is correct.

### Clean Air Act Official Data Set

Metric	Metric Description	Metric Type	Agency	Natl Goal	Natl Avg	TDEC Metric Froz	Count Froz	Universe Froz	Not Counted Froz	State Discrepancy (Yes/No)	State Correction	State Data Source	Discrepanc Explanation
A01A1S	Title V Universe: AFS Operating Majors (Current)	Data Quality	State			303	NA	NA	NA				
A01A2S	Title V Universe: AFS Operating Majors with Air Program Code = V (Current)	Data Quality	State			294	NA	NA	NA				
A01B1S	Source Count: Synthetic Minors (Current)	Data Quality	State			662	NA	NA	NA				
A01B2S	Source Count: NESHAP Minors (Current)	Data Quality	State			200	NA	NA	NA				
A01B3S	Source Count: Active Minor facilities or otherwise FedRep, not including NESHAP Part 61 (Current)	Informational Only	State			571	NA	NA	NA				
A01C1S	CAA Subprogram Designations: NSPS (Current)	Data Quality	State			360	NA	NA	NA				
A01C2S	CAA Subprogram Designations: NESHAP	Data Quality	State			306	NA	NA	NA				



	(Current)												
A01C3S	CAA Subprogram Designations: MACT (Current)	Data Quality	State			415	NA	NA	NA				
A01C4S	CAA Subpart Designations: Percent NSPS facilities with FCEs conducted after 10/1/2005	Data Quality	State	100%	87.7%	86.9%	370	426	56				
A01C5S	CAA Subpart Designations: Percent NESHAP facilities with FCEs conducted after 10/1/2005	Data Quality	State	100%	48.5%	3.4%	5	146	141				
A01C6S	CAA Subpart Designations: Percent MACT facilities with FCEs conducted after 10/1/2005	Data Quality	State	100%	94.4%	96.4%	296	307	11				
A01D1S	Compliance Monitoring: Sources with FCEs (1 FY)	Data Quality	State				804	NA	NA	NA			
A01D2S	Compliance Monitoring: Number of FCEs (1 FY)	Data Quality	State				890	NA	NA	NA			

A01D3S	Compliance Monitoring: Number of PCEs (1 FY)	Informational Only	State				180	NA	NA	NA			
A01E0S	Historical Non-Compliance Counts (1 FY)	Data Quality	State				78	NA	NA	NA			
A01F1S	Informal Enforcement Actions: Number Issued (1 FY)	Data Quality	State				36	NA	NA	NA			
A01F2S	Informal Enforcement Actions: Number of Sources (1 FY)	Data Quality	State				27	NA	NA	NA			
A01G1S	HPV: Number of New Pathways (1 FY)	Data Quality	State				36	NA	NA	NA			
A01G2S	HPV: Number of New Sources (1 FY)	Data Quality	State				27	NA	NA	NA			
A01H1S	HPV Day Zero Pathway Discovery date: Percent DZs with discovery	Data Quality	State	100%	59.7%	97.2%	35	36	1				
A01H2S	HPV Day Zero Pathway Violating Pollutants: Percent DZs	Data Quality	State	100%	91.3%	100.0%	36	36	0				
A01H3S	HPV Day Zero Pathway Violation Type Code(s): Percent DZs with HPV Violation Type	Data Quality	State	100%	91.2%	91.7%	33	36	3				

	Code(s)												
A0111S	Formal Action: Number Issued (1 FY)	Data Quality	State			25	NA	NA	NA				
A0112S	Formal Action: Number of Sources (1 FY)	Data Quality	State			19	NA	NA	NA				
A01J0S	Assessed Penalties: Total Dollar Amount (1 FY)	Data Quality	State			\$532,812	NA	NA	NA				
A01K0S	Major Sources Missing CMS Policy Applicability (Current)	Review Indicator	State	0		6	NA	NA	NA				
A02A0S	Number of HPVs/Number of NC Sources (1 FY)	Data Quality	State	<= 50%	45.5%	78.8%	26	33	7				
A02B1S	Stack Test Results at Federally- Reportable Sources - % Without Pass/Fail Results (1 FY)	Goal	State	0%	1.3%	0.0%	0	134	134				
A02B2S	Stack Test Results at Federally- Reportable Sources - Number of Failures (1 FY)	Data Quality	State				2	NA	NA	NA			

A03A0S	Percent HPVs Entered <= 60 Days After Designation, Timely Entry (1 FY)	Goal	State	100%	34.7%	38.9%	14	36	22				
A03B1S	Percent Compliance Monitoring related MDR actions reported <= 60 Days After Designation, Timely Entry (1 FY)	Goal	State	100%	59.0%	52.5%	1,156	2,204	1,048				
A03B2S	Percent Enforcement related MDR actions reported <= 60 Days After Designation, Timely Entry (1 FY)	Goal	State	100%	70.3%	61.0%	36	59	23				
A05A1S	CMS Major Full Compliance Evaluation (FCE) Coverage (2 FY CMS Cycle)	Goal	State	100%	89.2%	93.9%	278	296	18				
A05A2S	CAA Major Full Compliance Evaluation (FCE) Coverage(most recent 2 FY)	Review Indicator	State	100%	84.4%	91.6%	294	321	27				

A05B1S	CAA Synthetic Minor 80% Sources (SM-80) FCE Coverage (5 FY CMS Cycle)	Review Indicator	State	20% - 100%	92.0%	99.8%	630	631	1				
A05B2S	CAA Synthetic Minor 80% Sources (SM-80) FCE Coverage (last full 5 FY)	Informational Only	State	100%	92.4%	99.7%	633	635	2				
A05C0S	CAA Synthetic Minor FCE and reported PCE Coverage (last 5 FY)	Informational Only	State		79.2%	97.8%	743	760	17				
A05D0S	CAA Minor FCE and Reported PCE Coverage (last 5 FY)	Informational Only	State		28.8%	48.7%	643	1,319	676				
A05E0S	Number of Sources with Unknown Compliance Status (Current)	Review Indicator	State			47	NA	NA	NA				
A05F0S	CAA Stationary Source Investigations (last 5 FY)	Informational Only	State			8	NA	NA	NA				
A05G0S	Review of Self-Certifications Completed (1 FY)	Goal	State	100%	94.3%	55.3%	125	226	101				

A07C1S	Percent facilities in noncompliance that have had an FCE, stack test, or enforcement (1 FY)	Review Indicator	State	> 1/2 National Avg	22.3%	6.5%	55	849	794				
A07C2S	Percent facilities that have had a failed stack test and have noncompliance status (1 FY)	Review Indicator	State	> 1/2 National Avg	44.0%	100.0%	1	1	0				
A08A0S	High Priority Violation Discovery Rate - Per Major Source (1 FY)	Review Indicator	State	> 1/2 National Avg	6.4%	7.3%	22	303	281				
A08B0S	High Priority Violation Discovery Rate - Per Synthetic Minor Source (1 FY)	Review Indicator	State	> 1/2 National Avg	0.4%	0.6%	4	662	658				
A08C0S	Percent Formal Actions With Prior HPV - Majors (1 FY)	Review Indicator	State	> 1/2 National Avg	67.8%	100.0%	13	13	0				
A08D0S	Percent Informal Enforcement Actions Without Prior HPV - Majors (1 FY)	Review Indicator	State	< 1/2 National Avg	49.8%	5.0%	1	20	19				

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	40.5%	100.0%	5	5	0				
A10A0S	Percent HPVs not meeting timeliness goals (2 FY)	Review Indicator	State		36.4%	37.1%	33	89	56				
A12A0S	No Activity Indicator - Actions with Penalties (1 FY)	Review Indicator	State			25	NA	NA	NA				
A12B0S	Percent Actions at HPVs With Penalty (1 FY)	Review Indicator	State	>= 80%	89.0%	83.3%	15	18	3				

### Clean Water Act Official Data Set

Metric	Metric Description	Metric Type	Agency	Natl Goal	Natl Avg	TDEC Metric Froz	Count Froz	Universe Froz	Not Counted Froz	State Discrepancy (Yes/No)	State Correction	State Data Source	Discrepancy Explanation
P01A1C	Active facility universe: NPDES major individual permits (Current)	Data Quality	Combined			151	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			896	NA	NA	NA				
P01A4C	Active facility universe: NPDES non-major general permits (Current)	Data Quality	Combined			563	NA	NA	NA				



P01B1 C	Major individual permits: correctly coded limits (Current)	Goal	Combined	>=; 95%	92.9%	88.7%	133	150	17				
C01B2 C	Major individual permits: DMR entry rate based on MRs expected (Forms/Forms) (1 Qtr)	Goal	Combined	>=; 95%	93.7%	99.9%	1,103	1,104	1				
C01B3 C	Major individual permits: DMR entry rate based on DMRs expected (Permits/Permits) (1 Qtr)	Goal	Combined	>=; 95%	96.9%	100.0%	155	155	0				
P01B4 C	Major individual permits: manual RNC/SNC override rate (1 FY)	Data Quality	Combined			2.9%	1	35	34				

P01C1 C	Non-major individual permits: correctly coded limits (Current)	Informational Only	Combined			90.1%	575	638	63				
C01C2 C	Non-major individual permits: DMR entry rate based on DMRs expected (Forms/Forms) (1 Qtr)	Informational Only	Combined			44.9%	1,937	4,317	2,380				
C01C3 C	Non-major individual permits: DMR entry rate based on DMRs expected (Permits/Permits) (1 Qtr)	Informational Only	Combined			60.8%	465	765	300				
P01D1 C	Violations at non-majors: noncompliance rate (1 FY)	Informational Only	Combined			71.9%	644	896	252				

C01D2 C	Violations at non-majors: noncompliance rate in the annual noncompliance report (ANCR)(1 CY)	Informational Only	Combined			0 / 0	0	0	0				
P01D3 C	Violations at non-majors: DMR non-receipt (3 FY)	Informational Only	Combined			704	NA	NA	NA				
P01E1 S	Informal actions: number of major facilities (1 FY)	Data Quality	State			3	NA	NA	NA				
P01E2 S	Informal actions: number of actions at major facilities (1 FY)	Data Quality	State			3	NA	NA	NA				
P01E3 S	Informal actions: number of non-major facilities (1 FY)	Data Quality	State			1	NA	NA	NA				

P01E4 S	Informal actions: number of actions at non-major facilities (1 FY)	Data Quality	State			1	NA	NA	NA				
P01F1 S	Formal actions: number of major facilities (1 FY)	Data Quality	State			10	NA	NA	NA				
P01F2 S	Formal actions: number of actions at major facilities (1 FY)	Data Quality	State			10	NA	NA	NA				
P01F3 S	Formal actions: number of non-major facilities (1 FY)	Data Quality	State			2	NA	NA	NA				
P01F4 S	Formal actions: number of actions at non-major facilities (1 FY)	Data Quality	State			2	NA	NA	NA				
P01G1 S	Penalties: total number of penalties (1 FY)	Data Quality	State			7	NA	NA	NA				

P01G2 S	Penalties: total penalties (1 FY)	Data Quality	State			\$365,500	NA	NA	NA				
P01G3 S	Penalties: total collected pursuant to civil judicial actions (3 FY)	Data Quality	State			\$282,019	NA	NA	NA				
P01G4 S	Penalties: total collected pursuant to administrative actions (3 FY)	Informational Only	State			\$823,000	NA	NA	NA				
P01G5 S	No activity indicator - total number of penalties (1 FY)	Data Quality	State			\$365,500	NA	NA	NA				
P02A0 S	Actions linked to violations: major facilities (1 FY)	Data Quality	State	>=; 80%		80.0%	8	10	2				
P05A0 S	Inspection coverage: NPDES majors (1 FY)	Goal	State	100 %	60.7 %	63.5%	94	148	54				

P05A0 C	Inspection coverage: NPDES majors (1 FY)	Goal	Combin ed	100 %	63.5 %	63.5%	94	148	54				
P05B1 S	Inspection coverage: NPDES non- major individual permits (1 FY)	Goal	State			9.3%	81	868	787				
P05B1 C	Inspection coverage: NPDES non- major individual permits (1 FY)	Goal	Combin ed			9.6%	83	868	785				
P05B2 S	Inspection coverage: NPDES non- major general permits (1 FY)	Goal	State			3.2%	13	400	387				
P05B2 C	Inspection coverage: NPDES non- major general permits (1 FY)	Goal	Combin ed			3.2%	13	400	387				
P05C0 S	Inspection coverage: NPDES other (not 5a or 5b) (1 FY)	Informational Only	State			1.5%	3	194	191				

P05C0 C	Inspection coverage: NPDES other (not 5a or 5b) (1 FY)	Informational Only	Combined			2.6%	5	194	189				
P07A1 C	Single-event violations at majors (1 FY)	Review Indicator	Combined			3	NA	NA	NA				
P07A2 C	Single-event violations at non-majors (1 FY)	Informational Only	Combined			0	NA	NA	NA				
P07B0 C	Facilities with unresolved compliance schedule violations (at end of FY)	Data Quality	Combined		22.6%	0.0%	0	2	2				
P07C0 C	Facilities with unresolved permit schedule violations (at end of FY)	Data Quality	Combined		21.9%	58.3%	7	12	5				
P07D0 C	Percentage major facilities with DMR violations (1 FY)	Data Quality	Combined		52.8%	68.2%	103	151	48				

P08A1 C	Major facilities in SNC (1 FY)	Review Indicator	Combin ed			34	NA	NA	NA				
P08A2 C	SNC rate: percent majors in SNC (1 FY)	Review Indicator	Combin ed		24.6 %	22.5%	34	151	117				
P10A0 C	Major facilities without timely action (1 FY)	Goal	Combin ed	< 2%	18.3 %	24.5%	37	151	114				



### Resource Conservation and Recovery Act Official Data Set

Metric	Metric Description	Metric Type	Agency	Natl Goal	Natl Avg	TDEC Metric Froz	Count Froz	Universe Froz	Not Counted Froz	State Discrepancy (Yes/No)	State Correction	State Data Source	Discrepancy Explanation
R01A1S	Number of operating TSDFs in RCRAInfo	Data Quality	State			22	NA	NA	NA				
R01A2S	Number of active LQGs in RCRAInfo	Data Quality	State			520	NA	NA	NA				
R01A3S	Number of active SQGs in RCRAInfo	Data Quality	State			724	NA	NA	NA				
R01A4S	Number of all other active sites in RCRAInfo	Data Quality	State			2,249	NA	NA	NA				
R01A5S	Number of LQGs per latest official biennial report	Data Quality	State			292	NA	NA	NA				
R01B1S	Compliance monitoring: number of inspections (1 FY)	Data Quality	State			539	NA	NA	NA				
R01B2S	Compliance monitoring: sites inspected (1 FY)	Data Quality	State			446	NA	NA	NA				
R01C1S	Number of sites with violations determined at any time (1 FY)	Data Quality	State			254	NA	NA	NA				

R01C2S	Number of sites with violations determined during the FY	Data Quality	State			220	NA	NA	NA				
R01D1S	Informal actions: number of sites (1 FY)	Data Quality	State			167	NA	NA	NA				
R01D2S	Informal actions: number of actions (1 FY)	Data Quality	State			228	NA	NA	NA				
R01E1S	SNC: number of sites with new SNC (1 FY)	Data Quality	State			29	NA	NA	NA				
R01E2S	SNC: Number of sites in SNC (1 FY)	Data Quality	State			37	NA	NA	NA				
R01F1S	Formal action: number of sites (1 FY)	Data Quality	State			15	NA	NA	NA				
R01F2S	Formal action: number taken (1 FY)	Data Quality	State			15	NA	NA	NA				
R01G0S	Total amount of final penalties (1 FY)	Data Quality	State			\$59,100	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				9	NA	NA	NA			
R03A0S	Percent SNCs entered 60 days after designation (1 FY)	Review Indicator	State				16.7%	4	24	20			
R05A0S	Inspection coverage for operating TSDFs (2 FYs)	Goal	State	100%	87.4%	90.9%		20	22	2			
R05B0S	Inspection coverage for LQGs (1 FY)	Goal	State	20%	24.1%	34.9%		102	292	190			
R05C0S	Inspection coverage for LQGs (5 FYs)	Goal	State	100%	61.7%	86.0%		251	292	41			
R05D0S	Inspection coverage for active SQGs (5 FYs)	Informational Only	State				55.0%	398	724	326			
R05E1S	Inspections at active CESQGs (5 FYs)	Informational Only	State					500	NA	NA	NA		
R05E2S	Inspections at active transporters (5 FYs)	Informational Only	State					98	NA	NA	NA		
R05E3S	Inspections at non-notifiers (5 FYs)	Informational Only	State					0	NA	NA	NA		

R05E4S	Inspections at active sites other than those listed in 5a-d and 5e1-5e3 (5 FYs)	Informational Only	State				103	NA	NA	NA			
R07C0S	Violation identification rate at sites with inspections (1 FY)	Review Indicator	State				49.3%	220	446	226			
R08A0S	SNC identification rate at sites with inspections (1 FY)	Review Indicator	State	1/2 National Avg	2.6%	6.5%	29	446	417				
R08B0S	Percent of SNC determinations made within 150 days (1 FY)	Goal	State	100%	83.2%	75.0%	21	28	7				
R08C0S	Percent of formal actions taken that received a prior SNC listing (1 FY)	Review Indicator	State	1/2 National Avg	62.3%	93.8%	15	16	1				
R10A0S	Percent of SNCs with formal action/referral taken within 360 days (1 FY)	Review Indicator	State	80%	46.5%	41.4%	12	29	17				
R10B0S	No activity indicator - number of formal actions (1 FY)	Review Indicator	State				15	NA	NA	NA			

R12A0S	No activity indicator - penalties (1 FY)	Review Indicator	State			\$59,100	NA	NA	NA				
R12B0S	Percent of final formal actions with penalty (1 FY)	Review Indicator	State	1/2 National Avg	80.6%	0 / 0	0	0	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 the on-site 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 metric 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.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

OCT 25 2011

Mr. Robert Martineau  
Commissioner  
Tennessee Department of Environment and Conservation  
First Floor, L & C Tower  
401 Church Street  
Nashville, Tennessee 37243-1535

Dear Commissioner Martineau:

On August 18, 2011, the Environmental Protection Agency (EPA) Region 4 notified the Tennessee Department of Environment and Conservation (TDEC) of its intention to begin the Round 2 State Review Framework (SRF) evaluation. As the next step in the process, the region has analyzed the SRF data sent with the opening letter against established goals and commitments, incorporating any data corrections or discrepancies provided by TDEC.

This follow-up letter includes (1) EPA's preliminary analysis of the state SRF data metrics results, (2) the official preliminary data analysis (PDA) worksheets, and (3) the files that have been selected for the SRF file reviews. The file reviews have been coordinated between TDEC and EPA to take place during the week of November 7, 2011. All reviews will take place at TDEC's offices in Nashville, Tennessee.

We are providing this information to you in advance so that your staff will 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 the region should consider during the review, please have your staff provide that information to Becky Hendrix, the Region 4 SRF coordinator, prior to the on-site file review. Becky Hendrix can be reached at (404) 562-8342.

Please note that the enclosed preliminary analyses are largely based only on the FY2010 data metrics results that were "frozen" in March 2011. Any corrections or updates to the data in the national data systems since that time may not be reflected in the preliminary analyses. Final SRF findings may be significantly different based upon the revised and/or updated FY2010 data, the results of the file review, and ongoing discussions with your staff.

We also wanted to make you aware that information related to sources regulated by the four Local Clean Air Act (CAA) programs in Tennessee (Memphis, Knoxville, Nashville, and Chattanooga) was included in the Official Data Set (ODS) provided to you in August 2011. In order to better focus our evaluation on TDEC's CAA program, the CAA metrics used in the enclosed PDA have been adjusted to remove the Local program data. Therefore, you may notice

differences between the metric values shown in the ODS versus the PDA. Please feel free to give Mark Fite of my staff a call if you have any questions about this.

Please also note that 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 TDEC, it may be necessary to release information in response to a properly submitted information request.

At this time I would also like to bring to your attention the opportunity for TDEC to highlight any priorities and accomplishments that you would like to have included in the SRF Report. EPA is also requesting specific information on your resources, staffing, and the current data systems used by your state for the SRF Report. An outline of this information is included in Enclosure 10 of this letter. EPA is requesting this information be sent electronically to Bocky Hendrix at [bhendrix.bocky@epa.gov](mailto:bhendrix.bocky@epa.gov) by November 30, 2011.

We look forward to working with you and your staff in this effort. Should you require additional information, or wish to discuss this matter in greater detail, please feel free to contact Scott Gordon, the Associate Director of the Office of Environmental Accountability, at (404) 562-9741.

Sincerely,



Mary J. Wilkes  
Regional Counsel and Director  
Office of Environmental Accountability

- Enclosure 1 - CAA Preliminary Data Analysis
- Enclosure 2 - CAA Preliminary Data Analysis Worksheet
- Enclosure 3 - CAA Table of Selected Files and selection logic
- Enclosure 4 - CWA Preliminary Data Analysis
- Enclosure 5 - CWA Preliminary Data Analysis Worksheet
- Enclosure 6 - CWA Table of Selected Files and selection logic
- Enclosure 7 - RCRA Preliminary Data Analysis
- Enclosure 8 - RCRA Preliminary Data Analysis Worksheet
- Enclosure 9 - RCRA Table of Selected Files and selection logic
- Enclosure 10 - Background Information for SRF Report



## **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 or areas of exemplary performance are identified. (The full PDA worksheet in Appendix E contains every metric: positive, neutral, or negative.) Initial Findings indicate the observed results. Initial Findings are preliminary observations. They are used as a basis for 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.

### **Clean Air Act**

<b>Original Data Pulled from Online Tracking Information System (OTIS)</b>							<b>EPA Preliminary Analysis</b>
<b>Metric</b>	<b>Metric Description</b>	<b>Metric Type</b>	<b>Agency</b>	<b>National Goal</b>	<b>National Average</b>	<b>State Metric</b>	<b>Initial Findings</b>
A01C2S	CAA Subprogram Designations: NESPAP (current)	Data Quality	State			281	An 82% drop in the number of NESHAP sources is evident in the production data. Need to discuss with State during file review. Supplemental files selected.
A01C3S	CAA Subprogram Designations: MACT (current)	Data Quality	State			355	A 45% drop in the number of MACT sources is evident in the production data. Need to discuss with state during file review. Supplemental files selected.

A01C5S	CAA Subpart Designations: Percent NESHAP facilities with FCEs conducted after 10/1/2005	Data Quality	State	100%	48.5%	3.7%	The frozen data indicates a significant problem with reporting NESHAP subparts. However, the production data metric (72.7%) indicates some improvement. Discuss with state during file review. Supplemental files selected.
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Metric	Metric Description	Metric Type	Agency	National Goal	National Average	State Metric	Initial Findings
A02A0S	Number of HPVs/Number of NC Sources (1 FY)	Data Quality	State	<= 50%	45.5%	78.8%	Metric indicates a high proportion of violations identified are categorized as HPVs. Supplemental files selected.
A03A0S	Percent HPVs Entered <= 60 Days After Designation, Timely Entry (1 FY)	Goal	State	100%	34.7%	40%	Data reporting is not timely. Supplemental files selected
A03B1S	Percent Compliance Monitoring related MDR actions reported <= 60 Days After Designation, Timely Entry (1 FY)	Goal	State	100%	59.0%	54.2%	Data reporting is not timely. Supplemental files selected
A03B2S	Percent Enforcement related MDR actions reported <=60 days after designation, timely entry (1FY)	Goal	State	100%	70.3%	63.0%	Data reporting is not timely. Supplemental files selected.
A05E0S	Number of Sources with Unknown Compliance Status (Current)	Review Indicator	State			40	A number of sources were not evaluated within CMS timeframes. Supplemental files selected.
A05G0S	Review of Self-Certifications Completed (1 FY)	Goal	State	100%	94.3%	50.2%	Only half of Title 5 self certifications are being reviewed. Supplemental files selected.
A07C1S	Percent facilities in noncompliance that have had an FCE, stack test, or enforcement (1 FY)	Review Indicator	State	>1/2 Natl. average	22.3%	9.9%	

Metric	Metric Description	Metric Type	Agency	National Goal	National Average	State Metric	Initial Findings
A10A0S	Percent HPVs not meeting timeliness goals (2 FY)	Review Indicator	State		36.4%	36.0%	Nearly two-thirds of HPVs are not addressed within 270 days. Supplement files selected

## Clean Water Act

Original Data Pulled from Online Tracking Information System (OTIS)							EPA Preliminary Analysis
Metric	Metric Description	Metric Type	Agency	National Goal	National Average	State Metric	Initial Findings
P01B1C	Major individual permits: correctly coded limits (Current)	Goal	Combined	>= 95%	92.9%	88.7%	The frozen data is below the national goal of 95%. Minor issue.
C01C2C	Non-major individual permits: DMR entry rate based on DMRs expected (Forms/Forms) (1 Qtr)	Informational Only	Combined			44.9%	The frozen data percent appears low. Minor issue.
C01C3C	Non-major individual permits: DMR entry rate based on DMRs expected (Permits/Permits) (1 Qtr)	Informational Only	Combined			60.8%	The frozen data percent appears low. Minor issue.
P01D3C	Violations at non-majors: DMR non-receipt (3 FY)	Informational Only	Combined			704	Many non-receipt violations are erroneous and are currently being investigated, with resolution pending.

Metric	Metric Description	Metric Type	Agency	National Goal	National Average	State Metric	Initial Findings
P05B1S	Inspection coverage: NPDES non-major individual permits (1 FY)	Goal	State			9.3%	The frozen data percent is below 20%. Minor issue.
P05B2S	Inspection coverage: NPDES non-major general permits (1 FY)	Goal	State			3.2%	The frozen data percent is below 20%. Minor issue.
P07C0C	Facilities with unresolved permit schedule violations (at end of FY)	Data Quality	Combined		21.9%	58.3%	The frozen data is greater than the national average. Minor issue.
P10A0C	Major facilities without timely action (1 FY)	Goal	Combined	<2%	18.3%	24.5%	The frozen data is greater than the national average and national goal. Potential Concern.

## RCRA

Original Data Pulled from Online Tracking Information System (OTIS)							EPA Preliminary Analysis
Metric	Metric Description	Metric Type	Agency	National Goal	National Average	State Metric	Initial Findings
R01G0S	Total amount of final penalties (1 FY)	Data Quality	State			\$59,100	Only one penalty was entered was found during this review. This metric will be reviewed with TDEC to ensure accurate data entry. Potential Concern
R02B0S	Number of sites in violation for greater than 240 days	Data Quality	State			9	Nine sites have violations that were open for more than 240 days, were not linked to a formal enforcement action, and were not SNCs. This metric will be reviewed with TDEC to ensure accurate data entry. Potential Concern
R03A0S	Percent SNCs entered &ge; 60 days after designation (1 FY)	Review Indicator	State			16.7%	Four of the twenty-four SNCs identified in FY 2010 had delayed entry into RCRAInfo. The SNC identification and data entry procedures will be discussed with TDEC during the file review. Minor Concern
R05A0S	Inspection coverage for operating TSDFs (2 FYs)	Goal	State	100%	87.4%	90.9%	Ninety-one percent of the TSDF universe has been inspected over a two year period. The goal for this metric is one hundred percent. The TSDF universe will be reviewed to determine whether the data represents a problem or can be explained. Minor Concern
R05C0S	Inspection coverage for LQGs (5 FYs)	Goal	State	100%	61.7%	86.0%	Eighty-six percent of the Biennial Report (BR) LQG universe had an inspection conducted within the past five years. Although the national average is sixty-nine percent, the goal for this metric is one hundred percent. The LQG universe and BR LQG universe will be compared to determine whether the data represents a problem or can be explained. Minor Concern
R08B0S	Percent of SNC determinations made within 150 days (1 FY)	Goal	State	100%	83.2%	75.0%	Eighty-three and a half percent of the SNC determinations were made (and data entered) within 150 days of Day Zero. Files will be reviewed to ensure whether the data represents a problem or can be explained. Potential Concern
R10A0S	Percent of SNCs with formal action/referral taken within 360 days (1 FY)	Review Indicator	State	80%	46.5%	41.4%	Thirty-seven percent of sites determined to be SNCs were addressed with a formal action within 360 days. Formal enforcement timeframes and data entry procedures will be discussed with TDEC during the file review. Potential Concern

Metric	Metric Description	Metric Type	Agency	National Goal	National Average	State Metric	Initial Findings
R12B0S	Percent of final formal actions with penalty (1 FY)	Review Indicator	State	½ Natl Average	80.6%	0/0	There is no percentage given for the amount of final formal actions with a penalty. Penalties and data entry will be discussed with TDEC during the file review. Potential Concern

## APPENDIX E: PDA WORKSHEET

### CAA Preliminary Data Analysis Worksheet

Metric	Metric Description	Metric Type	Agency	Natl Goal	Natl Avg	TDEC Metric Froz	Count Froz	Universe Froz	Not Counted Froz	State Discrepancy (Yes/No)	State Correction	State Data Source	Discrepancy Explanation	Initial Findings	Evaluation
A01A1S	Title V Universe: AFS Operating Majors (Current)	Data Quality	State			230	NA	NA	NA	No					Appears Acceptable
A01A2S	Title V Universe: AFS Operating Majors with Air Program Code = V (Current)	Data Quality	State			228	NA	NA	NA	No					Appears Acceptable
A01B1S	Source Count: Synthetic Minors (Current)	Data Quality	State			365	NA	NA	NA	No					Appears Acceptable
A01B2S	Source Count: NESHAP Minors (Current)	Data Quality	State			181	NA	NA	NA	No					Appears Acceptable
A01B3S	Source Count: Active Minor facilities or otherwise FedRep, not including	Informational Only	State			443	NA	NA	NA	No					Appears Acceptable



	NESHAP Part 61 (Current)													
A01C1S	CAA Subprogram Designations: NSPS (Current)	Data Quality	State			273	NA	NA	NA	No				Appears Acceptable
A01C2S	CAA Subprogram Designations: NESHAP (Current)	Data Quality	State			281	NA	NA	NA	No			An 82% drop in the number of NESHAP sources is evident in the production data. Need to discuss with state during file review. Supplemental files selected.	Potential Concern
A01C3S	CAA Subprogram Designations: MACT (Current)	Data Quality	State			355	NA	NA	NA	No			A 45% drop in the number of MACT sources is evident in the production data. Need to discuss with state during file review. Supplemental files selected.	Potential Concern
A01C4S	CAA Subpart Designations: Percent NSPS facilities with FCEs conducted after 10/1/2005	Data Quality	State	100%	87.7 %	93.3%	308	330	28	No				Appears Acceptable
A01C5S	CAA Subpart Designations: Percent NESHAP facilities with	Data Quality	State	100%	48.5 %	3.7%	5	135	130	No			The frozen data indicates a significant problem with reporting	Potential Concern

	FCEs conducted after 10/1/2005													NESHAP subparts. However, the production data metric (72.7%) indicates some improvement. Discuss with state during file review. Supplemental files selected.	
A01C6S	CAA Subpart Designations: Percent MACT facilities with FCEs conducted after 10/1/2005	Data Quality	State	100%	94.4 %	97.3%	249	256	7	No					Appears Acceptable
A01D1S	Compliance Monitoring: Sources with FCEs (1 FY)	Data Quality	State			556	NA	NA	NA	No					Appears Acceptable
A01D2S	Compliance Monitoring: Number of FCEs (1 FY)	Data Quality	State			572	NA	NA	NA	No					Appears Acceptable
A01D3S	Compliance Monitoring: Number of PCEs (1 FY)	Informational Only	State			179	NA	NA	NA	No					Appears Acceptable
A01E0S	Historical Non-Compliance Counts (1 FY)	Data Quality	State			76	NA	NA	NA	No					Appears Acceptable
A01F1S	Informal Enforcement Actions: Number Issued (1 FY)	Data Quality	State			31	NA	NA	NA	No					Appears Acceptable

A01F2S	Informal Enforcement Actions: Number of Sources (1 FY)	Data Quality	State			23	NA	NA	NA	No				Appears Acceptable
A01G1S	HPV: Number of New Pathways (1 FY)	Data Quality	State			35	NA	NA	NA	No				Appears Acceptable
A01G2S	HPV: Number of New Sources (1 FY)	Data Quality	State			26	NA	NA	NA	No				Appears Acceptable
A01H1S	HPV Day Zero Pathway Discovery date: Percent DZs with discovery	Data Quality	State	100%	59.7 %	97.2%	35	36	1	No				Appears Acceptable
A01H2S	HPV Day Zero Pathway Violating Pollutants: Percent DZs	Data Quality	State	100%	91.3 %	100.0 %	36	36	0	No				Appears Acceptable
A01H3S	HPV Day Zero Pathway Violation Type Code(s): Percent DZs with HPV Violation Type Code(s)	Data Quality	State	100%	91.2 %	91.4%	32	35	3	No				Appears Acceptable
A01I1S	Formal Action: Number Issued (1 FY)	Data Quality	State			25	NA	NA	NA	No			Production data indicates 4 additional formal actions were reported late.	Minor Issue
A01I2S	Formal Action: Number of Sources (1 FY)	Data Quality	State			19	NA	NA	NA	No			Production data indicates 4 additional informal actions were reported late.	Minor Issue

A01J0S	Assessed Penalties: Total Dollar Amount (1 FY)	Data Quality	State			\$532,812	NA	NA	NA	No				Appears Acceptable
A01K0S	Major Sources Missing CMS Policy Applicability (Current)	Review Indicator	State	0		0	NA	NA	NA	No				Appears Acceptable
A02A0S	Number of HPVs/Number of NC Sources (1 FY)	Data Quality	State	<= 50%	45.5%	78.8%	26	33	7	No			Metric indicates a high proportion of violations identified are categorized as HPVs. Supplemental files selected.	Potential Concern
A02B1S	Stack Test Results at Federally-Reportable Sources - % Without Pass/Fail Results (1 FY)	Goal	State	0%	1.3%	0.0%	0	134	134	No				Appears Acceptable
A02B2S	Stack Test Results at Federally-Reportable Sources - Number of Failures (1 FY)	Data Quality	State			2	NA	NA	NA	No				Appears Acceptable
A03A0S	Percent HPVs Entered <= 60 Days After Designation, Timely Entry (1 FY)	Goal	State	100%	34.7%	40.0%	14	35	21	No			Data reporting is not timely. Supplemental files selected	Potential Concern

A03B1S	Percent Compliance Monitoring related MDR actions reported <= 60 Days After Designation, Timely Entry (1 FY)	Goal	State	100%	59.0 %	54.2%	986	1819	833	No				Data reporting is not timely. Supplemental files selected	Potential Concern
A03B2S	Percent Enforcement related MDR actions reported <= 60 Days After Designation, Timely Entry (1 FY)	Goal	State	100%	70.3 %	63.0%	34	54	20	No				Data reporting is not timely. Supplemental files selected	Potential Concern
A05A1S	CMS Major Full Compliance Evaluation (FCE) Coverage (2 FY CMS Cycle)	Goal	State	100%	89.2 %	92.4%	208	225	17	No					Appears Acceptable
A05A2S	CAA Major Full Compliance Evaluation (FCE) Coverage(most recent 2 FY)	Review Indicator	State	100%	84.4 %	91.8%	224	244	20	No					Appears Acceptable
A05B1S	CAA Synthetic Minor 80% Sources (SM-80) FCE Coverage (5 FY CMS Cycle)	Review Indicator	State	20% - 100%	92.0 %	100.0 %	367	367	0	No					Appears Acceptable
A05B2S	CAA Synthetic Minor 80% Sources (SM-80) FCE	Informational Only	State	100%	92.4 %	100.0 %	367	367	0	No					Appears Acceptable

	Coverage (last full 5 FY)													
A05C0S	CAA Synthetic Minor FCE and reported PCE Coverage (last 5 FY)	Informational Only	State		79.2 %	100.0 %	441	441	0	No				Appears Acceptable
A05D0S	CAA Minor FCE and Reported PCE Coverage (last 5 FY)	Informational Only	State		28.8 %	48.4%	504	1041	537	No				Appears Acceptable
A05E0S	Number of Sources with Unknown Compliance Status (Current)	Review Indicator	State			40	NA	NA	NA	No			A number of sources were not evaluated within CMS timeframes. Supplemental files selected.	Potential Concern
A05F0S	CAA Stationary Source Investigations (last 5 FY)	Informational Only	State			8	NA	NA	NA	No				Appears Acceptable
A05G0S	Review of Self-Certifications Completed (1 FY)	Goal	State	100%	94.3 %	50.2%	102	203	101	No			Only half of Title 5 self certifications are being reviewed. Supplemental files selected.	Potential Concern
A07C1S	Percent facilities in noncompliance that have had an FCE, stack test, or enforcement (1 FY)	Review Indicator	State	> 1/2 National Avg	22.3 %	9.9%	54	545	491	No			Metric indicates state may not be accurately reporting compliance status.	Potential Concern

A07C2S	Percent facilities that have had a failed stack test and have noncompliance status (1 FY)	Review Indicator	State	> 1/2 National Avg	44.0 %	100.0 %	1	1	0	No					Appears Acceptable
A08A0S	High Priority Violation Discovery Rate - Per Major Source (1 FY)	Review Indicator	State	> 1/2 National Avg	6.4%	9.1%	21	230	209	No					Appears Acceptable
A08B0S	High Priority Violation Discovery Rate - Per Synthetic Minor Source (1 FY)	Review Indicator	State	> 1/2 National Avg	0.4%	1.1%	4	365	361	No					Appears Acceptable
A08C0S	Percent Formal Actions With Prior HPV - Majors (1 FY)	Review Indicator	State	> 1/2 National Avg	67.8 %	100.0 %	13	13	0	No					Appears Acceptable
A08D0S	Percent Informal Enforcement Actions Without Prior HPV - Majors (1 FY)	Review Indicator	State	< 1/2 National Avg	49.8 %	0.0%	0	19	19	No					Appears Acceptable
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	40.5 %	100.0 %	5	5	0	No					Appears Acceptable
A10A0S	Percent HPVs not meeting timeliness goals (2 FY)	Review Indicator	State		36.4 %	36.0%	31	86	55	No				Nearly two-thirds of HPVs are not addressed within 270	Potential Concern

														days. Supplement files selected	
A12A0S	No Activity Indicator - Actions with Penalties (1 FY)	Review Indicator	State		25	NA	NA	NA	No						Appears Acceptable
A12B0S	Percent Actions at HPVs With Penalty (1 FY)	Review Indicator	State	>= 80%	89.0 %	83.3%	15	18	3	No					Appears Acceptable

**CWA Preliminary Data Analysis Worksheet**

Metric	Metric Description	Metric Type	Agency	Natl Goal	Natl Avg	TDEC Metric Froz	Count Froz	Universe Froz	Not Counted Froz	State Discrepancy (Yes/No)	Discrepancy Explanation	Initial Findings	Evaluation
P01A1C	Active facility universe: NPDES major individual permits (Current)	Data Quality	Combined			151	NA	NA	NA	NA			Appears Acceptable
P01A2C	Active facility universe: NPDES major general permits (Current)	Data Quality	Combined			0	NA	NA	NA	NA			Appears Acceptable
P01A3C	Active facility universe: NPDES non-major individual permits (Current)	Data Quality	Combined			896	NA	NA	NA	NA			Appears Acceptable



P01A4C	Active facility universe: NPDES non-major general permits (Current)	Data Quality	Combined			563	NA	NA	NA	NA			Appears Acceptable
P01B1C	Major individual permits: correctly coded limits (Current)	Goal	Combined	>=; 95%	92.9%	88.7%	133	150	17	NA		The frozen data is below the national goal of 95%.	Minor Issue
C01B2C	Major individual permits: DMR entry rate based on MRs expected (Forms/Form s) (1 Qtr)	Goal	Combined	>=; 95%	93.7%	99.9%	1,103	1,104	1	NA			Appears Acceptable
C01B3C	Major individual permits: DMR entry rate based on DMRs expected (Permits/Permits) (1 Qtr)	Goal	Combined	>=; 95%	96.9%	100.0 %	155	155	0	NA			Appears Acceptable
P01B4C	Major individual permits: manual RNC/SNC override rate (1 FY)	Data Quality	Combined			2.9%	1	35	34	NA			Appears Acceptable

P01C1C	Non-major individual permits: correctly coded limits (Current)	Informational Only	Combined			90.1%	575	638	63	NA			Appears Acceptable
C01C2C	Non-major individual permits: DMR entry rate based on DMRs expected (Forms/Forms) (1 Qtr)	Informational Only	Combined			44.9%	1,937	4,317	2,380	NA		The frozen data percent appears low.	Minor Issue
C01C3C	Non-major individual permits: DMR entry rate based on DMRs expected (Permits/Permits) (1 Qtr)	Informational Only	Combined			60.8%	465	765	300	NA		The frozen data percent appears low.	Minor Issue
P01D1C	Violations at non-majors: noncompliance rate (1 FY)	Informational Only	Combined			71.9%	644	896	252	NA			Appears Acceptable
C01D2C	Violations at non-majors: noncompliance rate in the annual noncompliance report (ANCR)(1 CY)	Informational Only	Combined			0 / 0	0	0	0	NA			Appears Acceptable

P01D3C	Violations at non-majors: DMR non-receipt (3 FY)	Information al Only	Combined			704	NA	NA	NA	NA	Many non-receipt violations are erroneous and are currently being investigated, with resolution pending.		Minor Issue
P01E1S	Informal actions: number of major facilities (1 FY)	Data Quality	State			3	NA	NA	NA	NA			Appears Acceptable
P01E2S	Informal actions: number of actions at major facilities (1 FY)	Data Quality	State			3	NA	NA	NA	NA			Appears Acceptable
P01E3S	Informal actions: number of non-major facilities (1 FY)	Data Quality	State			1	NA	NA	NA	NA			Appears Acceptable
P01E4S	Informal actions: number of actions at non-major facilities (1 FY)	Data Quality	State			1	NA	NA	NA	NA			Appears Acceptable

P01F1S	Formal actions: number of major facilities (1 FY)	Data Quality	State			10	NA	NA	NA	NA			Appears Acceptable
P01F2S	Formal actions: number of actions at major facilities (1 FY)	Data Quality	State			10	NA	NA	NA	NA			Appears Acceptable
P01F3S	Formal actions: number of non-major facilities (1 FY)	Data Quality	State			2	NA	NA	NA	NA			Appears Acceptable
P01F4S	Formal actions: number of actions at non-major facilities (1 FY)	Data Quality	State			2	NA	NA	NA	NA			Appears Acceptable
P01G1S	Penalties: total number of penalties (1 FY)	Data Quality	State			7	NA	NA	NA	NA			Appears Acceptable
P01G2S	Penalties: total penalties (1 FY)	Data Quality	State			\$365,500	NA	NA	NA	NA			Appears Acceptable
P01G3S	Penalties: total collected pursuant to civil judicial actions (3 FY)	Data Quality	State			\$282,019	NA	NA	NA	NA			Appears Acceptable

P01G4S	Penalties: total collected pursuant to administrative actions (3 FY)	Information al Only	State			\$823,000	NA	NA	NA	NA			Appears Acceptable
P01G5S	No activity indicator - total number of penalties (1 FY)	Data Quality	State			\$365,500	NA	NA	NA	NA			Appears Acceptable
P02A0S	Actions linked to violations: major facilities (1 FY)	Data Quality	State	>=; 80%		80.0%	8	10	2	NA			Appears Acceptable
P05A0S	Inspection coverage: NPDES majors (1 FY)	Goal	State	100%	60.7%	63.5%	94	148	54	NA			Appears Acceptable
P05A0C	Inspection coverage: NPDES majors (1 FY)	Goal	Combined	100%	63.5%	63.5%	94	148	54	NA			Appears Acceptable
P05B1S	Inspection coverage: NPDES non-major individual permits (1 FY)	Goal	State			9.3%	81	868	787	NA		The frozen data percent is below 20%.	Minor Issue
P05B1C	Inspection coverage: NPDES non-major individual permits (1 FY)	Goal	Combined			9.6%	83	868	785	NA			Appears Acceptable

P05B2S	Inspection coverage: NPDES non-major general permits (1 FY)	Goal	State			3.2%	13	400	387	NA		The frozen data percent is below 20%.	Minor Issue
P05B2C	Inspection coverage: NPDES non-major general permits (1 FY)	Goal	Combined			3.2%	13	400	387	NA			Appears Acceptable
P05C0S	Inspection coverage: NPDES other (not 5a or 5b) (1 FY)	Informational Only	State			1.5%	3	194	191	NA			Appears Acceptable
P05C0C	Inspection coverage: NPDES other (not 5a or 5b) (1 FY)	Informational Only	Combined			2.6%	5	194	189	NA			Appears Acceptable
P07A1C	Single-event violations at majors (1 FY)	Review Indicator	Combined			3	NA	NA	NA	NA			Appears Acceptable
P07A2C	Single-event violations at non-majors (1 FY)	Informational Only	Combined			0	NA	NA	NA	NA			Appears Acceptable
P07B0C	Facilities with unresolved compliance schedule violations (at end of FY)	Data Quality	Combined		22.6%	0.0%	0	2	2	NA			Appears Acceptable

P07C0C	Facilities with unresolved permit schedule violations (at end of FY)	Data Quality	Combined		21.9%	58.3%	7	12	5	NA		The frozen data is greater than the national average	Minor Issue
P07D0C	Percentage major facilities with DMR violations (1 FY)	Data Quality	Combined		52.8%	68.2%	103	151	48	NA			Appears Acceptable
P08A1C	Major facilities in SNC (1 FY)	Review Indicator	Combined			34	NA	NA	NA	NA			Appears Acceptable
P08A2C	SNC rate: percent majors in SNC (1 FY)	Review Indicator	Combined		24.6%	22.5%	34	151	117	NA			Appears Acceptable
P10A0C	Major facilities without timely action (1 FY)	Goal	Combined	< 2%	18.3%	24.5%	37	151	114	NA		The frozen data is greater than the national average and national goal.	Potential Concern

### RCRA Preliminary Data Analysis Worksheet

Metric	Metric Description	Metric Type	Agency	Natl Goal	Natl Avg	TDEC	Count	Universe	Not Counted	State Discrepancy (Yes/No)	Discrepancy Explanation	Initial Findings
R01A1S	Number of operating TSDFs in RCRAInfo	Data Quality	State			22	NA	NA	NA	No	No Comment	
R01A2S	Number of active LQGs in RCRAInfo	Data Quality	State			520	NA	NA	NA	No	No Comment	
R01A3S	Number of active SQGs in RCRAInfo	Data Quality	State			724	NA	NA	NA	No	No Comment	
R01A4S	Number of all other active sites in RCRAInfo	Data Quality	State			2,249	NA	NA	NA	No	No Comment	
R01A5S	Number of LQGs per latest official biennial report	Data Quality	State			292	NA	NA	NA	No	No Comment	
R01B1S	Compliance monitoring: number of inspections (1 FY)	Data Quality	State			539	NA	NA	NA	No	No Comment	
R01B2S	Compliance monitoring: sites inspected (1 FY)	Data Quality	State			446	NA	NA	NA	No	No Comment	
R01C1S	Number of sites with violations determined at any time (1 FY)	Data Quality	State			254	NA	NA	NA	No	No Comment	



R01C2S	Number of sites with violations determined during the FY	Data Quality	State			220	NA	NA	NA	No	No Comment	
R01D1S	Informal actions: number of sites (1 FY)	Data Quality	State			167	NA	NA	NA	No	No Comment	
R01D2S	Informal actions: number of actions (1 FY)	Data Quality	State			228	NA	NA	NA	No	No Comment	
R01E1S	SNC: number of sites with new SNC (1 FY)	Data Quality	State			29	NA	NA	NA	No	No Comment	
R01E2S	SNC: Number of sites in SNC (1 FY)	Data Quality	State			37	NA	NA	NA	No	No Comment	
R01F1S	Formal action: number of sites (1 FY)	Data Quality	State			15	NA	NA	NA	No	No Comment	
R01F2S	Formal action: number taken (1 FY)	Data Quality	State			15	NA	NA	NA	No	No Comment	
R01G0S	Total amount of final penalties (1 FY)	Data Quality	State			\$59,100	NA	NA	NA	No	No Comment	Only one penalty was entered was found during this review. This metric will be reviewed with TDEC to ensure accurate data entry. Potential Concern
R02A1S	Number of sites SNC- determined on day of formal action (1 FY)	Data Quality	State			0	NA	NA	NA	No	No Comment	

R02A2S	Number of sites SNC-determined within one week of formal action (1 FY)	Data Quality	State			0	NA	NA	NA	No	No Comment	
R02B0S	Number of sites in violation for greater than 240 days	Data Quality	State			9	NA	NA	NA	No	No Comment	Nine sites have violations that were open for more than 240 days, were not linked to a formal enforcement action, and were not SNCs. This metric will be reviewed with TDEC to ensure accurate data entry. Potential Concern
R03A0S	Percent SNCs entered &ge; 60 days after designation (1 FY)	Review Indicator	State			16.7%	4	24	20	No	No Comment	Four of the twenty-four SNCs identified in FY 2010 had delayed entry into RCRAInfo. The SNC identification and data entry procedures will be discussed with TDEC during the file review. Minor Concern

R05A0S	Inspection coverage for operating TSDFs (2 FYs)	Goal	State	100%	87.4%	90.9%	20	22	2	No	No Comment	Ninety-one percent of the TSDF universe has been inspected over a two year period. The goal for this metric is one hundred percent. The TSDF universe will be reviewed to determine whether the data represents a problem or can be explained. Minor Concern
R05B0S	Inspection coverage for LQGs (1 FY)	Goal	State	20%	24.1%	34.9%	102	292	190	No	No Comment	
R05C0S	Inspection coverage for LQGs (5 FYs)	Goal	State	100%	61.7%	86.0%	251	292	41	No	No Comment	Eighty-six percent of the Biennial Report (BR) LQG universe had an inspection conducted within the past five years. Although the national average is sixty-nine percent, the goal for this metric is one hundred percent. The LQG universe and BR LQG universe will be compared to determine whether the data represents a problem or can be explained. Minor Concern

R05D0S	Inspection coverage for active SQGs (5 FYs)	Informational Only	State			55.0%	398	724	326	No	No Comment	
R05E1S	Inspections at active CESQGs (5 FYs)	Informational Only	State			500	NA	NA	NA	No	No Comment	
R05E2S	Inspections at active transporters (5 FYs)	Informational Only	State			98	NA	NA	NA	No	No Comment	
R05E3S	Inspections at non-notifiers (5 FYs)	Informational Only	State			0	NA	NA	NA	No	No Comment	
R05E4S	Inspections at active sites other than those listed in 5a-d and 5e1-5e3 (5 FYs)	Informational Only	State			103	NA	NA	NA	No	No Comment	
R07C0S	Violation identification rate at sites with inspections (1 FY)	Review Indicator	State			49.3%	220	446	226	No	No Comment	
R08A0S	SNC identification rate at sites with inspections (1 FY)	Review Indicator	State	1/2 National Avg	2.6%	6.5%	29	446	417	No	No Comment	

R08B0S	Percent of SNC determinations made within 150 days (1 FY)	Goal	State	100%	83.2%	75.0%	21	28	7	No	No Comment	Eighty-three and a half percent of the SNC determinations were made (and data entered) within 150 days of Day Zero. Files will be reviewed to ensure whether the data represents a problem or can be explained. Potential Concern
R08C0S	Percent of formal actions taken that received a prior SNC listing (1 FY)	Review Indicator	State	1/2 National Avg	62.3%	93.8%	15	16	1	No	No Comment	
R10A0S	Percent of SNCs with formal action/referral taken within 360 days (1 FY)	Review Indicator	State	80%	46.5%	41.4%	12	29	17	No	No Comment	Thirty-seven percent of sites determined to be SNCs were addressed with a formal action within 360 days. Formal enforcement timeframes and data entry procedures will be discussed with TDEC during the file review. Potential Concern
R10B0S	No activity indicator - number of formal actions (1 FY)	Review Indicator	State			15	NA	NA	NA	No	No Comment	
R12A0S	No activity indicator - penalties (1 FY)	Review Indicator	State			\$59,100	NA	NA	NA	No	No Comment	

R12B0S	Percent of final formal actions with penalty (1 FY)	Review Indicator	State	1/2 National Avg	80.6%	0 / 0	0	0	0	No	No Comment	There is no percentage given for the amount of final formal actions with a penalty. Penalties and data entry will be discussed with TDEC during the file review. Potential Concern
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## **APPENDIX F: FILE SELECTION**

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

### **A. File Selection Process**

#### File Selection Logic – Clean Air Act

Using the OTIS File Selection Tool, 32 files were selected for review during the November 2011 file review visit. As specified in the SRF File Selection Protocol, since the Tennessee universe includes over 700 sources, 25 to 40 files must be reviewed.

#### Representative Files

The file review will focus on Major and Synthetic Minor 80% (SM80) sources with compliance and enforcement activities occurring during the review period (FY 2010). Therefore, the targeted number of files to review was determined to be 30 to 35 files. Since some supplemental files will need to be selected, the initial breakdown for representative files will be about 10 files each for both enforcement and compliance monitoring, leaving the remaining files available for supplemental review.

Enforcement files: In order to identify files with enforcement related activity, the facility list was sorted to identify those facilities which had a formal enforcement action during the review period (FY 2010). There were 22 Major and SM80 sources with a formal enforcement action in FY 2010. To randomly select the target number of files, one of every two facilities was selected, which yielded 11 “representative” files.

Compliance files: Just under 540 sources (7 Megasites, 152 Majors, and 380 SMs) had full compliance evaluations (FCEs) during FY 2010. In order to identify approximately 10 files, 1 Megasite, 4 Majors, and 5 SMs were randomly selected.

#### Supplemental Files

Metrics 1c2, 1c3 & 1c5: The Official Data Set (ODS) indicated significant discrepancies between the frozen and production data in the universe of NESHAP and MACT sources (Metrics 1c2 and 1c3). In addition, the Preliminary Data Analysis (PDA) indicated that the State was not consistently reporting the applicable NESHAP subparts for sources with an FCE after FY2005. Therefore, one NESHAP source (Denso Manufacturing) and one MACT source (Bridgestone/Firestone) was selected as supplemental files.

Metrics 2a, 3a & 10a: The (PDA) identified several potential concerns with the state's management of high priority violations (HPVs). Metric 2a indicates that a higher than average proportion of violations was characterized as HPVs. In addition, the timeliness of data entry for HPV-related minimum data requirements (MDRs) was a concern (Metric 3a). Finally, Metric 10a indicated that nearly two-thirds of the HPVs identified during the most recent 2 fiscal years were not meeting timeliness goals. Therefore, to evaluate these issues, two supplemental files were selected from among the FY 2010 universe of HPV sources (State Industries Inc/A.O. Smith & Volunteer Regional Landfill).

Metric 3b1 & 3b2: The PDA indicated a potential concern with the timeliness of reporting of minimum data requirements (MDRs) for compliance monitoring and enforcement activities. The highest percentage of late compliance monitoring activities (44%) were actions coded as "CB", which appears to be a data error, since this code corresponds to "Federal Consent Agreement Signed." One of these sources (Rogers Group in Shelbyville) was selected to facilitate a discussion of this coding issue with TDEC during the file review. This source also had an FCE reported late. To further evaluate late enforcement-related MDRs, Cowboy Charcoal was selected as a supplemental file.

Metrics 5e & 5g: The PDA indicated that 40 sources had an unknown compliance status during the review period (Metric 5e), so one of these files was selected for supplemental review (Federal Mogul). In addition, half of the sources required to submit a Title 5 Annual Compliance Certification (ACC) were either late or did not submit one based on information in AFS (Metric 5g). Therefore, one of the sources that did not have an ACC review recorded in FY 2010 was selected for supplemental review (Armstrong Hardwood Flooring).

Metric 7c: This metric is a review indicator, suggesting that the State may be under-reporting violations as indicated by the compliance status in AFS. One of these facilities that is not coded as being in non-compliance but has violations identified was selected for supplemental review (Republic Doors and Frames).

#### File Selection Logic – Clean Water Act

Using the OTIS File Selection Tool, 30 Representative Files were selected for review as part of Round 2 of the Tennessee State Review Framework (SRF) review to be conducted from November 7 - 10, 2011. As specified in the SRF File Selection Protocol, between 25 and 40 files are to be selected for a state with a universe greater than 700 facilities. Since Tennessee's universe is greater than 700; 30 total files were selected for review.

There are 151 major individual permits, 896 non-major individual permits and 563 non-major general permits in the Tennessee universe of facilities. The targeted number of files to review is 30 as follows: 57 percent (or 17) of the files selected are majors, and 43 percent (or 13) of the files are minors.

For the major facilities, the Tennessee universe was sorted based on Inspections, Significant Noncompliance, Violations, Informal/Formal Actions and Penalties. Seventeen major facilities were then randomly selected for a file review.



For non-major facilities, an attempt was made to introduce Permit Component as an additional element of variety in selecting facilities for review. The OTIS File Selection Tool, however, did not provide a sufficient description of the various Permit Component types making it difficult to use this criterion as a selection factor. Non-majors included for review were, therefore, sorted based on Inspections, Significant Noncompliance, Violations, Informal/Formal Actions and Penalties. Thirteen non-major facilities were then randomly selected for a file review.

### File Selection Logic – RCRA

Using the OTIS File Selection Tool, 27 files were selected for the SRF onsite file review scheduled for November 7 – 10, 2012. As specified in the SRF File Selection Protocol, the number of representative files is based upon the compliance and enforcement activities for the fiscal year. The FY 2010 Tennessee RCRA universe consisted of 464 compliance and enforcement activities in the year of review. As the universe includes between 300 and 700 activities, the suggested amount of files to be reviewed is between 20 – 35 files.

Additionally, the SRF File Selection Protocol also establishes that half of the files should be from compliance monitoring activity, and the other half should include some form of enforcement activity. The breakdown of representative files is listed immediately below.

#### Representative Files

##### Compliance Files

Fourteen files were selected as representative compliance files. These files included an evaluation and no enforcement (informal or formal). These files included a representative cross-section of RCRA facilities including LQG, SQG, CESQG, Other, and TSD facilities. The files also included evaluations that contained minimal to numerous violations.

##### Enforcement Files

Fourteen files were selected as representative enforcement files. Five of these files were informal enforcement actions. These files included a representative cross-section of RCRA facilities including LQG, SQG, CESQG, Other, and Transporter. Eight of these files were formal enforcement actions. These files included all formal enforcement that also received an evaluation within that year.

##### Supplemental Files

The SRF File Selection Protocol also provides that supplemental files may be selected to further evaluate potential areas of concern. Six additional enforcement files were selected as for the supplemental file review, including three informal enforcement files and three formal enforcement files.

## B. File Selection Table

### Clean Air Act File Selections

Facility Name	Program ID	City	FCE	P C E	Violation	Stack Test Failure	Title V Deviation	HPV	Informal Action	Formal Action	Penalty	Universe	Select
ALLADIN INVESTMENTS, INC.	4707300003	SURGIONSVILLE	1	0	0	0	0	0	0	0	0	SM80	Representative
ARMSTRONG HARDWOOD FLOORING COMPANY	4711300020	JACKSON	0	1	0	0	0	0	0	0	0	MAJR	Supplemental
BRIDGESTONE/FIRESTONE,NORTH AMERICAN TIR	4717700077	MORRISON	1	0	0	0	1	0	0	0	0	MAJR	Supplemental
COWBOY CHARCOAL,LLC	4713700021	PALL MALL	1	1	2	0	0	1	1	0	0	SM80	Supplemental
CYTEC INDUSTRIES, INC.	4711900041	MOUNT PLEASANT	1	0	0	0	0	0	0	0	0	SM80	Representative
DENSO MANUFACTURING TN,INC.	4700900138	MARYVILLE	1	0	0	0	0	0	0	0	0	SM80	Supplemental
DYNASTY SPAS, INC.	4710700176	ATHENS	3	0	4	0	0	1	0	1	6,000	MAJR	Representative
EASTMAN CHEMICAL COMPANY	4716300003	KINGSPORT	0	8	14	0	21	8	7	7	216,000	MAJR	Representative
EXCEL POLYMERS_LLC	4704500005	DYERSBURG	1	0	0	0	0	0	0	0	0	SM80	Representative
FEDERAL-MOGUL CORP. FRICTION PRODUCTS	4704100031	SMITHVILLE	3	0	0	0	0	0	0	0	0	MAJR	Supplemental
FLORIM USA, INC.	4712500135	CLARKSVILLE	1	1	0	0	3	0	0	1	4,000	MAJR	Representative
GENERAL SHALE BRICK, INC.	4714300116	SPRING CITY	1	0	0	0	0	0	0	0	0	MAJR	Representative
HOLSTON ARMY AMMUNITION PLANT	4716300018	KINGSPORT	1	1	0	0	1	0	0	0	0	MAJR	Representative

HORSEHEAD ACQUISITION CORP.	4714500107	ROCKWOOD	3	0	2	0	0	1	1	1	13,100	MAJR	Representative
LOJAC ENTERPRISES, INC.	4714900176	MURFREESBORO	1	0	0	0	0	0	0	0	0	SM80	Representative
MCMINNVILLE ELECTRIC SYSTEM	4717700104	MCMINNVILLE	3	0	2	0	0	0	0	1	1,500	SM80	Representative
MOLTAN COMPANY	4706900053	MIDDLETON	2	0	4	0	0	0	0	1	10,000	SM80	Representative
NEMAK USA, INC.	4704300072	DICKSON	1	1	2	0	0	1	1	1	750	MAJR	Representative
OAK RIDGE Y-12 NATIONAL SECURITY COMPLEX	4700100020	OAK RIDGE	1	0	0	0	0	0	0	0	0	MAJR	Representative
REPUBLIC DOORS AND FRAMES	4707900083	MCKENZIE	1	1	3	0	1	1	1	1	5,000	MAJR	Supplemental
ROGERS GROUP, INC.	4700100061	OAK RIDGE	1	0	0	0	0	0	0	0	0	SM80	Representative
ROGERS GROUP, INC.	4700300023	SHELBYVILLE	1	0	0	0	0	0	0	0	0	SM80	Supplemental
SCEPTER GREENEVILLE, INC.	4705900176	MIDWAY	2	0	4	0	2	0	0	1	113,473	SM80	Representative
SPONTEX, INC.	4711900012	COLUMBIA	2	0	2	0	1	1	1	1	85,000	MAJR	Representative
STATE INDUSTRIES, INC./A.O. SMITH WATER	4702100023	ASHLAND CITY	1	2	6	0	0	2	2	1	6,000	MAJR	Supplemental
SUPERIOR ESSEX GROUP, INC.	4718700072	FRANKLIN	1	1	2	0	0	0	0	1	31,489	MAJR	Representative
TENNPLASCO LAFAYETTE	4711100048	LAFAYETTE	3	0	4	0	0	0	0	1	20,000	MAJR	Representative
TEXAS EASTERN GAS PIPELINE	4718900093	GLADEVILLE	1	0	0	0	0	0	0	0	0	MAJR	Representative
THYSSENKRUPP WAUPACA, INC.	4710700174	ETOWAH	3	1	2	2	0	1	1	1	3,000	MAJR	Representative

TVA BULL RUN FOSSIL PLANT	4700100009	CLINTON	2	1	1	0	1	1	1	0	0	MAJR	Representative
VACUMET CORP.	4706300169	MORRISTOWN	1	0	0	0	0	0	1	0	0	MAJR	Representative
VOLUNTEER REGIONAL LANDFILL SCOTT SOLID	4715100071	ONEIDA	2	1	0	0	0	1	0	0	0	MAJR	Supplemental

### Clean Water Act File Selections

Facility Name	Program ID	Street	City	Permit Component	Inspection	Violation	SEV	SNC	Informal Action	Formal Action	Penalty	Universe
ALCOA INC.-SOUTH PLANT	TN0065081	300 N. HALL RD	ALCOA		1	3	0	0	0	0	0	Major
BAILEYTON WWTP	TN0063932	60 BOULDER LOOP	GREENEVILLE	POT	2	13	0	0	0	0	0	Minor
BELLS LAGOON	TN0026247	12685 HWY 79	BELLS	POT PRE	1	8	0	1	0	1	7,000	Major
BROWNSVILLE LAGOON	TN0075078	1700 N. MCLEMORE AVE.	BROWNSVILLE	POT PRE	0	11	0	0	1	1	50,500	Major
BROWNSVILLE STP	TN0062367	170 COOPER ST./1700 N.MCLEMORE	BROWNSVILLE	POT PRE	1	8	0	0	1	1	50,500	Major
CHATT.-MOCCASIN BEND STP	TN0024210	455 MOCCASIN BEND ROAD	CHATTANOOGA	BIO POT PRE	1	14	2	1	0	0	0	Major
CHATTEM CHEMICALS, INC.	TN0002780	3708 ST. ELMO AVENUE	CHATTANOOGA		1	2	0	0	0	0	0	Minor
CHELSEA SANITARY DISTRICT	WI0035718	SWQ NWQ SEC 1 T32N R1E	CHELSEA	POT	2	0	0	0	0	0	0	Minor
DECHERD CITY STP	TN0020508	311 4TH AVE. S.	FRANKLIN	POT PRE	2	23	0	2	0	0	0	Major
EAST TN ZINC CO., LLC	TN0061468	BEAVER CREEK SHAFT	STRAWBERRY PLAINS		0	7	0	4	0	1	0	Major
HOHENWALD STP	TN0020087	509 WEST SECOND STREET	HOHENWALD	BIO POT PRE	2	6	0	1	0	0	0	Major
JACKSON ENERGY AUTHORITY	TN0024813	167 MILLER DRIVE	MADISON	BIO POT PRE	1	5	0	1	0	0	0	Major
JONES-BOROUGH STP	TN0021547	130 BRITT DRIVE	JONESBORO	POT PRE	3	41	0	4	0	0	0	Minor
LEBANON STP	TN0028754	321 HARTMANN DRIVE	LEBANON	BIO POT PRE	1	7	0	0	1	0	0	Major
LOWLAND INDUSTRIAL COMPLEX	TN0080641	4901 ENKA HWY	MORRISTOWN		0	0	0	0	1	0	0	Minor
LYNCHBURG WWTP	TN0025101	DRAWER D, CITY HALL	MOORE CO. NEAC	BIO POT PRE	2	5	0	0	0	0	0	Minor
MANCHESTER STP	TN0025038	736 HIGH STREET	MANCHESTER	BIO POT PRE	2	1	0	0	0	0	0	Major
MONTEREY STP	TN0064688	13785 WOODCLIFF	MONTEREY	POT PRE	1	5	0	0	0	1	0	Major

		ROAD										
MOUNT PLEASANT STP	TN0020800	CROSS BRIDGES RD.	MT. PLEASANT	POT PRE	2	35	0	4	0	1	0	Minor
MOUNTAIN CITY STP	TN0024945	1022 LUMPKIN BRANCH ROAD	MOUNTAIN CITY	POT	1	15	0	2	0	1	78,500	Major
NIOTA WWTP	TN0025470	HWY 11 SOUTH	NIOTA	POT PRE	1	7	0	0	0	0	0	Minor
OLIVER SPRINGS STP	TN0020885	435 JOEL ROAD	OLIVER SPRINGS		1	7	0	0	0	0	0	Minor
ROGERSVILLE STP	TN0020672	620 FLORA LANE	ROGERSVILLE	BIO POT PRE	2	8	0	1	0	0	0	Major
SEVIERVILLE STP	TN0063959	2295 MCCROSKEY ISLAND ROAD	SEVIERVILLE	BIO POT PRE	1	30	0	4	0	0	0	Major
SMITHVILLE WTP	TN0079103	4148 SPARTA HWY	SMITHVILLE		2	2	0	0	0	0	0	Minor
SOUTH PITTSBURG STP	TN0024295	725 WILLOW AVENUE	SOUTH PITTSBURG	POT PRE	1	2	0	0	0	1	0	Major
SPONTEX INC.	TN0001571	100 SPONTEX DRIVE	COLUMBIA		1	24	0	0	0	0	0	Minor
SWEETWATER STP	TN0020052	1140 N. MAIN STREET	SWEETWATER	BIO POT PRE	3	13	0	2	0	1	103,000	Major
WEST WARREN U.D. VIOLA	TN0025372	230 SUNNY ACRES ROAD	MORRISON	BIO POT PRE	2	0	0	0	0	0	0	Minor
WOODBURY STP	TN0025089	102 TATUM ST	WOODBURY	POT	1	8	0	0	0	0	0	Minor

### RCRA File Selections

Facility Name	RCRA ID	City	Evaluation	Violation	SNC	Informal Action	Formal Action	Penalty	Universe	Select
ADVANCED TECHNICAL CERAMICS COMPANY	TND991279472	CHATTANOOGA	1	11	0	0	0	0	LQG	Representative
APPLIED THERMAL COATINGS, INC.	TND987789112	CHATTANOOGA	1	8	1	4	0	0	LQG	Representative
BURCHETT FORD SUBARU INC	TND034719476	LEBANON	1	6	0	0	0	0	OTH	Representative
CARSON-NEWMAN COLLEGE	TND982145831	JEFFERSON CITY	1	0	0	0	0	0	SQG	Representative
CENTENNIAL MEDICAL CENTER-CENTENNIAL TOW	TND987767613	NASHVILLE	1	8	1	2	1	0	SQG	Representative
CHANCE USED OIL COMPANY, LLC	TNR000022764	MT. CARMEL	1	3	1	4	0	0	OTH	Representative
COMMERCIAL FURNITURE GROUP	TND982078867	NEWPORT	1	0	0	0	0	0	LQG	Representative
DIVERSIFIED SCIENTIFIC SERVICES INC. (DSSI)	TND982109142	KINGSTON	1	0	0	0	0	0	TSD(COM)	Representative
DURATEK SERVICES, INC., AN ENERGYSOLUTIONS COMPANY	TNR000003004	KINGSTON	1	0	0	0	0	0	SQG	Representative
E. I. DUPONT DE NEMOURS & CO.	TND047001979	OLD HICKORY	1	5	0	0	0	0	LQG	Representative
EAST TENNESSEE MATERIALS & ENERGY CORPORATION	TNR000005397	OAK RIDGE	1	4	1	5	1	0	TSD(TSF)	Representative
F. M. RUSSELL CO INC	TND063781066	CHATTANOOGA	3	13	1	5	1	0	OTH	Representative
FCC	TNR000002808	MEMPHIS	2	4	0	1	0	0	TRA	Representative

ENVIRONMENTAL, LLC										
GERDAU AMERISTEEL, JACKSON REINFORCING	TNR000027391	JACKSON	1	0	0	0	0	0	OTH	Representative
GIBSON	TNR000012963	MEMPHIS	1	8	0	0	0	0	SQG	Representative
GOODRICH - LANDING GEAR DIVISION	TND095668596	TULLAHOMA	1	0	0	3	0	0	CES	Representative
IBC MANUFACTURING CO	TND063944045	MEMPHIS	2	9	1	3	1	0	LQG	Representative
JUST INK IT & STITCHES TOO	TNR000028621	KINGSPORT	1	0	0	0	0	0	OTH	Representative
KIK CUSTOM PRODUCTS INC	TND987785490	MEMPHIS	2	5	1	3	1	0	LQG	Representative
MID SOUTH CUSTOM CABINETS, INC	TNR000022376	LAVERGNE	1	6	0	0	0	0	CES	Representative
POLYCRYL CORPORATION	TNR000024299	OAKLAND	0	0	1	3	0	0	SQG	Representative
PRECISION FLOORING PRODUCTS INC	TNR000006163	MORRISTOWN	1	0	0	1	1	0	LQG	Representative
SAFETY-KLEEN (GS) INC.	TND000614321	MILLINGTON	1	0	0	0	0	0	TSD(TSF)	Representative
TARGET STORE #0756	TNR000022210	JOHNSON CITY	1	0	0	0	0	0	CES	Representative
TIDEWATER TRANSIT COMPANY	TNR000027755	KINGSPORT	1	0	1	2	1	0	SQG	Representative
ZELLWEGER-USTER	TND987776242	KNOXVILLE	1	0	0	0	0	0	CES	Representative
101ST AIRBORNE DIVISION (AIR ASSAULT) & FT CAMPBELL	TN5210020140	FT. CAMPBELL	1	2	1	2	1	0	TSD(TSF)	Representative
AEROFRAME AIREPAIRS	TNR000006957	MEMPHIS	2	7	1	4	0	0	LQG	Supplemental



CHATTANOOGA BOILER & TANK COMPANY	TND003331006	CHATTANOOGA	0	0	0	0	1	0	SQG	Supplemental
FUJIFILM HUNT CHEMICALS USA, INC.	TND981023674	DAYTON	0	0	0	0	1	59,100	LQG	Supplemental
GREENFIELD PRODUCTS, INC.	TNR000025312	UNION CITY	2	4	1	3	0	0	SQG	Supplemental
MIDDLE TENNESSEE STATE UNIVERSITY	TND987783099	MURFREESBORO	0	0	1	2	1	0	SQG	Supplemental
TRI STAR INDUSTRIAL EQUIPMENT	TNR000028233	MEMPHIS	1	0	1	4	0	0	OTH	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 or areas of exemplary performance are identified.

Initial findings indicate the observed results. They are preliminary observations and are used as a basis for further investigation. These findings are developed only after evaluating them against the PDA results where appropriate, and talking to the state. 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 Program

Name of State: Tennessee

Review Period: FY 2010

CAA Metric #	CAA File Review Metric Description:	Metric Value	Initial Findings
<b>Metric 2c</b>	% of files reviewed where MDR data are accurately reflected in AFS.	22%	During the file review, 7 of the 32 files reviewed documented all MDRs being reported accurately into AFS. The remaining 25 files had one or more discrepancies identified. Twelve files had minor discrepancies such as an incorrect facility name, zip, pollutant or SIC. More significantly, eight files had missing or incorrect air programs (e.g. MACT, NSPS) or subparts in AFS. Another sixteen files reflect missing or inaccurate activities (e.g. FCE's, NOVs, stack tests, etc.) in AFS versus what was observed in the file. Finally, five files indicated inaccurate or missing HPV or compliance status information in AFS.
<b>Metric 4a</b>	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 was completed. Did the state/local agency complete all planned evaluations negotiated in a CMS plan? Yes or no? If a state/local agency implemented CMS by following a traditional CMS plan, details concerning evaluation coverage are to be discussed pursuant to the metrics under Element 5. If a state/local agency had negotiated and received approval for conducting its compliance monitoring program pursuant to an alternative plan, details concerning the alternative plan and the S/L agency's implementation (including evaluation coverage) are to be discussed under this Metric.	100%	Tennessee follows a traditional Compliance Monitoring Strategy (CMS) plan. Just under half of their Title 5 sources and all of their Conditional Major sources (Synthetic Minors) were targeted for evaluation in FY 2010. TDEC completed FCEs at 495 sources (133 Majors and 362 SMs) against a commitment of 468 in their CMS plan.
<b>Metric 4b</b>	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.	100%	TDEC met all of its commitments related to compliance monitoring, enforcement, compliance assistance, and compliance incentives, as agreed to in the FY10 Air Planning Agreement with EPA Region 4.
<b>Metric 6a</b>	# of files reviewed with FCEs.	30	30 files were reviewed with FCEs.
<b>Metric 6b</b>	% of FCEs that meet the definition of an FCE per the CMS policy.	73%	22 of 30 files reviewed had documentation in the files to show that they contained all of the elements of the FCE, per the CMS.
<b>Metric 6c</b>	% of CMRs or facility files reviewed that provide sufficient documentation to determine compliance at the facility.	90%	27 of 30 CMRs reviewed contained all of the CMR requirements listed in the CMS and they contained sufficient documentation to determine compliance at the facility. Eight CMRs were missing an enforcement & compliance history.
<b>Metric 7a</b>	% of CMRs or facility files reviewed that led to accurate compliance determinations.	93%	28 of 30 CMRs reviewed led to an accurate compliance determination.

CAA Metric #	CAA File Review Metric Description:	Metric Value	Initial Findings
<b>Metric 7b</b>	% of non-HPVs reviewed where the compliance determination was timely reported to AFS.	50%	3 of 6 non-HPV violations had the appropriate compliance status entered timely into AFS.
<b>Metric 8f</b>	% of violations in files reviewed that were accurately determined to be HPV.	100%	All 18 files reviewed with violations had an accurate HPV determination.
<b>Metric 9a</b>	# of formal enforcement responses reviewed.	17	17 formal enforcement responses were reviewed.
<b>Metric 9b</b>	% 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%	All 17 enforcement actions reviewed documented injunctive relief or complying actions. Many of the enforcement actions were penalty only actions, but the files documented that the facility had returned to compliance prior to issuance of the order.
<b>Metric 10b</b>	% of formal enforcement responses for HPVs reviewed that are addressed in a timely manner (i.e., within 270 days).	47%	7 of 15 HPVs reviewed were addressed in a timely manner.
<b>Metric 10c</b>	% of enforcement responses for HPVs appropriately addressed.	100%	All 15 files reviewed with an HPV were appropriately addressed with a formal enforcement response.
<b>Metric 11a</b>	% of reviewed penalty calculations that consider and include where appropriate gravity and economic benefit.	88%	15 of the 17 files with a penalty action provided documentation of appropriate gravity and economic benefit components of the penalty.
<b>Metric 12c</b>	% of penalties reviewed that document the difference and rationale between the initial and final assessed penalty.	82%	14 of the 17 files reviewed which had a penalty action provided documentation of the difference between the initial and final penalty.
<b>Metric 12d</b>	% of files that document collection of penalty.	88%	15 of 17 files reviewed which had a penalty action documented collection of the penalty.

## CWA Program

Name of State: Tennessee

Review Period: FY 2010

CWA Metric #	CWA File Review Metric Description:	Metric Value	Initial Findings
Metric 2b	% of files reviewed where data is accurately reflected in the national data system. (National Goal is 95%)	65%	17 of 26 files had information where data was accurately reflected in the national data system. Nine facilities were not.
Metric 4a	% of planned inspections completed.	0 - 252% (See Initial Findings and Conclusions)	<p><u>Planned inspections completed/committed:</u>  Majors: 126 completed/83 committed (152%);  -[ICIS-NPDES shows 94 major inspections completed];  Minors: 416 completed/192 committed (217%);  -[ICIS-NPDES shows 81 minor inspections completed];  General Permits: 108 completed/100 committed (108%);  -[ICIS-NPDES shows 13 minor general permit inspections completed];  MS4 Phase I Audits/Inspections: 0 completed/1 committed (0%);  MS4 Phase II Audits/Inspections: 23 audits and 11 inspections completed/ 11 committed;  Industrial Stormwater: 394 completed/247 committed (160%);  Phase II Construction Stormwater: 1,506 completed/597 committed (252%);  Large/Medium CAFOs: 80 completed/65 committed (123%);  Major CSO Inspections: 1 completed;  Minor CSO Inspections: 1 completed;  Major SSO Inspections: 8 completed;  Minor SSO Inspections: 2 completed.</p>
Metric 4b	Other Commitments. Delineate the commitments for the FY under review and describe what was accomplished. This should include commitments in PPAs, PPGs, grant agreements, MOAs, or other relevant agreements.	96%	Planned commitments complete: 96% (27/28)
Metric 6a	# of inspection reports reviewed.	32	32 inspection reports were reviewed.
Metric 6b	% of inspection reports reviewed that are complete.	97%	31 of 32 inspection reports reviewed were complete. One report did not have a manager's signature (Oliver Springs STP).
Metric 6c	% of inspection reports reviewed that provide sufficient documentation to lead to an accurate compliance determination.	100%	32 inspection reports had sufficient documentation to lead to an accurate compliance determination.
Metric 6d	% of inspection reports reviewed that are timely.	81%	<p>26 of 32 of the inspection reports were timely. The following facilities included reports that were not timely:</p> <ol style="list-style-type: none"> <li>1. Bells Lagoon (Pretreatment Audit - 7 month);</li> <li>2. Decherd STP (NOV - 65 days; which was completed in FY 11);</li> <li>3. Lebanon STP (PCI - 37 days);</li> <li>4. Oliver Springs STP - 130+ days);</li> <li>5. Rogersville STP (CEI - 70 days);</li> <li>6. Spontex, Inc. (80+ days).</li> </ol>
Metric 7e	% of inspection reports or facility files reviewed that led to accurate compliance determinations.	100%	32 inspection reports led to an accurate compliance determination.

<b>CWA Metric #</b>	<b>CWA File Review Metric Description:</b>	<b>Metric Value</b>	<b>Initial Findings</b>
<b>Metric 8b</b>	% of single event violation(s) that are accurately identified as SNC or Non-SNC.	100%	1 of 1 SEVs were accurately reported as a SNC
<b>Metric 8c</b>	% of single event violation(s) identified as SNC that are reported timely.	100%	1 of 1 SEVs that are SNCs were timely reported in ICIS-NPDES
<b>Metric 9a</b>	# of enforcement files reviewed	26	26 files were reviewed with 22 enforcement responses (9 formal and 13 informal enforcement responses)
<b>Metric 9b</b>	% of enforcement responses that have returned or will return a source in SNC to compliance.	100%	4 major SNCs are addressed by this metric - 4 formal actions were taken that have returned or will return the source to compliance (Bells Lagoon, East TN Zinc, Mt. City STP, and Sweetwater STP).
<b>Metric 9c</b>	% of enforcement responses that have returned or will returned a source with non-SNC violations to compliance.	93%	14 out of 15 facilities have or are expected to return to compliance. One facility (Mt. Pleasant STP) has been issued 2 orders and continues to remain in noncompliance.
<b>Metric 10b</b>	% of enforcement responses reviewed that address SNC that are taken in a taken in a timely manner.	25%	1 of 4 enforcement responses that address a SNC facility was taken in a timely manner. Enforcement responses that were not timely are related to: 1. Bells Lagoon (9 months); 2. Mountain City STP (timely for some violations, not timely for others); 3. Sweetwater STP (over 1 year).
<b>Metric 10c</b>	% of enforcement responses reviewed that address SNC that are appropriate to the violations.	100%	4 of 4 enforcement responses were appropriate.
<b>Metric 10d</b>	% of enforcement responses reviewed that appropriately address non-SNC violations.	100%	18 of 18 enforcement responses were appropriate.
<b>Metric 10e</b>	% enforcement responses for non-SNC violations where a response was taken in a timely manner.	78%	14 of 18 enforcement responses were timely. Enforcement responses that were not timely are related to: 1. Bells Lagoon (7 months); 2. Lebanon STP (23 months); 3. Rogersville STP (70 days); 4. Spontex, Inc. (80 days)

<b>CWA Metric #</b>	<b>CWA File Review Metric Description:</b>	<b>Metric Value</b>	<b>Initial Findings</b>
<b>Metric 11a</b>	% of penalty calculations that consider and include where appropriate gravity and economic benefit.	0%	Of the 9 enforcement responses with penalties; all considered gravity, but none considered economic benefit.
<b>Metric 12a</b>	% of penalties reviewed that document the difference and rationale between the initial and final assessed penalty.	0%	8 penalties did not have a difference between the initial and final assessed penalty. One enforcement response did have a difference between the initial and final assessed penalty but the rationale was not provided other than a note that reflected the "update" in the amount (South Pittsburg STP).
<b>Metric 12b</b>	% of enforcement actions with penalties that document collection of penalty.	100%	9 of 9 enforcement responses reflected the status of payment with either payment made, task completed, or payment pending.

## RCRA Program

Name of State: Tennessee

Review Period: FY 2010

RCRA Metric #	RCRA File Review Metric Description:	Metric Value	Initial Findings
<b>Metric 2c</b>	% of files reviewed where mandatory data are accurately reflected in the national data system.	58%	Of the 33 files reviewed, 14 files had inaccurate data input in to RCRAInfo.
<b>Metric 4a</b>	Planned inspections completed	100%	No issues
<b>Metric 4b</b>	Planned commitments completed	100%	No issues
<b>Metric 6a</b>	# of inspection reports reviewed.	34	Out of the 33 files reviewed, 35 evaluations were reviewed. Out of the 35 evaluations reviewed, 34 inspection reports were reviewed (one of the evaluations was a NRR).
<b>Metric 6b</b>	% of inspection reports reviewed that are complete and provide sufficient documentation to determine compliance at the facility.	94%	No issues
<b>Metric 6c</b>	Inspections reports completed within a determined time frame.	62%	Potential Area of Concern: Of the 34 reports reviewed, 13 were completed after 45 days. The range of days it took to complete the tardy reports was 47 - 157 days.
<b>Metric 7a</b>	% of accurate compliance determinations based on inspection reports.	76%	Potential Area of Concern: Of the 34 inspection reports reviewed, 26 inspection reports had accurate compliance determinations.
<b>Metric 7b</b>	% of violation determinations in the files reviewed that are reported timely to the national database (within 150 days).	77%	Potential Area of Concern: Of the 26 evaluations that had violations, 20 were entered into RCRAInfo by Day 150.
<b>Metric 8d</b>	% of violations in files reviewed that were accurately determined to be SNC.	67%	Significant Issue: Of the 21 SNC determinations, seven actions included SNC determinations that were not followed by an enforcement order.
<b>Metric 9a</b>	# of enforcement responses reviewed.	26	No Issues
<b>Metric 9b</b>	% of enforcement responses that have returned or will return a source in SNC to compliance.	79%	Potential Area of Concern: Eleven out of 14 (or 79%) SNCs had documentation in the files showing that the facility had returned to compliance or that the enforcement action required them to return to compliance within a certain timeframe.
<b>Metric 9c</b>	% of enforcement responses that have returned or will return Secondary Violators (SV's) to compliance.	67%	Significant Issue: Eight out of 12 (or 67%) SVs had documentation in the files showing that the facility had returned to compliance or that the enforcement action required them to return to compliance within a certain timeframe.



RCRA Metric #	RCRA File Review Metric Description:	Metric Value	Initial Findings
Metric 10e	% of enforcement responses reviewed that are taken in a timely manner.	96%	No issues
Metric 10d	% of enforcement responses reviewed that are appropriate to the violations.	100%	No issues
Metric 11a	% of reviewed penalty calculations that consider and include where appropriate gravity and economic benefit.	100%	No issues
Metric 12a	% of penalties reviewed that document the difference and rationale between the initial and final assessed penalty.	0%	No issues
Metric 12b	% of files that document collection of penalty.	100%	No issues

## **APPENDIX H: CORRESPONDENCE**

August 18, 2011

Mr. Robert Martineau  
Commissioner  
Tennessee Department of Environment and Conservation  
11<sup>th</sup> Floor L&C Tower  
401 Church Street  
Nashville, Tennessee 37243-0625

Dear Commissioner Martineau:

The Environmental Protection Agency Region 4 is initiating a review of the enforcement and compliance programs of the Tennessee Department of Environment and Conservation (TDEC) using the State Review Framework (SRF) protocol. The review will evaluate inspection and enforcement activity from Federal Fiscal Year 2010 for the Resource Conservation and Recovery Act (RCRA) Subtitle C program, Clean Water Act (CWA) National Pollutant Discharge Elimination System (NPDES) program, and Clean Air Act (CAA) Stationary Source program.

SRF is a continuation of a national effort that allows EPA to ensure that TDEC meets agreed-upon minimum performance levels in providing environmental and public health protection. The review will include:

- discussions between EPA and TDEC program managers and staff,
- examination of data in EPA and TDEC data systems, and
- review of selected TDEC facility files to examine inspection and enforcement information.

As part of the SRF review process, EPA and TDEC 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. EPA welcomes TDEC's suggestions for other compliance programs under Element 13 of the SRF report.

Our intent is to assist TDEC in achieving implementation of programs that meet federal standards, in addition to the goals we have agreed to in TDEC's program grant work plans. If any issues are identified, EPA wants to address them in the most constructive manner possible and has established a cross-program team of managers and senior staff to implement the review. Steve Hitte will be the EPA

Region 4 primary SRF manager and will lead the review team, directing all aspects of the review for the region. I will be the EPA senior manager with overall responsibility for the review. As a follow up to this letter, EPA's SRF review team will be available to meet with the TDEC programs to discuss the data metrics and answer any questions or concerns.

In Attachment A to this letter is the Official Data Set (ODS) that will be used in the SRF review for the CAA, CWA, and RCRA programs and is being provided to your staff. We ask that TDEC please respond to Becky Hendrix, the regional SRF coordinator, by September 9, 2011, with an indication that you agree with the ODS, or if there are discrepancies, please provide that information electronically in the provided spreadsheet file. Becky can be reached at (404) 562-8342, or by email at hendrix.becky@epa.gov. Please note that minor discrepancies that would not have a substantive impact on the review do not need to be reported. If we do not receive a response from you by the date noted above, EPA will proceed with our preliminary data analysis utilizing the ODS provided with this letter. The preliminary data analysis and file selection for the onsite file review will be sent to you by early October.

We look forward to working with you and your staff in this effort. Should you require additional information, or wish to discuss this matter in greater detail, please feel free to contact Scott Gordon, Associate Director of OEA, at (404) 562-9741.

Sincerely,

/ s /

Mary J. Wilkes  
Regional Counsel and Director  
Office of Environmental Accountability

Attachment A: Official Data Sets

cc: Stan Meiburg, Deputy Regional Administrator  
Region 4 Deputy Division Directors  
Region 4 Enforcement Branch Chiefs  
Chris Moran, TDEC Enforcement Coordinator

October 25, 2011

Mr. Robert Martineau  
Commissioner  
Tennessee Department of Environment and Conservation  
First Floor, L & C Tower  
401 Church Street  
Nashville, Tennessee 37243-1535

Dear Commissioner Martineau:

On August 18, 2011, the Environmental Protection Agency (EPA) Region 4 notified the Tennessee Department of Environment and Conservation (TDEC) of its intention to begin the Round 2 State Review Framework (SRF) evaluation. As the next step in the process, the region has analyzed the SRF data sent with the opening letter against established goals and commitments, incorporating any data corrections or discrepancies provided by TDEC.

This follow-up letter includes (1) EPA's preliminary analysis of the state SRF data metrics results, (2) the official preliminary data analysis (PDA) worksheets, and (3) the files that have been selected for the SRF file reviews. The file reviews have been coordinated between TDEC and EPA to take place during the week of November 7, 2011. All reviews will take place at TDEC's offices in Nashville, Tennessee.

We are providing this information to you in advance so that your staff will 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 the region should consider during the review, please have your staff provide that information to Becky Hendrix, the Region 4 SRF coordinator, prior to the on-site file review. Becky Hendrix can be reached at (404) 562-8342.

Please note that the enclosed preliminary analyses are largely based only on the FY 2010 data metrics results that were "frozen" in March 2011. Any corrections or updates to the data in the national data systems since that time may not be reflected in the preliminary analyses. Final SRF findings may be significantly different based upon the revised and/or updated FY 2010 data, the results of the file review, and ongoing discussions with your staff.

We also wanted to make you aware that information related to sources regulated by the four Local Clean Air Act (CAA) programs in Tennessee (Memphis, Knoxville, Nashville, and Chattanooga) was included in the Official Data Set (ODS) provided to you in August 2011. In order to better focus our evaluation on TDEC's CAA program, the CAA metrics used in the enclosed PDA have been adjusted to remove the Local program data. Therefore, you may notice differences between the metric values shown in the ODS versus the PDA. Please feel free to give Mark Fite of my staff a call if you have any questions about this.

Please also note that 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 TDEC, it may be necessary to release information in response to a properly submitted information request.

At this time I would also like to bring to your attention the opportunity for TDEC to highlight any priorities and accomplishments that you would like to have included in the SRF Report. EPA is also requesting specific information on your resources, staffing, and the current data systems used by your state for the SRF Report. An outline of this information is included in Enclosure 10 of this letter. EPA is requesting this information be sent electronically to Becky Hendrix at [hendrix.becky@epa.gov](mailto:hendrix.becky@epa.gov) by November 30, 2011.

We look forward to working with you and your staff in this effort. Should you require additional information, or wish to discuss this matter in greater detail, please feel free to contact Scott Gordon, the Associate Director of the Office of Environmental Accountability, at (404) 562-9741.

Sincerely,

/ s /

Mary J. Wilkes  
Regional Counsel and Director  
Office of Environmental Accountability

Enclosure 1 – CAA Preliminary Data Analysis  
Enclosure 2 – CAA Preliminary Data Analysis Worksheet  
Enclosure 3 – CAA Table of Selected Files and selection logic  
Enclosure 4 – CWA Preliminary Data Analysis  
Enclosure 5 – CWA Preliminary Data Analysis Worksheet  
Enclosure 6 – CWA Table of Selected Files and selection logic  
Enclosure 7 – RCRA Preliminary Data Analysis  
Enclosure 8 – RCRA Preliminary Data Analysis Worksheet  
Enclosure 9 – RCRA Table of Selected Files and selection logic  
Enclosure 10 – Background Information for SRF Report