

STATE REVIEW FRAMEWORK

NEVADA DEPARTMENT OF ENVIRONMENTAL QUALITY

Round 2 Report for Fiscal Year 2010

**Final
February, 2014**

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

EXECUTIVE SUMMARY

Major Issues

The State Review Framework (SRF) Round 2 review of the Nevada Division of Environmental Protection identified no major issues.

Summary of Programs Reviewed

I. Resource Conservation and Recovery Act Program

Problems which necessitate state improvement and require recommendations and actions include:

None

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

Data completeness

Data Accuracy

Timeliness of Data Entry

Quality of Inspection or Compliance Evaluation Reports

Identification of Alleged Violations

Identification of SNC and HPV

Enforcement Actions Promote Return to Compliance

Timely and Appropriate Action

Penalty Calculation

Final Penalty Assessment

II. Clean Water Act NPDES Program

Problems which necessitate state improvement and require recommendations and actions include:

NDEP did not enter single event violations (SEVs) at major facilities into EPA's ICIS-NPDES database as required by EPA's data management policies.

Good Practices include:

NDEP exceeded EPA's NPDES inspection goals and national averages for inspection coverage in all categories of NPDES regulated facilities in FY 2010. NDEP inspected 100 percent of major

facilities, 24 percent of minor facilities and more than 20 percent of stormwater dischargers.

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

NDEP routinely enters required data into EPA's ICIS-NPDES that is complete, timely, and accurate.

NDEP's inspection reports properly document and accurately describe inspection observations, however, some of NDEP's report formats do not include all of EPA's recommended elements.

NDEP accurately and timely identifies facility effluent limit violations by tracking major facility discharge monitoring (DMR) results in EPA's ICIS-NPDES database

None of Nevada's 14 major facilities were in significant noncompliance (SNC) during FY10.

NDEP's enforcement actions reviewed by EPA were timely and appropriate, and promote return to compliance.

Two of the three penalty actions reviewed included appropriate gravity and economic benefit calculations. All penalties were collected in cash payments as assessed with no offsets for supplemental environmental projects.

State Review Framework

Nevada Division of Environmental Quality Resource Conservation and Recovery Act Round 2 Report for Federal Fiscal Year 2010

February, 2014

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

Table of Contents

- I. Executive Summary
- II. Background Information on State Program and Review Process
- III. Status of Outstanding Recommendations from Previous Reviews
- IV. Findings and Recommendations
- V. Element 13
- VI. Appendices
 - A. Status of Recommendations from Previous Reviews
 - B. Official Data Pull
 - C. PDA Transmittal Letter
 - D. PDA Analysis Chart
 - E. PDA Worksheet
 - F. File Selection
 - G. File Review Analysis
 - H. Correspondence

I. EXECUTIVE SUMMARY

Major Issues

The SRF review of Nevada identified the following major issues:

- None

Summary of Programs Reviewed

III. Resource Conservation and Recovery Act Program

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

- None

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

- Element 1 - Data completeness
- Element 2 – Data Accuracy
- Element 3 – Timeliness of Data Entry
- Element 4 - Completion of Commitments
- Element 5 – Inspection Coverage
- Element 6 – Quality of Inspection or Compliance Evaluation Reports
- Element 7 – Identification of Alleged Violations
- Element 8 – Identification of SNC and HPV
- Element 9 – Enforcement Actions Promote Return to Compliance
- Element 10 – Timely and Appropriate Action
- Element 11 – Penalty Calculation
- Element 12 – Final Penalty Assessment and Collection

II. BACKGROUND INFORMATION ON STATE PROGRAM AND REVIEW PROCESS

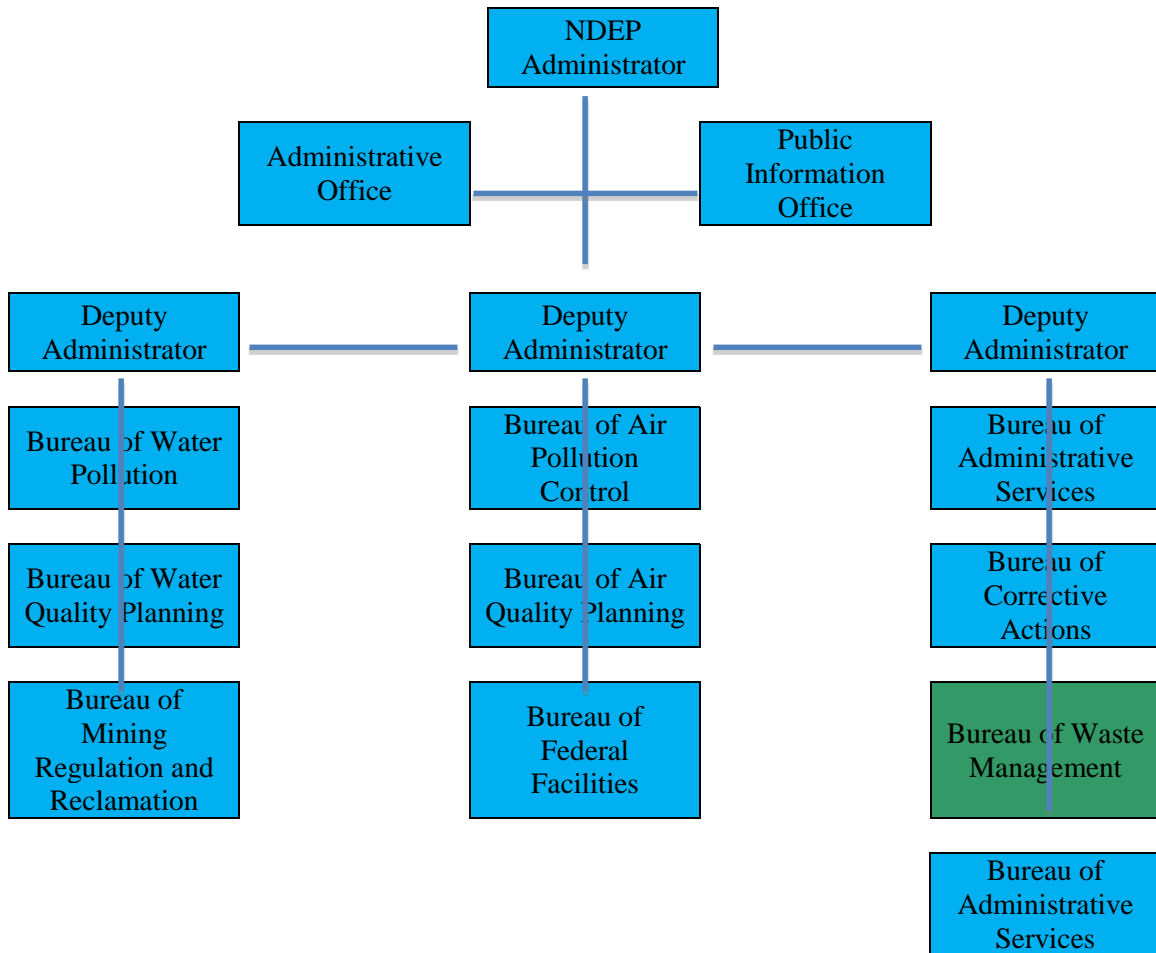
The State Review Framework (SRF) is a program designed to ensure EPA conducts oversight of state and EPA direct implementation compliance and enforcement programs in a nationally consistent and efficient manner. Reviews look at 12 program elements covering data (completeness, timeliness, and quality); inspections (coverage and quality); identification of violations; enforcement actions (appropriateness and timeliness); and penalties (calculation, assessment, and collection).

Reviews are conducted in three phases: analyzing information from the national data systems; reviewing a limited set of state files; and development of findings and recommendations. Considerable consultation is built into the process to ensure EPA and the 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

- **Agency structure:** The organization structure of the NDEP is shown below. The RCRA compliance and enforcement program is managed within the Bureau of Waste Management (see green highlighted box):



The mission of the Bureau of Waste Management (BWM) is to protect human health, public safety and the environment, conserve natural resources by ensuring safe management of solid and hazardous waste, and promoting waste reduction, reuse, and recycling. BWM is composed of two regulatory programs: the hazardous waste management programs (HW Program) and the solid waste management program (SW Program). Hazardous waste compliance assistance, inspection, enforcement, permitting, and data management are tasks performed within the HW Program. RCRA corrective action is performed by the NDEP’s Bureau of Corrective Action (BCA). However, corrective actions at permitted RCRA facilities are coordinated between BCA and BWM’s HW Program.

The main NDEP offices are located in Carson City. There is a NDEP office located in Las Vegas, Nevada which houses the following bureaus: Air Quality, Corrective Actions, Federal Facilities, Waste Management, Safe Drinking, Water and Water Pollution Control. The Las Vegas office serves the southern Nevada area, including Clark County. The BWM Las Vegas branch office performs compliance inspections and investigates tips/complaints. Limited RCRA permitting activities are performed by the Las Vegas office.

- **Compliance/enforcement program structure:** The RCRA compliance and enforcement program is divided between the Carson City and Las Vegas offices based on which office performed the inspection.

- **Roles and responsibilities:** BWM manages RCRA compliance, enforcement, and tasks for all areas of Nevada except Tribal areas. The inspectors respond to all tips and complaints located within the agency’s jurisdiction in addition to their scheduled inspections.

NDEP has the authority to pursue both informal and formal administrative actions, as well as assess penalties in violation of state hazardous waste management regulations. The policy governing enforcement procedures for NDEP’s hazardous waste management program is established in the “Hazardous Waste Policy and Procedure, Staff Guide” dated October 20, 2008. BWM typically addresses violations administratively through informal and/or formal enforcement actions. For formal enforcement actions this process is through the issuance of a Finding of Alleged Violation(s) (FOAV) and Order. The Order requires the alleged violator to contact BWM to schedule an enforcement conference. The purposed of the enforcement conference is to allow the alleged violator the opportunity to provide information to the agency as to why the matter should not be referred to the District Court. After presenting the information provided by the alleged violator, BWM will evaluate the information and in most cases offer the alleged violator to enter into a Settlement Agreement, providing all the violations have been corrected. If there are outstanding compliance tasks, BWM will issue a Settlement Agreement and Order. The alleged violator may appeal the Order to the State Environmental Commission. If the alleged violator fails to comply with the Order, the formal enforcement action can be referred to the Nevada Attorney General.

- **Local agencies included/excluded from review:** NDEP has contracted with the Washoe County Health District (Washoe County) and the Southern Nevada Health District (SNHD), Clark County to perform RCRA compliance evaluation inspections of small quantity generators (SQGs), Conditionally Exempt Small Quantity Generators (CESQGs), and of facilities that failed to submit required biennial reports to BWM. The SQG, CESQG, and non-reporting facilities to be inspected by the county agencies are determined by BWM. Under their respective contracts, the agencies are authorized to perform informal enforcement actions (e.g., verbal warning) as described in BWM’s “Hazardous Waste Policy and Procedure, Staff Guide” dated October 20, 2008. Any alleged violations identified by the agencies which warrant a formal enforcement action are referred to BWM to be addressed in accordance with BWM’s enforcement policies and procedures.

Both Washoe County and the SNHD were included in this SRF review.

- **Resources:**
 - The resources below represent the Full Time Equivalent (FTE) positions at NDEP for implementation of the state’s RCRA compliance monitoring and enforcement program:
 - Carson City Office – BWM has 7 FTE staff assigned to hazardous waste regulatory compliance and enforcement activities. The FTEs are funded by the RCRA portion of the Performance Partnership Grant (PPG). These activities include, but are not limited to, inspections of CESQGs, SQGs, large quantity generators (LQGs), treatment, storage, disposal facilities (TSDFs) and non-notifiers; complaint investigations; compliance assistance and outreach; database management (i.e., RCRAInfo); review and/or preparation of reports, informal and formal enforcement actions (including issuances of FOAVs and Orders, enforcement conferences, and penalty assessment and negotiations), and financial assurance record monitoring.

- Las Vegas Office – BWM has 2 FTE and 2 partially funded FTEs under the RCRA portion of the PPG. RCRA compliance and enforcement activities performed by the Las Office include, but are not limited to, inspections of CESQGs, SQGs, LQGs, TSDFs and non-notifiers; complaint investigations; compliance assistance and outreach; database management (i.e., RCRAInfo), and review and/or preparation of reports, informal and formal enforcement actions (including issuances of FOAVs and Orders, enforcement conferences, and penalty assessment and negotiations).
- **Resource Constraints:**
 - The State of Nevada is experiencing severe budget shortfalls that have resulted in mandatory monthly furlough days. However, the budget problems have not yet significantly affected BWM programs or staffing.
 - NDEP field equipment is limited to cameras and GPS hand held units. Inspectors do not have field laptops or tablets to acquire information in field.
- **Staffing/training:**
 - Currently the BWM inspection and enforcement program is fully staffed with experienced personnel.
 - BWM inspectors are required to receive the 40 hour OSHA health and safety training and 8-hour annual OSHA health and safety training. Additionally, BWM personnel that are required to inspect mines also receive MSHA mine safety and health training.
- **Data reporting systems/architecture:**
 - BWN inspectors enter inspection and enforcement information directly into RCRAInfo. NDEP assigns U. S. EPA identification numbers and enters hazardous waste generator notifications directly into RCRAInfo.
 - SNHD and Washoe County directly enter inspection and enforcement information into RCRAInfo.

B. MAJOR STATE PRIORITIES AND ACCOMPLISHMENTS

- **Priorities:**
 - The priority of the Nevada inspection and enforcement program regardless of media is protection of human health and environment, in particular the waters of the State.
- **Accomplishments:**
 - BWM inspects nearly 100% of the RCRA LQG universe on an annual basis and the SQGs universe on a biennial basis.
 - BWM attempts to inspect each TSDF at least 4 times per year.
- **Best practices:**
 - Through the University of Nevada’s Business Environmental Program, NDEP has set up a free and confidential counseling program for primarily Nevada small businesses (e.g., dry cleaners) with environmental compliance and technical assistance issues.
- **Element 13:** Nevada has submitted comments, which are attached as an appendix to this report.

C. PROCESS FOR SRF REVIEW

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

- **Review period:** The RCRA Hazardous Waste Inspection and Compliance unit was reviewed in 2011, utilizing data from FY2010. Fiscal Year 2010, October 1, 2009 through September 30, 2010.

- **Key dates:** Preliminary list of RCRA data files to be reviewed were submitted to BWM on January 7, 2011. BWN input on the pull-list was obtained during a conference call on January 10, 2011. The on-site reviews were performed on January 24 and 25, 2011 (BWM Carson City), January 26, 2011 (Washoe County), and on January 27, 2011 (BWM Las Vegas and SNHD). During the file review, U. S. EPA met with the BWM manager, supervisors, and inspectors, as well as with the primary SNHD and Washoe representatives responsible for managing the RCRA inspection program contracted with NDEP to implement.
- **Communication with the state:** Communications with NDEP during the SRF review consisted of phone conversations, e-mails, and face-to-face meetings.
- **List state and regional lead contacts for review.**

Lead State Contact for Review:

Evan Chambers
Bureau of Waste Management
Nevada Division of Environmental Protection
775-687-9473
echamber@ndep.nv.gov

Lead Regional Contact for Review

John Schofield
RCRA Enforcement Office
US EPA, Region 9, WST-3
415-972-3386
schofield.john@epa.gov

III. STATUS OF OUTSTANDING RECOMMENDATIONS FROM PREVIOUS REVIEWS

During the Round 1 SRF review of Nevada's compliance and enforcement programs, U. S. EPA Region 9 and Nevada identified a number of actions to be taken to address issues found during the review. The table in Appendix A shows all of the recommendations from the Round 1 SRF Review.

IV. FINDINGS

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

Finding	Description
Good Practices	This describes activities, processes, or policies that the SRF data metrics and/or the file reviews show are being implemented exceptionally well and which the state is expected to maintain at a high level of performance. Additionally, the report may single out specific innovative and noteworthy activities, 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.
Meets SRF Program Requirements	This indicates that no issues were identified under this element.
Areas for State* Attention *Or, EPA Region’s attention where program is directly implemented.	<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>Areas for State * Improvement – Recommendations Required</p> <p>*Or, EPA Region’s attention where program is directly implemented.</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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Resource Conservation and Recovery Act Program

Element 1 — Data Completeness: Degree to which the Minimum Data Requirements are complete.																				
NDEP has entered the Minimum Data Requirements into RCRA for regulated universes, compliance monitoring, and enforcement information.																				
1-1	This finding is a(n)	<input type="checkbox"/> Good Practice <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required																		
	Finding	NDEP has entered the Minimum Data Requirements into RCRA for regulated universes, compliance monitoring, and enforcement information.																		
	Explanation	<p>Element 1 is supported by SRF Data Metrics 1a through 1g, and measures the completeness of the data in RCRAInfo.</p> <p>The number of actions is different due to data entry issues with Washoe County and the Southern Nevada Health District (SNHD) CESQG inspections. Any generator, including CESQGs and SQGs, is required by the State to submit biennial reports. Washoe County and SNHD were contracted by the NDEP to perform inspections of CESQGs to determine if filed state only BRS requirement. The NDEP has eliminated this program, and has corrected most, if not all of the data entry issues associated with State required program. No data entry issues with NDEP delegated program.</p>																		
	Metric(s) and Quantitative Value(s)	<table border="0" style="width: 100%;"> <thead> <tr> <th style="text-align: left;"><u>Data Metrics</u></th> <th style="text-align: right;"><u>State</u></th> </tr> </thead> <tbody> <tr> <td>1a1 - # of operating TSDFs in RCRAInfo</td> <td style="text-align: right;">6</td> </tr> <tr> <td>1a2 - # of active LQGs in RCRAInfo</td> <td style="text-align: right;">87</td> </tr> <tr> <td>1a3 - # of active SQGs in RCRAInfo</td> <td style="text-align: right;">365</td> </tr> <tr> <td>1b1 - # of inspections</td> <td style="text-align: right;">741</td> </tr> <tr> <td>1c1 - #of sites with violations</td> <td style="text-align: right;">200</td> </tr> <tr> <td>1d2 - # Informal Actions; number of actions</td> <td style="text-align: right;">67</td> </tr> <tr> <td>1f2 - # Formal Actions; number of actions</td> <td style="text-align: right;">7</td> </tr> <tr> <td>1g – Total amount of assessed penalties</td> <td style="text-align: right;">\$42,868</td> </tr> </tbody> </table>	<u>Data Metrics</u>	<u>State</u>	1a1 - # of operating TSDFs in RCRAInfo	6	1a2 - # of active LQGs in RCRAInfo	87	1a3 - # of active SQGs in RCRAInfo	365	1b1 - # of inspections	741	1c1 - #of sites with violations	200	1d2 - # Informal Actions; number of actions	67	1f2 - # Formal Actions; number of actions	7	1g – Total amount of assessed penalties	\$42,868
<u>Data Metrics</u>	<u>State</u>																			
1a1 - # of operating TSDFs in RCRAInfo	6																			
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1b1 - # of inspections	741																			
1c1 - #of sites with violations	200																			
1d2 - # Informal Actions; number of actions	67																			
1f2 - # Formal Actions; number of actions	7																			
1g – Total amount of assessed penalties	\$42,868																			
	State Response	Element 13 -																		
	Recommendation(s)	No further action is necessary.																		

Element 2 — Data Accuracy: Degree to which data reported in the national system is accurately

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

2-1	This finding is a(n)	<input type="checkbox"/> Meets RCRA Program Requirements										
3-1	This finding is a(n)	<input checked="" type="checkbox"/> Area for State Attention										
		<input type="checkbox"/> Area for State Improvement – Recommendations Required										
		<input type="checkbox"/> Area for State Improvement – Recommendations Required										
	Finding	Generally data reported in RCRAInfo is entered accurately and maintained.										
	Finding	All SNCs were entered into RCRAInfo within 60-days of the first day of the inspection.										
		RCRA Element 2 is supported by data Metrics 2a, 2b, and file review.										
	Explanation	According to the RCRA ERP, SNCs should be entered into RCRAInfo upon determination, and not withheld to enter at a later time. The metric for this element is calculated by comparing the archived monthly SNC pulls and determining if a two month lag-time or longer exists between the date of inspection and when the SNC should be returned to compliance within 240 days, or elevated to SNC status and addressed through formal enforcement. In the RCRA summary data pull for the review period, the Nevada 2b Metric lists 82 SVs in violation for greater than 240 days.										
	Metric(s) and Quantitative Value(s)	<u>Data Metrics</u> Number of SV actions greater than 240 days is due primarily to Washoe County of NV. Data entry issues related to QGs failing to comply with a State requirement of submitting a BRS. The NDEP has eliminated this program, and has corrected most, if not all of the data entry issues. No data entry issues with NDEP delegated program.										
	State Response											
	Explanation	File review Metric 2c measures the percentage of files where corresponding data was missing in RCRAInfo. If any of the relevant information in the inspection reports, enforcement actions, or civil and administrative enforcement actions, or civil and administrative enforcement responses is missing in RCRAInfo, the data for that file is considered inaccurate. A total of 30 files were reviewed. Twenty-seven of the 30 files had accurate data reported in RCRAInfo. Two of the files did not have Return to Compliance (RTC) entries when file information indicated otherwise. One file indicated that a violation was observed but there was no corresponding enforcement action identified in RCRAInfo (e.g., 110 Verbal Informal). These data inaccuracies do not constitute a serious pattern of missing information. However, this is an area for state attention and Nevada should ensure accuracy between files and information in RCRAInfo.										
	Recommendation(s)	No further action is necessary.										
	Metric(s) and Quantitative Value(s)	<table border="0"> <tr> <td><u>Data Metrics</u></td> <td style="text-align: right;"><u>State</u></td> </tr> <tr> <td>2a1 - # of sites SNC made on day of formal action</td> <td style="text-align: right;">1</td> </tr> <tr> <td>2a2 - # of sites SNC determinations made within one week of formal action</td> <td style="text-align: right;">0</td> </tr> <tr> <td>2b - # of sites in violation greater than 240 days</td> <td style="text-align: right;">82</td> </tr> <tr> <td>2c - % files were missing data elements in RCRAInfo</td> <td style="text-align: right;">10%</td> </tr> </table>	<u>Data Metrics</u>	<u>State</u>	2a1 - # of sites SNC made on day of formal action	1	2a2 - # of sites SNC determinations made within one week of formal action	0	2b - # of sites in violation greater than 240 days	82	2c - % files were missing data elements in RCRAInfo	10%
<u>Data Metrics</u>	<u>State</u>											
2a1 - # of sites SNC made on day of formal action	1											
2a2 - # of sites SNC determinations made within one week of formal action	0											
2b - # of sites in violation greater than 240 days	82											
2c - % files were missing data elements in RCRAInfo	10%											
	State Response											

Element 4 — Completion of Commitments: Degree to which all enforcement/compliance commitments in relevant agreements are met and any products or projects are completed.		
		Good Practice X Meets SRF Program Requirements
4-1	This finding is a(n)	<input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required
	Finding	For FY2010, Nevada met or exceeded all of the enforcement and inspection commitments in their RCRA grant workplan.
	Explanation	In the Nevada grant workplan for FY2010, the state included specific commitments and projections for inspection and enforcement activities. Nevada exceeded their inspection commitments of 50 LQGs, 6 TSDFs, and 500 transporter, SQGs, and CESQGs. Respectively, 75, 8, and 789 CEI or OAM inspections were conducted. EPA appreciates NDEP's attention to conducting inspections and considers this a noteworthy achievement for NDEP.
	Metric(s) and Quantitative Value(s)	<u>Data Metrics</u> <u>State</u> 4a – Planned inspections completed 158%
	State Response	
	Recommendation(s)	No further action is necessary.

Element 5 — Inspection Coverage: Degree to which state completed the universe of planned inspections/compliance evaluations.		
		Good Practice X Meets SRF Program Requirements
5-1	This finding is a(n)	<input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required
	Finding	Nevada exceeds inspection coverage for TSDs (one-year coverage) and LQGs (one year coverage). Nevada met two-year coverage for TSDs and did not meet the 5-year inspection coverage for LQGs.

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.																
		<input type="checkbox"/> Good Practice <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Needs State Attention <input checked="" type="checkbox"/> Area for State Improvement – Recommendations Required														
7-1	This finding is a(n)	operating TSDs. This exceeds core program inspection coverage for operating TSDs.														
6-1	This finding is a(n)	The OEG's SRF Program Requirements provides that 100% of RCRA LQGs must receive a Compliance Evaluation Inspection (CEI) every 5 years. SRF Data Metrics 5c shows that 91.6% (87 out of 95) of the LQG universe received a CEI between FY2006-FY2010.														
	Explanation	Area for State Improvement – Recommendations Required														
	Finding	Nevada's inspection reports included correct compliance determinations, and reported the Nevada RCRA inspection and report date and facility with adequate reporting documentation and completed in a timely manner. However, the reports underpinning these inspections but does count these inspections towards their														
	Finding	generated by Washoe County and SNHD are missing limited report elements. The File Metric 7a assesses whether accurate compliance determinations, were made based on inspection reports over a 2-year period.														
	Explanation	Percent coverage of reports. Of the 44 inspections reports reviewed (BWN 40, SNHD 2, Washoe County 2), 100% had accurate compliance determinations. SNHD reports LQGs did have to maintain reports to the dynamics of operating and enforcement files selected for review (7 BWM files, 2 SNHD files, and 2 Washoe County files). In File Review Metric 7b, the files were reviewed to assess if violations were determined within 150 days and entered into RCRAInfo. There were 18 facility adjusted to ensure that the core program requirements are being met for 1-year and 5-year inspections where S.V.s were found. 11 facilities (94.4%) were issued informal enforcement actions within 150 days after the inspection. One facility was identified the requirements specified in "Hazardous Waste Policy and Procedure, Staff Guide dated October 20, 2008 (Metric 6b). Written CEI reports include 14 specific elements of the RCRA inspection report (action year, 110 Verbal) initiated by Nevada (BWM 100% due to the facility name, inspection date, facility/process description, areas inspected, files reviewed, etc.). Photographs are included in the reports to document not reported compliance observations (7 years) 100% 91.6% observations/violations described in the reports. Only one CEI report did not include														
	Metric(s) and Quantitative Value(s)	Data Metrics 6a - # of BWM inspection reports reviewed 6a - # of SNHD inspection reports reviewed 6a - # of Washoe County inspection reports reviewed 6b - % of BWM reports that were complete 6b - % of SNHD inspection reports that were complete 6b - % of Washoe County Inspection reports that were complete														
	State Response Metric(s) and Quantitative Value(s)	State process of inspection reports reviewed the facility. Due to fact this report was the only exception to the 100% BWM compliance determination, this does not represent an area of concern. 7b - % of violation determinations in the files Both SNHD and Washoe County 100% Both SNHD and Washoe County 100% Both SNHD and Washoe County 100%														
	Explanation	Photographs are included in the reports. SNHD form reports provide sufficient facility description to understand the processes that may generate waste at a facility. No further action is necessary.														
	State Response Recommendation(s)	However, the SNHD form does not list nor does the inspector identify specific regulations violated. The Washoe County report form does not include space for facility/process description. Report forms completed by Washoe County do include regulation citations for any violations identified. SNHD and Washoe County inspections are primarily limited to CESQGs and non-reporting facilities. While report information for CESQGs and non-reporting facilities does not necessarily have to be as detailed as for TSD, LQGs, and SQGs facilities, these agencies should endeavor to prepare reports that meet the minimum guidelines set forth in "Hazardous Waste Policy and Procedure, Staff Guide" dated October 20, 2008.														
	Explanation	File review Metric 6c measures the timely completion of inspection reports. Currently, there is no national EPA standard for the number of days within which a RCRA report must be completed from the date of inspection. A general guideline of 45 days was used for the purposes of this review. A majority of Nevada's inspection reports were completed within this timeframe.														
	Metric(s) and Quantitative Value(s)	<table border="0"> <thead> <tr> <th>Data Metrics</th> <th>State/Local Agency</th> </tr> </thead> <tbody> <tr> <td>6a - # of BWM inspection reports reviewed</td> <td>40</td> </tr> <tr> <td>6a - # of SNHD inspection reports reviewed</td> <td>2</td> </tr> <tr> <td>6a - # of Washoe County inspection reports reviewed</td> <td>2</td> </tr> <tr> <td>6b - % of BWM reports that were complete</td> <td>100%</td> </tr> <tr> <td>6b - % of SNHD inspection reports that were complete</td> <td>0%</td> </tr> <tr> <td>6b - % of Washoe County Inspection reports that were complete</td> <td>0%</td> </tr> </tbody> </table>	Data Metrics	State/Local Agency	6a - # of BWM inspection reports reviewed	40	6a - # of SNHD inspection reports reviewed	2	6a - # of Washoe County inspection reports reviewed	2	6b - % of BWM reports that were complete	100%	6b - % of SNHD inspection reports that were complete	0%	6b - % of Washoe County Inspection reports that were complete	0%
Data Metrics	State/Local Agency															
6a - # of BWM inspection reports reviewed	40															
6a - # of SNHD inspection reports reviewed	2															
6a - # of Washoe County inspection reports reviewed	2															
6b - % of BWM reports that were complete	100%															
6b - % of SNHD inspection reports that were complete	0%															
6b - % of Washoe County Inspection reports that were complete	0%															

		6c - % of BWM inspection reports that are timely (45 days or less)	87.5%
		6c - % of SNHD inspection reports that are timely (45 days or less)	100%
		6c - % of Washoe County inspection reports that are Timely (45 days or less)	100%
		6c - % of BWM inspection reports that are timely (90 days or less)	97.5%
	State Response		
	Recommendation(s)	No further action is necessary.	

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

8-1	This finding is a(n)	<input type="checkbox"/> Good Practice <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required						
	Finding	In the files reviewed, Nevada correctly identified SNC and/or SV violation determinations.						
	Explanation	<p>Data Metric 8a reviews the percent of facilities evaluated by the state during FY2010 that received a state SNC designation. It also compares the SNC identification rate with the national average. Nevada’s SNC identification rate is 0.3%, which is significantly below the national average of 2.9%. The criteria that Nevada uses to make a SNC determination are:</p> <ul style="list-style-type: none"> • A FOAV and Order were issued, and • Alleged violator has caused actual exposure or substantial likelihood of exposure to hazardous waste or hazardous waste constituents, or • Alleged violator is chronic or recalcitrant, or • Alleged violator has deviated substantially from the terms of a permit, order, agreement or from RCRA statutory or regulatory requirements. <p>NDEP has specific criteria for use in determining SNCs. Every SNC determination must also be approved by BWM management.</p> <p>Based on a review of the files, it does not appear that the low SNC rate is due to the misclassification of SNCs as SVs. More likely, it is based on the fact the high number of CESQG inspections performed by Nevada is diluting the SNC rate.</p> <p>Data Metric 8b measures the number of SNCs determinations that were made within 150 days of the first day of inspection and reported in RCRAInfo, which is a requirement in the RCRA ERP. In FY2010, data Metric 8b indicates that 100% (1 of 1 SNCs) were entered in a timely manner.</p> <p>File Metric 8d measures the percentage of violations in the files that were accurately determined to be in SNC. In the 12 enforcement actions reviewed, none of the enforcement actions were identified as SNCs.</p>						
	Metric(s) and Quantitative Value(s)	<table border="0" style="width: 100%;"> <tr> <td style="width: 80%;"><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;">0.3%</td> </tr> <tr> <td>8b - % of SNC determinations made within 150 days</td> <td style="text-align: right;">100%</td> </tr> </table>	<u>Data Metrics</u>	<u>State</u>	8a – SNC identification rate	0.3%	8b - % of SNC determinations made within 150 days	100%
<u>Data Metrics</u>	<u>State</u>							
8a – SNC identification rate	0.3%							
8b - % of SNC determinations made within 150 days	100%							
	State Response							

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.

9-1	Recommendation(s) This finding is a(n)	<input type="checkbox"/> Good Practice <input checked="" type="checkbox"/> Meets SRF Program Requirements No further action is necessary. <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required								
	Finding	In the files reviewed, all enforcement responses included required actions that would bring the facility into compliance within a defined schedule.								
	Explanation	<p>EPA reviewed a total of 4 formal enforcement files and 11 informal enforcement facility files under Metric 9a.</p> <p>Metric 9b is the percentage of the SNC enforcement responses reviewed that returned or will return the facility to compliance. For FY2010, one SNC file was reviewed that contained documentation the facility had returned to compliance.</p> <p>Metric 9c is the percentage of SV enforcement responses reviewed that returned or will return the facility to compliance. In FY2010, 100% of the enforcement actions had documentation the facility had returned to compliance.</p>								
	Metric(s) and Quantitative Value(s)	<table border="0"> <tr> <td><u>Data Metrics</u></td> <td style="text-align: right;"><u>State</u></td> </tr> <tr> <td>9a - # of enforcement responses reviewed</td> <td style="text-align: right;">4 formal 11 informal</td> </tr> <tr> <td>9b - % of enforcement responses that returned SNCs to compliance</td> <td style="text-align: right;">100%</td> </tr> <tr> <td>9c - % of enforcement responses that returned SVs to compliance</td> <td style="text-align: right;">100%</td> </tr> </table>	<u>Data Metrics</u>	<u>State</u>	9a - # of enforcement responses reviewed	4 formal 11 informal	9b - % of enforcement responses that returned SNCs to compliance	100%	9c - % of enforcement responses that returned SVs to compliance	100%
<u>Data Metrics</u>	<u>State</u>									
9a - # of enforcement responses reviewed	4 formal 11 informal									
9b - % of enforcement responses that returned SNCs to compliance	100%									
9c - % of enforcement responses that returned SVs to compliance	100%									
	State Response									
	Recommendation(s)	No further action is necessary.								

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

10-1	This finding is a(n)	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input checked="" type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required												
	Finding	NDEP effectively and timely manages its noncompliant facilities with appropriate enforcement responses.												
	Explanation	NDEP effectively and timely manages its noncompliant facilities with a variety of enforcement responses. During the FFY 2010 review period, NDEP issued 77 enforcement actions, including 70 informal actions (e.g., Verbal or Written Warning) and 7 formal actions (e.g., Findings of Alleged Violation and Order). NDEP made 3 SNC determinations during FFY 2010. For the files reviewed, it appears that NDEP addressed violations with the appropriate type of enforcement response. EPA notes, however, that for the overall FY10 enforcement numbers, a high proportion of violations were resolved through informal actions rather than formal actions. EPA believes a strong enforcement program utilizes the full range of available enforcement tools, and should include an appropriately robust use of formal enforcement actions.												
	Metric(s) and Quantitative Value(s)	<table border="1"> <thead> <tr> <th data-bbox="505 936 980 972"><u>Data Metrics</u></th> <th data-bbox="980 936 1360 972"><u>National Goal</u></th> <th data-bbox="1360 936 1435 972"><u>State</u></th> </tr> </thead> <tbody> <tr> <td data-bbox="505 972 980 1008">10a - % Timely SNC actions</td> <td data-bbox="980 972 1360 1008">80%</td> <td data-bbox="1360 972 1435 1008">100%</td> </tr> <tr> <td data-bbox="505 1008 980 1089">10c - % of enforcement actions taken in a timely manner</td> <td data-bbox="980 1008 1360 1089"></td> <td data-bbox="1360 1008 1435 1089">100%</td> </tr> <tr> <td data-bbox="505 1089 980 1161">10d - % of enforcement action that are appropriate to the violations</td> <td data-bbox="980 1089 1360 1161"></td> <td data-bbox="1360 1089 1435 1161">100%</td> </tr> </tbody> </table>	<u>Data Metrics</u>	<u>National Goal</u>	<u>State</u>	10a - % Timely SNC actions	80%	100%	10c - % of enforcement actions taken in a timely manner		100%	10d - % of enforcement action that are appropriate to the violations		100%
<u>Data Metrics</u>	<u>National Goal</u>	<u>State</u>												
10a - % Timely SNC actions	80%	100%												
10c - % of enforcement actions taken in a timely manner		100%												
10d - % of enforcement action that are appropriate to the violations		100%												
	State Response													
	Recommendation(s)	No further action is necessary.												

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

11-1	This finding is a(n)	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input checked="" type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required						
	Finding	Nevada includes gravity-based penalty and economic benefit calculations in their penalty calculation procedures. However, economic benefit of non-compliance penalty assessment is not being pursued.						
	Explanation	<p>Element 11 examines the state documentation of their penalty calculations. Specifically, the metric is determining if the state penalty includes a gravity portion of the penalty, and where appropriate, economic benefit of non-compliance. The initial penalty calculations reviewed for two of the penalty cases reviewed included gravity-based calculations and considered economic benefit of non-compliance, even though economic benefit not well documented. In one of the penalty cases reviewed, the penalty was not calculated following the procedures described in “Hazardous Waste Policy and Procedure, Staff Guide” dated October 20, 2008. In this case, the facility directly negotiated the settlement with Office of the Attorney General. The reason for the direct negotiations with the Office of the Attorney General was due to the fact that this was multi-media case. Economic Benefit for non-compliance was considered in the two of the cases managed by the NDEP. The case managed by the Office of the Attorney General did not consider economic benefit of non-compliance.</p> <p>The RCRA Civil Penalty Policy (RCPP) requires that economic benefit be calculated using the BEN model or other method that produces results consistent with the national policy. The economic benefit can result from delaying or avoiding compliance costs, or when an illegal competitive advantage is achieved through noncompliance. In Section VIII of the RCPP (page 28), the policy provides penalty thresholds for pursuing economic benefit.</p> <p>Nevada should continue calculating economic benefit of non-compliance consistent with BWM’s “Hazardous Waste Policy and Procedure, Staff Guide” dated October 20, 2008, and the RCPP. Where appropriate, economic benefit for non-compliance data (i.e., actual or avoided costs encumbered by the facility) should be obtained directly from the facility. The data can be entered into the BEN model or state method that is equivalent to and consistent with national policy.</p>						
	Metric(s) and Quantitative Value(s)	<table border="0"> <thead> <tr> <th data-bbox="505 1509 1154 1545"><u>Data Metrics</u></th> <th data-bbox="1154 1509 1269 1545"><u>NDEP</u></th> <th data-bbox="1269 1509 1433 1545"><u>State</u></th> </tr> </thead> <tbody> <tr> <td data-bbox="505 1545 1154 1642">11a - % of penalty calculations reviewed that consider and include, where appropriate, gravity and economic benefit consistent with national policy</td> <td data-bbox="1154 1545 1269 1642">100%</td> <td data-bbox="1269 1545 1433 1642">67%</td> </tr> </tbody> </table>	<u>Data Metrics</u>	<u>NDEP</u>	<u>State</u>	11a - % of penalty calculations reviewed that consider and include, where appropriate, gravity and economic benefit consistent with national policy	100%	67%
<u>Data Metrics</u>	<u>NDEP</u>	<u>State</u>						
11a - % of penalty calculations reviewed that consider and include, where appropriate, gravity and economic benefit consistent with national policy	100%	67%						
	State Response							

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.								
		<input type="checkbox"/> Good Practice <input checked="" type="checkbox"/> Meets SRF Program Requirements						
12-1	This finding is a(n)	<input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required						
	Finding	Nevada’s initial and final assessed penalties do not typically vary. All of the files, with penalties, contained documentation the penalties were collected.						
	Explanation	<p>The initial and final assessed penalties included in a negotiated Settlement Agreement and Final Order, if applicable, did not vary. If the alleged violator does not agree with the proposed penalty, the matter will be referred to the District Court where Nevada will seek the highest penalty amount allowed by Nevada law. For this reason, rarely does an alleged violator fail to accept the initial penalty presented by BWM.</p> <p>Nevada does maintain records of all penalty collections, as reported in Metric 12b. Of the three (3) penalty enforcement orders reviewed as part of the SRF, all had documentation that penalties were collected.</p>						
	Metric(s) and Quantitative Value(s)	<table border="0" style="width: 100%;"> <tr> <td style="width: 70%;"><u>Data Metrics</u></td> <td style="text-align: right;"><u>State</u></td> </tr> <tr> <td>12a - % of formal enforcement actions that document the difference and rational between initial and final assessed penalty</td> <td style="text-align: right;">N/A</td> </tr> <tr> <td>12b - % of final formal actions that document the collection of the final penalty</td> <td style="text-align: right;">100%</td> </tr> </table>	<u>Data Metrics</u>	<u>State</u>	12a - % of formal enforcement actions that document the difference and rational between initial and final assessed penalty	N/A	12b - % of final formal actions that document the collection of the final penalty	100%
<u>Data Metrics</u>	<u>State</u>							
12a - % of formal enforcement actions that document the difference and rational between initial and final assessed penalty	N/A							
12b - % of final formal actions that document the collection of the final penalty	100%							
	State Response							
	Recommendation(s)	No further action is necessary.						

V. ELEMENT 13 SUBMISSION

[If recognition credit or resource flexibility requested, describe here and attach relevant state and EPA documentation.]

APPENDIX A: STATUS OF RECOMMENDATIONS FROM PREVIOUS REVIEWS

During the first SRF review of Nevada’s compliance and enforcement programs, EPA Region 9 and NDEP 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
NV - Round 1 Total: □C0	Completed	12/31/2008	RCRA	E2 - Violations ID'ed Appropriately	Inspection reports ranged from no inspection reports to complete detailed inspections.	Inspection report information to reflect complexity of the facility and to clearly identify any potential violations observed
NV - Round 1 Total: □C0	Completed	12/31/2008	RCRA	E4 - SNC Accuracy	SNC determination below national average.	NDEP to review 2003 Enforcement Response Policy to determine if current procedures conform to with SNC identification procedures outlined in the policy.
NV - Round 1 Total: □C0	Completed	12/31/2008	RCRA	E5 - Penalty Calculations	Settlement calculations destroyed after case closure.	Revise inspection and enforcement procedures to ensure settlement calculations are maintained in case files.
NV - Round 1 Total: □C0	Completed	12/31/2008	RCRA	E6 - Penalties Collected	Penalty policies and procedures do not include economic benefit. Additionally, penalty policy includes automatic penalty reductions.	Revised penalty policy to include consideration of economic benefit and elimination modification of automatic penalty reductions.

APPENDIX B: OFFICIAL DATA PULL

OTIS State Review Framework Results

RCRA Data for Nevada (Review Period Ending: FY10)

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

					Production FY 2010 Data (Data Refresh Dates)			
Metric	Metric Type	Agency	National Goal	National Average	Nevada (Metric = x/y)⁰	Count (x)	Universe (y)	Not Counted (y- x)
1. Data completeness. Degree to which the minimum data requirements are complete.								
0 Recommendations.								
A	Number of Operating TSDFs in RCRAInfo	Data Quality	State		6	NA	NA	NA
	Number of Active LQGs in RCRAInfo	Data Quality	State		82	NA	NA	NA
	Number of Active SQGs in RCRAInfo	Data Quality	State		345	NA	NA	NA
	Number of all other active sites in RCRAInfo	Data Quality	State		1,315	NA	NA	NA
	Number of LQGs per latest biennial report	Data Quality	State		95	NA	NA	NA
B	Compliance monitoring: number of inspections (1 YR)	Data Quality	State		741	NA	NA	NA
	Compliance monitoring: sites inspected (1 YR)	Data Quality	State		638	NA	NA	NA
C		Data Quality	State		200	NA	NA	NA

	Number of sites with violations determined at any time (1 YR)								
	Number of sites with violations determined during the FY	Data Quality	State			142	NA	NA	NA
D	Informal actions: number of sites (1 FY)	Data Quality	State			67	NA	NA	NA
	Informal actions: number of actions (1 FY)	Data Quality	State			70	NA	NA	NA
E	SNC: number of sites with new SNC (1 FY)	Data Quality	State			2	NA	NA	NA
	SNC: number of sites in SNC (1 FY)	Data Quality	State			4	NA	NA	NA
F	Formal action: number of sites (1 FY)	Data Quality	State			7	NA	NA	NA
	Formal action: number taken (1 FY)	Data Quality	State			14	NA	NA	NA
G	Formal action: number taken (1 FY)	Data Quality	State			\$42,868	NA	NA	NA
2. Data accuracy: degree to which the minimum data requirements are accurate. 0 Recommendations.									
A	Number of sites SNC-determined on day of formal action (1 FY)	Data Quality	State			1	NA	NA	NA
	Number of sites SNC-determined within one week of formal action (1 FY)	Data Quality	State			0	NA	NA	NA
B		Data Quality	State			83	NA	NA	NA

	Number of sites in violation for greater than 240 days								
3. Timeliness of data entry, degree to which the minimum data requirements are complete. 0 Recommendations.									
A	Percent SNCs entered \geq 60 days after designation (1 FY) ¹	Review Indicator	State			0%	NA	NA	NA
B	Comparison of Frozen Data Set	Compare the production data results under Element 1 to the frozen data. Please see Plain Language Guide for details.							
5. Inspection coverage. Degree to which state completed the universe of planned inspections/compliance evaluations. 0 Recommendations.									
A	Inspection coverage for operating TSDFs (2 FYs)	Goal	State	100%	87.8%	100%	6	6	0
B	Inspection coverage for LQGs (1 FYs)	Goal	State	20%	24.1%	74.7%	71	95	24
C	Inspection coverage for LQGs (5 FYs)	Goal	State	100%	61.7%	91.6%	87	95	8
D	Inspection coverage for active SQGs (5 FYs)	Informational Only	State			84.6%	292	345	53
E	Inspection coverage for active CESQGs (5 FYs)	Informational Only	State			1,704	NA	NA	NA
	Inspection coverage for active transporters (5 FYs)	Informational Only	State			97	NA	NA	NA
	Inspection coverage for non-notifiers (5 FYs)	Informational Only	State			5	NA	NA	NA
	Inspection at active sites other than those listed in 5a-d and 5e1-5e3 (5 FYs)	Informational Only	State			12	NA	NA	NA
7. Identification of alleged violations. degree to which compliance determinations are accurately made and promptly reported in the national database based upon compliance monitoring report observations and other compliance monitoring information. 1 Recommendation(s)									

C	Violation identification rate at sites with inspections (1 FY)	Review Indicator	State			22.3%	142	638	496
8. Identification of SNC and HPV. degree to which state accurately identifies significant noncompliance & high priority violations and enters the information in the national system in timely manner. 1 Recommendation(s)									
A	SNC identification rate at sites with inspections (1 FY)	Review Indicator	State	1/2 National Avg	2.7%	0.3%	2	638	636
B	Percent of SNC determinations made within 150 days (1 FY)	Goal	State	100%	82.9%	50.0%	1	2	1
C	Percent of formal actions taken that received a prior SNC listing (1 FY)	Review Indicator	State	1/2 National Avg	62.2%	63.6%	7	11	4
10. Timely and appropriate action. degree to which state takes timely and appropriate enforcement actions in accordance with policy related to specific media. 0 Recommendations									
A	Percent of SNCs with formal actions/referral taken within 360 days (1 FY)	Review Indicator	State	80%	46.1%	100%	2	2	0
B	No activity indicator - number formal actions (1 FY)	Review Indicator	State			14	NA	NA	NA
12. Final penalty assessment and collection. degree to which differences between the initial and final penalty are documented in the file along with a demonstration in the file that the penalty was collected. 1 Recommendation(s)									
A	No activity indicator - penalties (1 FY)	Review Indicator	State			\$42,868	NA	NA	NA
B	Percent of final formal actions with penalty (1 FY)	Review Indicator	State	1/2 National Avg	80.5%	57.1%	4	7	3

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

Caveats:

⁰ State Metric column is generally computed from the value in the Count column (x) divided by the value in the Universe column (y).

¹ This metric includes SNC entry from 10/19/09 to 10/19/10. The data are updated annually at the end of each fiscal year.

APPENDIX C: PDA TRANSMITTAL LETTER

Appendices C, D, and E provide the results of the 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.

February 15, 2011

Colleen Cripps, PhD
Administrator
NV Division of Environmental Protection
901 So. Stewart Street
Suite 4001
Carson City, NV 89701-4209

Dear Ms. Cripps:

This letter is to confirm that EPA Region 9 is conducting the second review of Nevada Division of Environmental Protection's delegated RCRA Subtitle C and Clean Water Act NPDES enforcement programs this year under the State Review Framework (SRF2). We will also conduct a review this year of the Clark County Department of Air Quality and Environmental Management's Air Stationary Source enforcement program.

SRF2 will evaluate inspection and enforcement activity conducted by NDEP during Federal Fiscal Year 2010 (October 1, 2009 through September 30, 2010). EPA's water and waste programs have been working closely with your program staff and managers to plan and schedule these reviews. We will share our findings as the reviews progress, and you will have an opportunity to comment on the draft report prior to finalizing the review.

SRF2 is a continuation of a national effort that allows Region 9 to ensure Nevada Division of Environmental Protection meets agreed-upon minimum performance levels in providing environmental and public health protection. As before, the review will include:

- Discussions between Region 9 and NDEP program managers and staff;
- Examination of data in EPA and NDEP data systems; and
- Review of selected NDEP inspection and enforcement files and policies.

Our intent is to assist NDEP in ensuring delegated programs meet federal standards and are based on goals we have mutually agreed to. NDEP and Region 9 are partners in carrying out this

review. If we find issues, we want to address them together in the most constructive manner possible.

You may recall that EPA first used State Review Framework protocol developed by EPA and the Environmental Council of the States (ECOS) to conduct an initial round of reviews in all fifty states. NDEP was first reviewed in 2007. Upon completion of all Round 1 reviews, a work group composed of EPA, ECOS, state associations, and state agencies convened to evaluate Round 1 and revise the SRF elements, metrics, process and guidance. These revised protocols will be employed in all SRF 2 reviews.

The revised State Review Framework protocol employs standard metrics, worksheets and report templates that will be used to complete this review. In addition, EPA has designed an SRF Tracker as the repository for SRF final reports, comment letters, etc. States are encouraged to view these materials, and may comment on their own information securely via the internet (http://www.epa-otis.gov/srf/srf_tracking.html).

All information and materials used in this review may be subject to federal and/or state disclosure laws, and may be released in response to a Freedom of Information Act Request. In addition, EPA will post the final report on a public website.

Region 9's contacts for NDEP's SRF2 review are:

Coordinator:	Julie Anderson	(415) 947-4260	anderson.julie@epa.gov
Water Review:	Ken Greenberg	(415) 972-3577	greenberg.ken@epa.gov
	Jenee Gavette	(415) 972-3439	gavette.jenee@epa.gov
RCRA Review:	Amy Miller	(415) 947-3530	miller.amy@epa.gov
	John Schofield	(415) 972-3386	schofield.john@epa.gov

As part of this review, EPA conducts preliminary assessments of the NDEP RCRA and Water

Programs based on state-verified enforcement data contained in the OTIS database. All states were informed in November, 2010 of their opportunity and deadlines to review and make corrections to their data (Attachment 1). Any remaining changes to water data can be made by February 16, 2011; final changes to RCRA data can be made by February 18. Attachment 2 transmits a summary of FY-10 data recently pulled from OTIS, for your information.

We look forward to working with you again on this project, and will strive to make the review as efficient and productive as possible.

Sincerely,

Jared Blumenfeld
Regional Administrator

Attachment 1: November 22, 2010 letter to State Commissioners

Attachment 2: Data summary sheet

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.

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
2B-S	Number of sites in violation for greater than 240 days	Data Quality	State			82	Number of facilities in violation for more than 240 days seems high.
5C-S	Inspection coverage for LQGs (5 FYs)	Goal	State	100%	61.7%	91.6%	According to the data, Nevada did not meet goal of 100% LQG coverage over 5 years. Part of this is based on variability of the LQG universe. Another reason is that Nevada does not perform inspections of LQGs inspected by the Region during the fiscal year. Nevada inspection 5 year inspection rated is significantly

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
							above the national average.
7C-S	Violation identification rate at facilities with inspection (1 FY)	Review Indicator	State			22.3%	Rate of identification seems to be low.
8A-S	SNC identification rate at facilities with inspections (1 FY)	Review Indicator	State	1/2 National Average	2.7%	0.3%	Nevada is significantly below the national average for SNC identification. This metric indicates a problem could exist in applying the SNC definition to violations the state has discovered.
8C-S	Percent of formal actions taken that received a prior SNC listing (1 FY)	Review Indicator	State	1/2 National Average	62.6%	63.6%	Nevada is at or slightly above the national average.
10A-S	Percent of enforcement actions/referrals taken within 360 days (1 FY)	Review Indicator	State	80%	46.1%	100%	Data indicates Nevada is well above the national average.
12B-S	Percent of final formal actions with penalty (1 FY)	Review Indicator	State	1/2 National Average	80.5%	57.1%	Rate of formal actions with penalties appears to be low.

APPENDIX E: PDA WORKSHEET

RCRA-Nevada

Metric	Metric Description	Metric Type	Agency	National Goal	National Average	Nevada Metric Froz	Count Froz	Universe Froz	Not Counted Froz	State Discrepancy (Yes/No)	State Correction	State Data Source	Discrepancy Explanation	Evaluation	Initial Findings
R01A 1S	Number of operating TSDFs in RCRAI nfo	Data Quality	State			6	NA	NA	NA					Appears Acceptable	
R01A 2S	Number of active LQGs in RCRAI nfo	Data Quality	State			87	NA	NA	NA					Minor Issue	8.4% less LQGs than 2009 biennial report. However, LQG Status is variable.
R01A 3S	Number of active SQGs in RCRAI nfo	Data Quality	State			365	NA	NA	NA					Appears Acceptable	

R01A 4S	Number of all other active sites in RCRA Info	Data Quality	State			1,305	NA	NA	NA				Appears Acceptable	
R01A 5S	Number of LQGs per latest official biennial report	Data Quality	State			95	NA	NA	NA				Minor Issue	10 more LQGs than current active status.
R01B 1S	Compliance monitoring: number of inspections (1 FY)	Data Quality	State			741	NA	NA	NA				Appears Acceptable	
R01B 2S	Compliance monitoring: sites inspected (1 FY)	Data Quality	State			638	NA	NA	NA				Appears Acceptable	
R01C 1S	Number of sites with violations determined at any	Data Quality	State			200	NA	NA	NA				Appears Acceptable	

	time (1 FY)														
R01C 2S	Number of sites with violations determined during the FY	Data Quality	State			142	NA	NA	NA					Appears Acceptable	
R01D 1S	Informal actions : number of sites (1 FY)	Data Quality	State			67	NA	NA	NA					Appears Acceptable	
R01D 2S	Informal actions : number of actions (1 FY)	Data Quality	State			70	NA	NA	NA					Potential Concern	High number of informal actions compared to formal actions.
R01E 1S	SNC: number of sites with new SNC (1 FY)	Data Quality	State			2	NA	NA	NA					Minor Issue	See R08A0S below.

R01E 2S	SNC: Number of sites in SNC (1 FY)	Data Quali ty	State			4	NA	NA	NA					Appears Accepta ble	
R01F 1S	Formal action: numbe r of sites (1 FY)	Data Quali ty	State			7	NA	NA	NA					Appears Accepta ble	
R01F 2S	Formal action: numbe r taken (1 FY)	Data Quali ty	State			14	NA	NA	NA					Potential Concern	High number of informal actions compare d to formal actions.
R01G 0S	Total amoun t of final penalti es (1 FY)	Data Quali ty	State			\$42,8 68	NA	NA	NA					Potential Concern	5 year average approx. \$50,547. Below penalty average. Uncertain if EBN captured
R02A 1S	Numbe r of sites SNC- determ ined on day of formal	Data Quali ty	State			1	NA	NA	NA					Inconclu sive	Insufficie nt Data

	action (1 FY)														
R02A 2S	Number of sites SNC-determined within one week of formal action (1 FY)	Data Quality	State			0	NA	NA	NA					Inconclusive	No new SNC designations with which to make a finding.
R02B 0S	Number of sites in violation for greater than 240 days	Data Quality	State			82	NA	NA	NA					Potential Concern	Approx. 41% of 200 sites in violation (1C1).
R03A 0S	Percent SNCs entered 60 days after designation (1 FY)	Review Indicator	State			0.0%	0	3	3					Appears Acceptable	
R05A 0S	Inspection coverage for operating	Goal	State	100%	87.4%	100.0%	6	6	0					Appears Acceptable	Above national average.

	TSDFs (2 FYs)														
R05B0S	Inspection coverage for LQGs (1 FY)	Goal	State	20%	24.1%	74.7%	71	95	24					Appears Acceptable	Significantly above national average.
R05C0S	Inspection coverage for LQGs (5 FYs)	Goal	State	100%	61.7%	91.6%	87	95	8					Appears Acceptable	Significantly above national average.
R05D0S	Inspection coverage for active SQGs (5 FYs)	Informational Only	State			84.9%	310	365	55					Appears Acceptable	
R05E1S	Inspections at active CESQGs (5 FYs)	Informational Only	State			1,691	NA	NA	NA					Appears Acceptable	A significant number of CESQG inspections are performed by Clark and Washoe Counties.
R05E2S	Inspections at active transporters	Informational Only	State			97	NA	NA	NA					Appears Acceptable	

	(5 FYs)														
R05E3S	Inspections at non-notifiers (5 FYs)	Informational Only	State			5	NA	NA	NA					Appears Acceptable	
R05E4S	Inspections at active sites other than those listed in 5a-d and 5e1-5e3 (5 FYs)	Informational Only	State			12	NA	NA	NA					Appears Acceptable	
R07C0S	Violation identification rate at sites with inspections (1 FY)	Reviewer Indicator	State			22.3 %	142	638	496					Potential Concern	Violation rate appears to be low. This could be attributed to frequent inspections performed by State.

R08A 0S	SNC identi- fication rate at sites with inspect- ions (1 FY)	Revi- ew Indic- ator	State	1/2 Natio- nal Avg	2.6%	0.3%	2	638	636					Minor Issue	Percent SNC determi- nation below national average. State performs frequent inspectio- ns of regulated communit- y.
R08B 0S	Perce- nt of SNC determi- nation s made within 150 days (1 FY)	Goal	State	100%	83.2%	50.0 %	1	2	1					Potential Concern	Below national average and goal.
R08C 0S	Perce- nt of formal actions taken that receiv- ed a prior SNC listing (1 FY)	Revi- ew Indic- ator	State	1/2 Natio- nal Avg	62.3%	63.6 %	7	11	4					Appears Accepta- ble	

R10A 0S	Percent of SNCs with formal action/referral taken within 360 days (1 FY)	Review Indicator	State	80%	46.5%	100.0%	2	2	0					Appears Acceptable
R10B 0S	No activity indicator - number of formal actions (1 FY)	Review Indicator	State			14	NA	NA	NA					Appears Acceptable
R12A 0S	No activity indicator - penalties (1 FY)	Review Indicator	State			\$42,868	NA	NA	NA					Appears Acceptable
R12B 0S	Percent of final formal actions with penalty (1 FY)	Review Indicator	State	1/2 National Avg	80.6%	57.1%	4	7	3					Appears Acceptable

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) and using a web-based file selection tool (available here: http://www.epa-otis.gov/cgi-bin/test/srf/srf_fileselection.cgi). The protocol and tool are designed to provide consistency and transparency in the process. Based on the description of the file selection process in Section A below, states should be able to recreate the results in the table in Section B.

A. File Selection Process

Resource Conservation and Recovery Act

Region 9 used the file selection tool in OTIS, which follows the SRF File Selection Protocol. The universe of selection files (compliance monitoring and enforcement) from which to select was 644. According to the Protocol, the range of files for a universe that size is 20 to 35. As a result, Region picked 31 files to use for its random, representative file selection. Thirteen of these files focused on compliance monitoring and remainder focused on enforcement. These files are from a mix of the categories below and are geographically distributed across the state:

- Different sources
- Inspections or no inspections
- Violations and no violations
- SNCs or no SNCs
- Informal or formal actions
- Penalties or no penalties

B. File Selection Table

Facility	Program ID	Evaluation	Violation	SNC	Informal Action	Formal Action	Penalty	Universe	Select
BOBBY PAGE'S DRY CLEANERS	NVR000082297	2	2	0	0	0	0	SQG	accepted representative
CAROLINA LOGISTICS SERVICES LLC	NVR000076034	1	3	0	1	0	0	LQG	accepted representative
CHAPMANS LAS VEGAS DODGE	NVD982001695	1	1	0	1	0	0	CES	accepted representative
CHARLES RIVER RESEARCH MODEL SERVICES	NVR000030023	1	0	0	0	0	0	LQG	accepted representative
COSTCO WHOLESALE #25	NVD986776169	1	3	0	1	0	0	LQG	accepted representative
DYNAGRAPHIC PRINTING INC	NVD986773620	2	1	0	0	0	0	SQG	accepted representative
E.I. DUPONT DE NEMOURS & CO	NVR000001495	1	0	0	0	0	0	LQG	accepted representative
EGADS L L C	NVR000076448	1	1	0	0	0	0	SQG	accepted representative
ERICKSON INTERNATIONAL	NVR000084996	1	6	0	1	0	0	LQG	accepted supplemental
FAIRWAY CHEVROLET COMPANY	NVD981428923	1	0	0	0	0	0	SQG	accepted representative
FEDERAL AVIATION ADMINISTRATION	NVR000083881	1	0	0	0	0	0	CES	accepted representative
FIRSTGOLD CORP	NVR000084053	1	4	0	2	0	0	LQG	accepted representative
HAMILTON COMPANY	NVD008477820	1	1	0	0	3	1,250	LQG	accepted representative
HAWTHORNE ARMY DEPOT	NV1210090006	4	19	0	0	0	0	TSD(COM)	accepted representative

Facility	Program ID	Evaluation	Violation	SNC	Informal Action	Formal Action	Penalty	Universe	Select
LAKESIDE CLEANERS	NVD982373557	2	1	0	0	0	0	CES	accepted representative
MARATHON OIL SANDS	NVR000084491	1	6	0	1	0	0	LQG	accepted representative
MINAMILL	NVR000082479	1	1	0	0	0	0	OTH	accepted representative
NEVADA CEMENT CO	NVD982430126	1	0	0	0	0	0	SQG	accepted representative
NEVADA MINERAL PROCESSING	NVR000085209	0	0	0	1	1	0	OTH	accepted representative
NEW BOMB FACILITY (HAWTHORNE ARMY DEPOT)	NV5210090010	3	2	0	0	0	0	TSD(TSF)	accepted representative
PARAMOUNT AUTO BODY INC	NVD986770097	2	0	0	0	0	0	CES	accepted representative
R. R. DONNELLEY	NVD981641434	1	0	0	0	0	0	LQG	accepted representative
SAFETY-KLEEN SYSTEMS INC	NVR000066837	4	0	0	0	0	0	TSD(TSF)	accepted representative
SEPHORA STORE 42 VENETIAN	NVR000078535	2	1	0	1	0	0	CES	accepted representative
SIERRA CHEMICAL COMPANY	NVD982518755	1	0	0	0	0	0	CES	accepted representative
SIERRA ENVIRONMENTAL MONITORING INC	NV0000305649	1	1	1	0	3	2,205	SQG	accepted representative
STERLING NEVADA LLC	NVR000083303	2	1	0	1	0	0	CES	accepted representative
THE SHERWIN WILLIAMS COMPANY RENO NV	NVR000038737	1	0	0	0	0	0	LQG	accepted representative

Facility	Program ID	Evaluation	Violation	SNC	Informal Action	Formal Action	Penalty	Universe	Select
THYSSENKRUPP VDM USA INC.	NVD092497999	1	3	0	1	0	0	LQG	accepted representative
WALMART RETURN CENTER 9195	NVR000000018	1	0	0	0	1	5,000	LQG	accepted representative
ZIONS FIRST NATIONAL BANK	NVR000085357	1	0	0	0	0	0	LQG	accepted representative

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.

Resource Conservation and Recovery Act

RCRA Metric #	RCRA File Review Metric	Metric Value	Initial Findings and Conclusions
Metric 2c	% of files reviewed where mandatory data are accurately reflected in the nation data system.	97%	30 of 31 inspection and enforcement files had data that were reflected accurately in RCRAInfo.
Metric 4a	Planned inspections completed	>100%	For FY2010, Nevada committed to inspections at 50 LQGs, 6 TSDFs, and 500 transporter, SQGs, and CESQGs. Respectively, 75, 19, and 789 inspections were conducted.
Metric 6a	# of inspection reports reviewed	44	In the 31 files selected for the file review (4 formal, 11 informal enforcement, 1 SNC, 16 evaluations) there were a total of 44 inspection reports that were found in the files and reviewed as part of the SRF review.

RCRA Metric #	RCRA File Review Metric	Metric Value	Initial Findings and Conclusions
Metric 6b	% of inspection reports reviewed that are complete and provide sufficient documentation to determine compliance at the facility.	97.5%	39 of 40 of the BWM inspection reports were considered complete and provided sufficient documentation to determine compliance at the facility. The inspection reports included narrative, photographs, facility descriptions, and observed violations, if any. None of the Washoe County inspections included a good facility description. The SNHD reports did not list a specific regulatory citation(s) for any potential observed, if any.
Metric 6c	Inspections reports completed within a determined time-frame.	87.5%	35 of the 40 inspection reports met the recommended deadline of 45 days to complete the reports.
Metric 7a	% of accurate compliance determination based on the inspection reports.	100%	Based on the information provided in the 40 BWM, 2 SNHD and 2 Washoe County inspection reports, all 44 inspection reports appeared to have accurate compliance determinations.
Metric 7b	% of violation determinations in the files reviewed that are reported timely to the national database (within 150 days).	94.4%	There were 18 facility inspections where SVs were found, 11 facilities (94.4%) were issued informal enforcement actions within 150 days after the inspection. One facility was identified as having a violation(s) during the review period, but there is no listing in RCRAInfo of the type of enforcement action (e.g., 110-Verbal) initiated by Nevada (BWM).
Metric 8d	% of violations in files reviewed that were accurately determined to be SNC	100%	Of the 44 inspection reports reviewed, the Region determined that Nevada had correctly identified all SNCs.
Metric 9a	# of enforcement responses reviewed.	15	
Metric 9b	# of enforcement responses that have returned or will return a source in SNC to compliance.	100%	1 of 1 SNCs were returned to compliance.
Metric 9c	% of enforcement	100%	14 of 14 enforcement responses that

RCRA Metric #	RCRA File Review Metric	Metric Value	Initial Findings and Conclusions
	responses that have returned or will return SVs to compliance.		involved SVs returned, or will return, the SVs to compliance.
Metric 10c	% of enforcement responses reviewed that are taken in a timely manner.	100%	There were 11 SV files reviewed where informal enforcement was taken, and 100% of the files were taken in a timely manner (240 days). There was one SNC file reviewed where final enforcement was taken in FY2010. The case was concluded within the recommended 360-day time-frame.
Metric 10d	% of enforcement responses reviewed that are appropriate to the violations.	100%	15 of the 15 enforcement cases reviewed contained appropriate response to the violations.
Metric 11a	% of reviewed penalty calculations that considered gravity <u>and</u> economic benefit for non-compliance.	67%	Gravity portion of the penalty calculations reviewed for 2 of the 3 penalty cases were calculated following the Nevada RCRA policies and procedures. The 3 rd penalty action was negotiated directly with the Attorney General's office. The Attorney General's office did not following the Nevada RCRA penalty policy in determining the penalty. The Attorney General's penalty action did not considered economic benefit for non-compliance.
Metric 12a	% of penalties reviewed that document the difference and rationale between and initial and final assessed penalty.	100%	None of the 3 penalty actions reviewed, differed between the initial penalty and the final penalty paid by the facility.
Metric 12b	% of files that document collection of penalty	100%	All the penalty cases reviewed contained documentation that the penalty had been collected.

APPENDIX H: CORRESPONDENCE

[Attach correspondence between EPA and the state including, if received, comments on Draft Report and Final Report.] **APPENDIX H: CORRESPONDENCE**

[Attach correspondence between EPA and the state including, if received, comments on Draft Report and Final]



STATE OF NEVADA
Department of Conservation & Natural Resources
DIVISION OF ENVIRONMENTAL PROTECTION

Brian Sandoval, Governor
Leo M. Drazdoff, P.E., Director
Colleen Cripps, Ph.D., Administrator

December 14, 2011

Mr. Jared Blumenfeld, Regional Administrator
US EPA Region IX
75 Hawthorne Street
San Francisco, CA 94105-3901

RE: Draft Report for Round 2 of the State Review Framework
State of Nevada Enforcement Program reviews by EPA

Dear Mr. Blumenfeld:

We have reviewed the draft report reflecting the results of Round 2 of the State Review Framework. The report reviews compliance and enforcement activities conducted by the Nevada Division of Environmental Protection (NDEP) related to RCRA Subtitle C and the National Pollutant Discharge Elimination System of the Clean Water Act. Our comments on the findings of each of these two program reviews are attached. We have also attached a narrative for each program area to be included as Element 13 of the final report.

Our comments reflect a consistent theme that we have repeated many times over the years in our discussions with EPA. The primary goal of NDEP has always been to achieve and maintain compliance with environmental regulations. Toward that end, we invest in compliance assistance, outreach, and an active and effective field presence. We find that the effectiveness of our efforts is best measured by the rate of compliance among regulated facilities, not by the number or amount of penalties collected. We recognize that this strategy may be impractical for EPA and States with very large regulatory universes and that a more reactive approach may be needed. However, given the relatively small number of regulated facilities in Nevada and our willingness to invest State resources beyond federal grant funding, we find that our proactive, compliance-focused approach works.

Thank you for the opportunity to comment on this draft SRF. We also appreciate the positive commendations on our good inspection programs. Please factor our comments into your finalization of the 2010 SRF and include our respective Element 13 narratives.

Sincerely,

Colleen Cripps, Ph.D.
Administrator



Page 2

Attachments

cc: David Gaskin, Deputy Administrator, NDEP
David Emme, Deputy Administrator, NDEP
Eric Noack, Chief, Bureau of Waste Management, NDEP
Alan Tinney, Chief, Bureau of Water Pollution Control, NDEP
Mr. Ken Greenberg, US EPA Region IX, WTR-7, 75 Hawthorne Street
San Francisco, CA 94105-3901
✓ John Schofield, US EPA Region IX, 75 Hawthorne Street San Francisco, CA
94105-3901

NDEP Bureau of Water Pollution Control
NPDES CWA Comments on Draft SRF II

These comments are specific to the EPA review of the National Pollutant Discharge Elimination System Program enforcement activities in the SRF report.

Before providing our comments and responses, NDEP reiterates that as with past SRF responses, the recent draft SRF would require NDEP to allocate additional time and financial resources for efforts that *will not* add any substantive value to our compliance and enforcement programs. We stress to EPA that NDEP remains one of the leanest state environmental programs in the U.S. and as such we focus our resources on achieving water pollution control compliance statewide based upon our State priorities.

With this in mind, NDEP offers the following comments to EPA:

1. Data reporting systems/architecture:

The general program overview section, page 6 of the report states that NDEP enters general permit information into ICIS. This is not correct. Per our mutual agreement (June 18, 2004 letter to John Kemmerer) on ICIS entry roles, NDEP is not responsible for entering information on general permits or storm water permits into ICIS. This reference to general permit entry should be removed.

2. Single Event Violation (SEV) entry into ICIS (Element 7):

Element 7 of the SRF report states that EPA is in consultation with NDEP on options and procedures for entering SEV's into ICIS for major NPDES facilities. This is not an accurate statement as NDEP has not agreed to entry of SEV's into ICIS. NDEP does not have sufficient staffing or funding for this additional data entry activity and to do so would take critical resources away from our compliance and enforcement program.

3. Economic Benefit Penalty Calculation Method (Element 11)

The Element 11 review recommendation is to obtain facility cost data, where appropriate, when determining the economic benefit factor in assessing noncompliance penalties. While economic benefit is not broken out as a separate line item, NDEP factors economic benefit into all its NPDES penalty determinations.

NDEP does not believe that a compliance and enforcement program should be evaluated merely by counting violations and the response to those violations. NDEP is proud of its compliance record and believes the compliance rate to be the true metric necessary to

accurately represent the effectiveness and success of a compliance and enforcement program.

If NDEP is forced to increase data entry into the national database, we will need to shift resources away from environmental protection efforts identified as priorities in Nevada. This will have a direct negative impact on our ability to ensure compliance and protect the waters of the state.

NDEP thanks you for the opportunity to comment on this draft SRF. Please contact Deputy Administrator David Gaskin at (775) 687-9302 or dgaskin@ndep.nv.gov if you have any questions or would like to discuss these comments further.

State Review Framework II Element 13 Clean Water Act

Introduction

NDEP does not believe the SRF fully defines the effectiveness of a Clean Water Act compliance and enforcement program. The 12 elements evaluate a program on its ability to identify and react appropriately to violations and subsequently track them, but ignore the important efforts implemented by a program to achieve and maintain compliance so that violations are not realized. An enforcement program's success should be measured by the compliance rate, as opposed to the violation/enforcement rate. This philosophy is the cornerstone of NDEP's successful compliance and enforcement program.

NDEP strives for compliance by working cooperatively and reasonably with the regulated community. This allows us to achieve and maintain a high level of compliance, in many cases outside of formal enforcement. In certain areas, we go above and beyond federal requirements to achieve better environmental results. For example, we require that all wastewater treatment plants be managed by certified wastewater treatment operators. We ensure that all design plans for construction of wastewater treatment plants are prepared by Nevada Licensed Professional Engineers. Such requirements greatly enhance the compliance rate for many of our NPDES facilities.

Inspections and Assistance

NDEP inspects all of its eleven major NPDES facilities on an annual basis, doubling the EPA national coverage goal of inspecting the majors every two years. At each of the major Publically Owned Treatment Works inspections, NDEP performs compliance sampling inspections (CIS) over a two-day period. Additionally, we conduct compliance evaluation inspections (CEI) on at least 20% of all minor NPDES facilities statewide each year. We do this because we know inspections are a critical factor in tracking and ensuring compliance for these key dischargers. Our stormwater inspection schedule is robust, and each year NDEP far exceeds the minimum criteria of site inspections for this program.

NDEP also believes public outreach and education efforts are key to a successful compliance program. Our efforts associated with public outreach and education continue to be effective in achieving and maintaining compliance. One example is the NPDES storm water program. We provide stormwater compliance workshops each year to developers, contractors, consultants, engineers and other interested parties. In 2010, NDEP participated in ten separate training sessions with NDOT to educate all of their field stations in stormwater permit requirements. Also, we assisted in training sessions for MS4 permittees in Clark County and Washoe County.

We continue to fund our wastewater operator's Circuit Rider Program even after federal funding stopped several years ago. This is because our program has proven to be significant for achieving compliance in the State of Nevada for the rural wastewater treatment plants.

Compliance inspections conducted by NDEP CWA Program:

	<u>Minimum Required</u>	<u>SFY2010</u>	<u>SFY2011</u>
Major NPDES CEI/CIS conducted	6	11	11
Minor NPDES CEI	16	17	22
Industrial stormwater inspections	75	698	183
Construction site stormwater inspections	150	690	710

Enforcement

NDEP uses both formal and informal enforcement to achieve compliance with all its permittees. Our priority is to get noncompliant facilities to return to compliance as quickly as possible and minimize environmental impacts. Tools that we use include Cease and Desist Orders, formal Findings of Alleged Violation and Orders, informal compliance Action Letters and Administrative Orders on Consent. Through the judicious use of these options, we are able to address compliance matters quickly and effectively.

NDEP maintains a database in which pertinent compliance and enforcement data are stored and managed. We are able to track submittal dates and follow up on failures to submit required reports. Exceedances of DMR limits are tracked to establish compliance histories of permittees. Our state database is the system of record and is available for public review. NDEP is currently enhancing the database to allow DMR data to be submitted electronically which will allow us to process DMRs more rapidly, and therefore address noncompliance issues in a timelier manner.

NDEP issues formal enforcement actions and collects penalties when necessary. Formal enforcement is implemented mainly in cases demonstrating culpability and harm to the environment, and also where corrective actions by the permittee are not being made or are not sufficient.

NDEP Enforcement Actions:

	<u>SFY2010</u>	<u>SFY2011</u>
Total NPDES Permittees	84	85
Informal enforcement actions	9	2
Formal enforcement actions	2	2
Compliance rate	87%	94%

Conclusion

To summarize, NDEP does not believe that a compliance and enforcement program should be evaluated merely by counting violations and the response to those violations. NDEP is proud of its compliance record and believes the compliance rate to be the true metric necessary to accurately represent the effectiveness and success of a compliance and enforcement program.

State Review Framework

Nevada Division of Environmental Protection
Clean Water Act, NPDES Program
Round 2 Report
for Federal Fiscal Year 2010

Final
February, 2014

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

Table of Contents

VII. Executive Summary

VIII. Background Information on State Program and Review Process

IX. Status of Outstanding Recommendations from Previous Reviews

X. Findings and Recommendations

XI. Appendices

A. Status of Recommendations from Previous Reviews

B. Official Data Pull

C. PDA Transmittal Letter

D. PDA Analysis Chart

E. PDA Worksheet

F. File Selection

G. File Review Analysis

H. Correspondence

I. EXECUTIVE SUMMARY

Major Issues

The SRF review of the State of Nevada identified the following major issues:

- None.

Summary of Programs Reviewed

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

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

- NDEP does not enter single event violations (SEVs) at major facilities into EPA's ICIS-NPDES database as required by EPA's data management policies.

The good practices include:

- NDEP exceeded EPA's NPDES inspection goals and national averages for inspection coverage in all categories of NPDES regulated facilities in FY 2010. NDEP inspected 100 percent of major facilities, 24 percent of minor facilities and more than 20 percent of stormwater dischargers.

Areas meeting SRF program requirements or with issues for attention and correction include:

- NDEP routinely enters required data into EPA's ICIS-NPDES that is complete, timely, and accurate.
- NDEP's inspection reports properly document and accurately describe inspection observations, however, some of NDEP's report formats do not include all of EPA's recommended elements.
- NDEP accurately and timely identifies facility effluent limit violations by tracking major facility discharge monitoring (DMR) results in EPA's ICIS-NPDES database.
- None of Nevada's 14 major facilities were in significant noncompliance (SNC) during FY10.
- NDEP's enforcement actions reviewed by EPA were timely and appropriate, and promote a return to compliance.
- Two of the three penalty actions reviewed included appropriate gravity and economic benefit calculations. All penalties were collected in cash payments as assessed with no offsets for supplemental environmental projects.

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

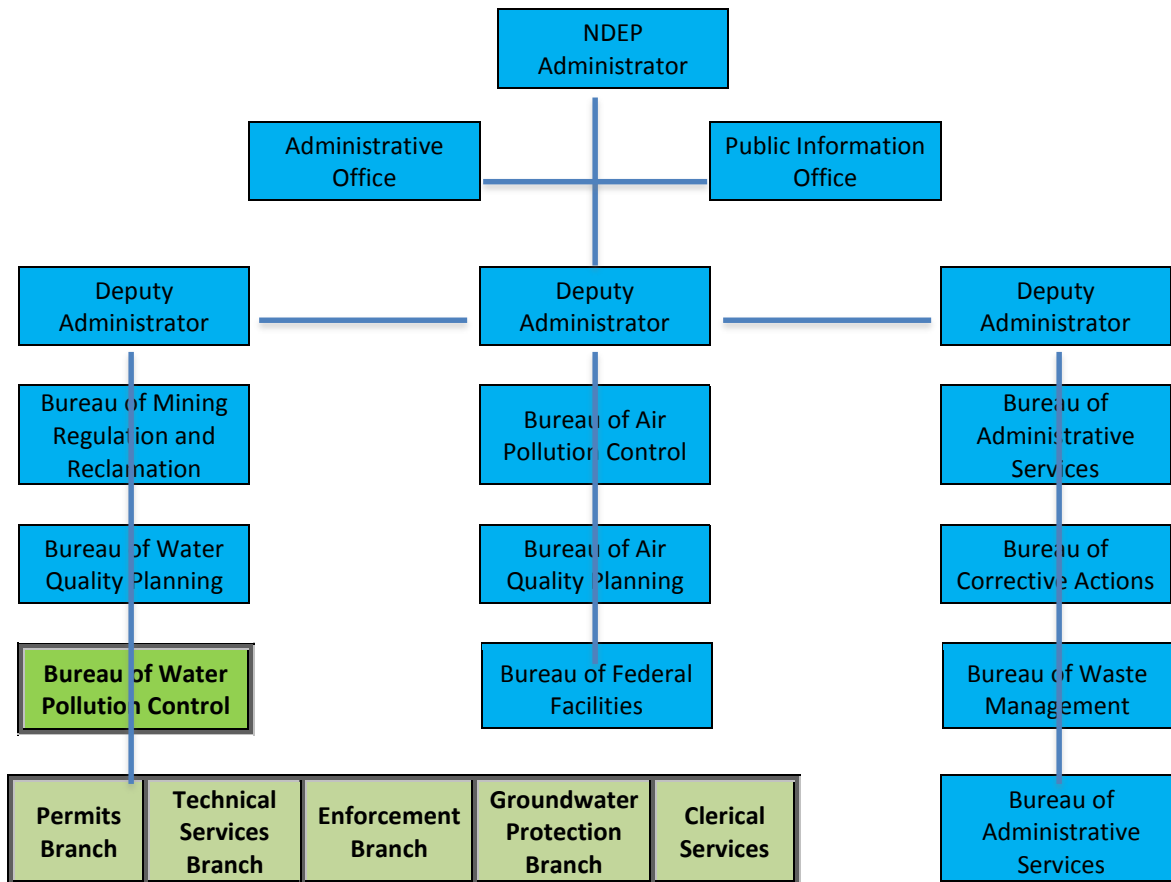
The State Review Framework (SRF) is a one tool for EPA oversight of state and EPA direct implementation compliance and enforcement programs in a nationally consistent and efficient manner. Reviews examine 12 program elements covering data (completeness, timeliness, and quality); inspections (coverage 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. EPA and the state discuss all aspects of the review to understand the causes of issues, and to seek agreement on identifying the actions needed to address problems.

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

A. GENERAL PROGRAM OVERVIEW

Agency Structure: The organization structure of the Nevada Division of Environmental Protection at the time of review is shown below. The NPDES compliance and enforcement program is managed within the Bureau of Water Pollution Control (see green highlighted box). At the writing of this report, NDEP was reorganizing its Bureau of Water Pollution Control to reconfigure the Branches represented in the organization chart below.



Roles, Responsibilities, and Staffing: For purposes of this review, only the Technical Services and Enforcement Branches are described below:

- **Technical Services Branch:** Responsible for conducting inspections, as follows: NPDES major and minor facilities; NPDES general permitted sites (construction, industrial, small MS4s); groundwater; permitted remediation projects; and complaint response. Ensures that stormwater sites have filed a Notice of Intent and reviews plans and specifications for proposed facilities. This branch has six inspectors and one supervisor.
- **Enforcement Branch:** Responsible for NPDES DMR review and compliance and enforcement activities related to NPDES and other facilities. Responsible for data entry into ICIS-NPDES the following items: NPDES major DMRs, NPDES major and minor permits and inspections, and formal enforcement actions. This branch has 3 staff and one

supervisor.

Compliance/Enforcement Program Structure: NDEP's NPDES compliance and enforcement program is centralized and conducted from one office in Carson City, Nevada.

Local Agencies Included/Excluded From Review: There are no NPDES program responsibilities assumed by other agencies.

Resources: As described above, 11 staff and supervisors are currently in place for implementing NDEP's NPDES compliance and enforcement program. The Technical Services and Enforcement Branches have three vacancies. Also, due to state budget constraints, all staff is furloughed one day each month. At the writing of this report, the Bureau of Water Pollution Control is reorganizing to support program implementation with a reduced staffing level.

Data reporting systems/architecture: NDEP enters the following NPDES information into EPA's ICIS-NPDES data system: major, minor, and general permits, major DMRs, major and minor inspections, and formal enforcement actions issued to major and minor facilities. The NDEP also maintains a separate data base for tracking major and minor permits and inspections, and general permitted facilities and inspections. NDEP manually reviews all minor facility DMRs and maintains a record of DMR review findings in the facility files.

B. MAJOR STATE PRIORITIES AND ACCOMPLISHMENTS

Priorities: *[NDEP, please enter a brief summary of NPDES compliance and enforcement priorities, and how they were established (e.g., legislature, EPA national priorities, tips/complaints).]*

Accomplishments:

- NDEP exceeded EPA's national NPDES inspection coverage goals and averages for all categories of inspections in FY 2010, as established by EPA's Compliance Monitoring Strategy (CMS). NDEP inspected 100 percent of major facilities, exceeding the 50 percent goal; 24 percent of minor facilities, exceeding the 20 percent goal; 29 percent of industrial stormwater facilities, exceeding the 10 percent goal; and 21 percent of Phase I and II construction facilities, exceeding the 10 percent and five percent goals.

C. PROCESS FOR SRF REVIEW

Key steps in the review of NDEP's NPDES compliance program are described below.

- **Review period:** Federal Fiscal Year (FFY) 2010 (October 1, 2009 through September 30, 2010)
- **Key dates:**
 - January 20, 2011, EPA Region 9 establishes a frozen data set (via OTIS) and generates the data query for the Preliminary Data Analysis (PDA)
 - February 2, 2011, EPA Region 9 transmits the PDA spreadsheet to NDEP for

- completion, along with the frozen data set.
 - February 24, 2011, EPA initiates by letter, its SRF evaluation of NDEP's enforcement activity for FFY 2010
 - March 4, 2011, NDEP transmits the completed PDA to EPA
 - April 29, 2011, EPA transmits to NDEP a revised PDA generated from EPA Headquarters' frozen data set and requests additional information.
 - May 3, 2011, NDEP transmits the completed spreadsheet to EPA
 - May 9-10, EPA conducts the on-site SRF review at the NDEP offices in Carson City, Nevada
 - June 30, 2011, EPA completes the SRF review at EPA offices in San Francisco, California
 - July 8, 2011, EPA and NDEP teleconference to discuss the SRF review findings.
- **Communication with NDEP:** Throughout the SRF process, EPA communicated with NDEP managers via official letters, emails, and phone calls. At the on-site opening meeting with NDEP managers, EPA explained the SRF purpose, process, and schedule. The programs areas to be evaluated (commitments, inspections, enforcement, and data management) were discussed along with the methods of evaluation (file and data review and interviews). A teleconference was held with the NDEP managers to discuss the review findings.
- **State and EPA contacts for review:**
 - NDEP: Dave Gaskin, Deputy Administrator, Environmental Programs (775-687-9032)
 Alan Tinney, Chief, Bureau of Water Pollution Control (775-687-9433)
 Cliff Lawson, Supervisor, Permits Branch (775-687-9414)
 Val King, Supervisor, Enforcement Branch (775-687-9427)
 - EPA: Ken Greenberg, Manager, CWA Compliance Office (415-972-3477)
 Jenee Gavette, Environmental Protection Specialist, CWA Compliance Office (415-972-3439)

III. STATUS OF OUTSTANDING RECOMMENDATIONS FROM PREVIOUS REVIEWS

During the first SRF review of NDEP's compliance and enforcement programs, EPA Region 9 and Nevada identified a number of actions to be taken to address issues found during the review. All actions have been satisfactorily addressed by NDEP. Appendix A contains a comprehensive list of completed actions for reference.

IV. FINDINGS

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

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

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

E1.01	Finding	NDEP routinely enters required data into EPA's ICIS-NPDES database.
	Finding is:	<input type="checkbox"/> Good Practice <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required
	Explanation	<p>During the FFY 2010 review period, the NDEP maintained a complete and accurate inventory of its NPDES permits by entering the following information into EPA's ICIS-NPDES database:</p> <ul style="list-style-type: none"> • NPDES major individual permits: Permit ID, permit tracking, inspections, pipe schedules, permit limits, discharge monitoring report (DMR) data, and formal enforcement. • NPDES major general permits: Permit ID. • NPDES non-major (minor) individual permits: Permit ID, inspections, and formal enforcement. • NPDES non-major general permits: Permit ID. <p>NDEP's permit limit and DMR data entry rates for major individual permits exceeds the national goals set forth in EPA's national data management policies. These policies establish data elements known as the Water Enforcement National Database (WENDB), along with standards for data in terms of completeness, accuracy, and timeliness.</p>
	Metric(s) and Quantitative Value	<p><i>1-a-1. Number of NPDES majors with individual permits: 14</i> <i>1-a-2. Number of NPDES majors with general permits: 0</i> <i>1-a-3. Number of NPDES non-majors with individual permits: 75 (at end of state FY).</i> <i>1-a-4. Number of NPDES non-majors with general permits: 5 general permits.</i> <i>1-b-1. Of majors with individual permits, the percent with permit limits present in the national database: 100% compared to the national goal of 95% and the national average entry rate of 92.9%.</i> <i>1-b-2. DMR entry rate for those majors with individual permits with multiple outfalls present in the national database: DMR entry rate for 100% compared to the national goal of 95% and the national average entry rate of 96.9%.</i> <i>1-b-3. Of majors with individual permits, percent with DMR data in the national database: 100% compared to the national goal of 95% and national average entry rate of 93.7%.</i> <i>1-b-4. Rate of manual override of RNC/SNC of major facilities to a compliant status: 0</i> <i>1-c-1, 1-c-2, 1-c-3. Of non-majors with individual permit limits, the percent with permit limits, DMRs with multiple outfalls, and DMR present in the national database: Zero. This information is not</i></p>

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

	<p>required to be entered per EPA data management policy; NDEP does not enter this information into ICIS-NPDES.</p> <p><i>1-d-1, 1-d-2, 1-d-3. Noncompliance rate in database at non-major facilities individual permits, reported under the Annual Noncompliance Report, and DMR nonreceipt in database:</i> This information is not required to be entered per EPA's data management policy; NDEP does not enter this information into ICIS-NPDES.</p> <p><i>1-e-1, 1-e-2. Informal actions at major facilities:</i> Zero. NDEP had no informal actions against major facilities during the review period.</p> <p><i>1-e-3, 1-e-4. Informal actions at non-major facilities:</i> EPA's data management policy does not require states to enter informal actions against non-majors; NDEP does not enter this information in ICIS-NPDES.</p> <p><i>If: Formal actions at major and non-major facilities:</i> the NDEP normally enters its formal enforcement actions for major and minor facilities in ICIS-NPDES as required. NDEP missed entering one major facility formal action, but has since corrected the omission.</p> <p><i>1g-1, 1-g-2: Number of enforcement actions with penalties and Total State Penalties:</i> States are only required to enter penalty actions and amounts for judicial actions; NDEP had no judicial penalties during FY10 and does not enter its administrative penalty actions in ICIS-NPDES.</p> <p><i>1-g-3: Total penalties assessed pursuant to civil judicial settlements:</i> N/A, NDEP had no judicial penalties during the review period.</p> <p><i>1-g-4: Total penalties assessed pursuant to administrative actions:</i> States are not required to enter administrative penalty data in ICIS-NPDES; NDEP does not enter this information.</p> <p><i>1-g-5: Number of penalties taken by state in FY:</i> States are only required to enter penalty actions and amounts for judicial actions; NDEP had no judicial penalties during FY10 and does not enter its administrative penalty actions in ICIS-NPDES.</p>
State Response	
Recommendations	None

Elements 2: Data accuracy. Degree to which data reported in the national system is accurately entered and maintained.

E2.01	Finding	NDEP's inspections and enforcement actions are accurately reported to EPA's ICIS-NPDES database.
	Finding is:	<input type="checkbox"/> Good Practice <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required
	Explanation	NDEP's inspections and enforcement actions are accurately reported to EPA's ICIS-NPDES database as required by EPA's data management policies.
	Metric(s) and Quantitative Value	<i>2-a. Actions linked to violations at major facilities:</i> NDEP had no enforcement actions against majors in FFY10, therefore, N/A, <i>2-b. % of files reviewed where data is accurately reflected in the national database:</i> 100%.
	State Response	
	Recommendations	None

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

E3.01	Finding	The NDEP routinely enters data into EPA's ICIS-NPDES database in a timely manner.
	Finding is:	<input type="checkbox"/> Good Practice <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required
	Explanation	During the FFY 2010 review period, NDEP timely entered required data into EPA's ICIS-NPDES database as set forth in EPA's national data management policies.
	Metric(s) and Quantitative Value	<i>3a: Percent change in each of the data metrics that represent required data:</i> NDEP timely entered 100% of required data into ICIS-NPDES.
	State Response	
	Recommendations	None

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

E4.01	Finding	NDEP completed their inspections in accordance with their Compliance Monitoring Strategy (CMS) inspection plan. See Element 5 findings.
	Finding is:	<input type="checkbox"/> Good Practice <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required
	Explanation	NDEP did not use the CWA 106 grant to fund their NPDES activities. Therefore they have no enforcement or compliance commitments other than the state/EPA CMS inspection plan. NDEP completed their inspections in accordance with the CMS plan (see Element 5 findings).
	Metric(s) and Quantitative Value	<i>4-a. % planned inspections completed: 100%</i> <i>4-b: Planned commitments completed: 100%, per CMS plan</i>
	State Response	
	Recommendations	None

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

E5.01	Finding	NDEP met and exceeded EPA’s national inspection goals and averages for all categories of inspections.
	Finding is:	<input checked="" type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required
	Explanation	<p>NDEP efficiently utilized its limited resources on inspection coverage, one of NDEP’s top priorities. NDEP met and exceeded EPA’s national inspection goals and averages for all categories of inspections.</p> <p>Inspections at Majors: In FFY 2010, NDEP inspected each of its active NPDES major non-stormwater facilities (100% coverage), exceeding EPA’s national coverage goal of 100% of majors inspected every two years, and the national average inspection rate of 60.7%.</p> <p>Inspections at Minors: During state FY 2010, the NDEP conducted at least one inspection at 24% of its NPDES minor facilities with individual permits, exceeding EPA’s national coverage goal of 20%.</p> <p>General Permit Inspections: In FFY 2010, the NDEP inspected 29% of its stormwater industrial facilities and 21% of its Phase I and II construction facilities. This exceeds EPA’s national goal of 10% for industrial and 10% and 5% for construction Phase I and II.</p>
	Metric(s) and Quantitative Value	<p><i>5-a. Inspections at NPDES majors with individual permits or general permits: 100% coverage compared to the national goal and national coverage average of 50% and 60.7 %.</i></p> <p><i>5-b-1. Inspections at NPDES non-majors with individual permits (i.e., minors): 24% inspected, compared to national coverage goal of 20%.</i></p> <p><i>5-b-2. Inspections at NPDES non-majors with general permits: N/A</i></p> <p><i>5-c. Other inspections performed for non-major NPDES permittees whose permit address solely stormwater, pretreatment, CAFOs, or CSOs: Coverage rates are 29% of stormwater industrial facilities and 21% of Phase I and II construction sites. This exceeds EPA’s national goal of 10% for industrial and 10% and 5% for construction Phase I and II.</i></p>
	State Response	
	Recommendations	None

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

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

E6.01	Finding	NDEP’s inspection reports properly document and accurately describe inspection observations.
	Finding is:	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input checked="" type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required
	Explanation	<p>The EPA evaluated NDEP’s reports from 38 inspections conducted at 22 different facilities in FFY and FY 2010. Most of the inspection reports included a completed EPA Form 3560-3, and properly and accurately documented the following:</p> <ul style="list-style-type: none"> ▪ NPDES/ID number, facility name, address, and description, inspection participants; ▪ inspection date, type and purpose, regulated activities pertinent to the inspection, regulated areas evaluated; ▪ inspector observations, deficiencies, findings, documentary support (photos, statements, records, etc.), compliance conclusions, corrective actions taken by facilities; ▪ inspector signature and date. <p>Even though most reports included these categories, not all information was consistently included in each report. Many reports had minor omissions that did not affect the quality of the reports. Several reports omitted inspection time. A few reports did not identify the areas subject to inspection and did not clarify if the regulated areas were inspected. While most reports mentioned the “permit” or other requirements, some did not cite the requirements, and did not relate the observations back to cited requirements. NDEP does not use inspection checklists, but is considering EPA’s inspection checklist form as a model for revisions to its standard report formats. Despite the omission of certain elements from EPA’s report guidance, a majority of NDEP’s reports sufficiently documented observations to make a compliance determination.</p>

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

<p>Metric(s) and Quantitative Value</p>	<p><i>6-a. Number of inspection reports reviewed: 38 reports from inspections of 22 facilities.</i> <i>6-b. % of reports reviewed that are complete: 5% of the reports reviewed were complete, per EPA’s SRF review criteria (many reports had minor omissions that did not affect the report findings).</i> <i>6-c. % of reports reviewed that provide sufficient documentation to lead to an accurate compliance determination: 97 % of the reports reviewed provide sufficient documentation.</i> <i>6-d. % of reports reviewed that are timely: 100% of the reports reviewed were prepared timely.</i></p>
<p>State Response</p>	
<p>Recommendations</p>	<p>None</p>

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.

E7.01	Finding	NDEP accurately and timely identifies facility effluent limit violations by tracking major DMR results in EPA’s ICIS-NPDES database.
	Finding is:	<input type="checkbox"/> Good Practice <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required
	Explanation	NDEP enters all major NPDES facility DMRs into EPA’s ICIS-NPDES database, providing NDEP with accurate information on violations at major facilities. One of Nevada’s 14 major facilities (7.1%) had one or more effluent violations in FFY 2010, lower than the national average violation rate of 52.8 percent.
	Metric(s) and Quantitative Value	<i>7-d. Percentage of major facilities with DMR violations reported to the national database:</i> One of Nevada’s 14 facilities had one or more effluent violations correctly reported to the database, representing 7.1% noncompliance, lower than the national average violation rate of 52.8 percent.
	State Response	
	Recommendations	None

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

E7.02	Finding	NDEP does not enter single event violations (SEVs) into EPA’s ICIS-NPDES database. However, NDEP uses its state database to track stormwater general permit SEVs observed during inspections. This is a data management issue and does not hinder NDEP’s ability to identify and track violations.
	Finding is:	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input checked="" type="checkbox"/> Area for State Improvement – Recommendations Required
	Explanation	<p>EPA’s data management policy requires that states enter SEVs in the ICIS-NPDES database for major facilities only. NDEP does not enter SEVs into EPA’s ICIS-NPDES database for majors or any other NPDES regulated facilities. SEVs are violations discovered by means other than DMR-reported effluent limit violations. Examples of SEVs include spills or violations observed during an inspection. Entering major facility SEVs in ICIS-NPDES would give EPA and the public access to a more complete listing of violations at Nevada NPDES facilities.</p> <p>Although NDEP does not enter SEVs in ICIS-NPDES, they use their state database to identify and track stormwater general permit SEVs. This has been an efficient and effective tool for NDEP to track SEVs at the large number of storm water permittees.</p>
	Metric(s) and Quantitative Value	<p><i>7-a1. Number of single-event violations at active majors reported to national system: Zero. NDEP does not enter SEVs in EPA’s ICIS-NPDES database.</i></p> <p><i>7-a2. Number of single-event violations at active non-majors reported to national system: Zero. EPA’s data management policy does not require states to enter SEVs for non-major facilities and NDEP does not enter SEVs in EPA’s ICIS-NPDES database.</i></p> <p><i>7-b. Compliance schedule violations at active majors: Zero</i></p> <p><i>7-c. Permit schedule violations at active majors: Zero.</i></p> <p><i>7-e. % of reports reviewed that led to accurate compliance determination: 97 % of the reports reviewed provide sufficient documentation.</i></p>
	State Response	
	Recommendations	EPA is now consulting with NDEP about options and procedures for entering SEVs into ICIS-NPDES so that NDEP will begin entering SEVs by December 31, 2014.

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

E8.01	Finding	During FFY 2010, none of Nevada’s major individual facilities were in significant noncompliance (SNC), better than the national average SNC rate of 24.6%.
	Finding is:	<input type="checkbox"/> Good Practice <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required
	Explanation	NDEP prepares Quarterly Noncompliance Reports (QNCRs), which identify major individual facility violations that meet EPA’s criteria for SNC. In FFY 2010, there were no Nevada major facilities in SNC for effluent limit violations or for failure to submit required DMRs.
	Metric(s) and Quantitative Value	<i>8-a-1. Number of active majors in SNC during reporting year: Zero. None of the 14 majors were in SNC during FFY2010.</i> <i>8-a-2. Percent of active majors in SNC during the reporting year: 0%, lower than the national average of 24.6%.</i> <i>8-b. Percent of SEVs that are accurately identified as SNC or non-SNC in major facility inspection reports that were reviewed: 100%</i> <i>8-c: Percent of SNC SEVs timely reported to ICIS-NPDES: N/A</i> <i>8-d. Wet weather SNC placeholder: metric(s) likely to be developed in the future: N/A</i>
	State Response	
	Recommendations	None

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

E9.01	Finding	NDEP’s enforcement actions include required corrective actions and have been effective at returning facilities to compliance. Of the 14 enforcement actions reviewed, all of the facilities returned to compliance or remain open with enforceable deadlines.
	Finding is:	<input type="checkbox"/> Good Practice <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required
	Explanation	<p>During the FFY 2010 review period, NDEP issued 96 enforcement actions, including 88 Notices of Noncompliance (NONCs), five Warning Letters, two Findings of Alleged Violation and Orders (FAVOs-formal); and one Notice of Intent to Seek Penalty. There were no violations classified as SNC during FFY 2010.</p> <p>NDEP’s NONCs are informal enforcement actions used at general permitted stormwater facilities that identify violations and may or may not include deadlines for a return to compliance or for corrective actions.</p> <p>NDEP’s warning letters are informal enforcement actions that identify violations and may or may not include deadlines for a return to compliance or for corrective actions.</p> <p>NDEP’s FAVOs are formal enforcement actions that cite the alleged violations, establish enforceable deadlines for a return to compliance, and require a meeting to show cause why NDEP should not seek a civil penalty for the cited violations. Failure to comply with an FAVO can result in judicial action. One hundred percent of the FAVOs reviewed by EPA required corrective action within a specified timeframe and the subject facilities have returned to compliance.</p> <p>When NDEP has determined that a facility has complied with warning letters and FAVOs, NDEP notifies the facility in writing and closes the case. When NDEP has determined that a facility has complied with a NONC, NDEP verbally notifies the facility, and enters the status in its database.</p> <p>The enforcement actions reviewed by EPA are listed below.</p>

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

Metric(s) and Quantitative Value	<p>9.a. Number of formal/informal enforcement responses reviewed: three formal; eight informal reviewed; three penalties</p> <p>9.b. % of enforcement responses reviewed that have returned or will return a source in SNC to compliance: N/A—There were no SNC facilities during FFY2010</p> <p>9.c. % of enforcement responses reviewed that have returned or will return a source with non-SNC violations to compliance: 100%</p>
State Response	
Recommendations	None

Enforcement Actions Reviewed				
Facility		Formal	Informal	Penalty
Minor	Harrahs	FAVO	3/28/2010	1/25/2011
	Fountainbleau		Warning Letter	6/27/2010
	Hawthorne Army Depot		Warning Letter	3/26/2010
			Warning Letter	12/4/2009
	Ponderosa Dairy		Warning Letter	3/10/2010
Small MS4	Carson City	FAVO	8/19/2009	3/5/2010
Unpermitted	Tahoe Estates	FAVO	9/23/2009	1/26/2011
Stormwater	Boulder Village		NONC	8/18/2010
	Highway System SR317		NONC	2/28/2010
			NONC	4/27/2010
	Coyote Springs Valley Well		NONC	2/24/2010
Totals		3	8	3

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

E10.01	Finding	NDEP effectively and timely manages its noncompliant facilities with appropriate enforcement responses.
	Finding is:	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input checked="" type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required
	Explanation	NDEP effectively and timely manages its noncompliant facilities with a variety of enforcement responses. During the FFY 2010 review period, NDEP issued 98 enforcement actions, including 88 Notices of Noncompliance (NONCs), five Warning Letters, two Findings of Alleged Violation and Orders (FAVOs-formal); and one Notice of Intent to Seek Penalty. All of these enforcement actions were against non-major facilities. NDEP did not have any major facilities in SNC during FFY 2010. For the files reviewed, it appears that NDEP addressed violations with the appropriate type of enforcement response. EPA notes, however, that for the overall FY10 enforcement numbers, a high proportion of violations were resolved through informal actions (i.e. 93 NONCs or Warning Letters) rather than formal action (2 FAVO and 1 penalty). EPA believes a strong enforcement program utilizes the full range of available enforcement tools, and should include an appropriately robust use of formal enforcement actions.
	Metric(s) and Quantitative Value	<i>10-a. Major facilities in SNC without timely action: N/A</i> <i>10-b. % of enforcement responses reviewed that address SNC that are taken in a timely manner: N/A</i> <i>10-c. % of enforcement responses reviewed that address SNC that are appropriate to the violations: N/A</i> <i>10-d. % of enforcement responses reviewed that appropriately address non-SNC violations: 100%</i> <i>10-e. % of enforcement responses reviewed for non-SNC violations where a response was taken timely: 100%</i>
	State Response	
	Recommendations	None

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

E11.01	Finding	EPA reviewed three penalty actions taken by NDEP, and found that the NDEP assessed appropriate penalties that considered both gravity and economic benefit in two of the three penalties.
	Finding is:	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input checked="" type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required
	Explanation	<p>Two of the penalty actions reviewed appear to be consistent with NDEP’s <i>Enforcement Manual</i>, and appropriately considered both gravity and economic benefit. The calculated penalties were appropriate for the types and length of the violations. For the third penalty action reviewed, NDEP’s penalty calculation properly accounted for the gravity of the violations. NDEP did not add an economic benefit component to its penalty calculation despite correspondence from the discharger detailing its expenditures to comply with NDEP’s FAVO.</p> <p>Where appropriate, information on the economic benefit for non-compliance (i.e., actual or avoided costs encumbered by the facility) should be obtained directly from the facility and considered as a component of the assessed penalty. Facility cost data can be entered into the BEN model or state method that is equivalent to and consistent with EPA’s national policy.</p>
	Metric(s) and Quantitative Value	<i>Element 11-a. % of penalty calculations that consider and include where appropriate gravity and economic benefit: of the cases reviewed, 66% calculated appropriate gravity and economic benefit</i>
	State Response	
	Recommendations	

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

E12.01	Finding	EPA reviewed three penalty actions taken by NDEP, and found that NDEP collected all penalties as assessed. The penalty information and status are properly documented in NDEP's files.
	Finding is:	<input type="checkbox"/> Good Practice <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required
	Explanation	For the three penalty actions reviewed by EPA, NDEP assessed a total amount of \$94,000 and collected \$94,000. Each penalty was collected as a cash payment with no supplemental environmental project as an offset.
	Metric(s) and Quantitative Value	<i>12-a. % of penalties reviewed that document the difference and rationale between the initial and final assessed penalty: 100%; NDEP properly documented that there was no difference between initial and final penalty assessments.</i> <i>12-b. % of enforcement actions with penalties that document collection of penalty: 100% documented the penalty collection.</i>
	State Response	
	Recommendations	None

APPENDIX A: STATUS OF RECOMMENDATIONS FROM PREVIOUS REVIEWS

During the first SRF review of NDEP's compliance and enforcement programs, EPA Region 9 and Nevada 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	E#	Element	Explanation	Finding
NV - Round 1	Completed	12/31/2009	CWA	E2	Violations ID'ed Appropriately	Nevada DEP should prepare reports for all of its storm water inspections.	Nevada DEP logs inspection findings in its storm water database and prepares written Notices of Noncompliance to document deficiencies observed during inspections. NDEP does not use an inspection checklist form or otherwise prepare reports for its storm water inspections.
NV - Round 1	Completed	12/31/2009	CWA	E1	Insp Universe	NDEP should conduct MS4 inspections.	NDEP conducted MS4 inspections at Reno and Clark County in 2008.
NV - Round 1	Completed	12/31/2009	CWA	E5	Return to Compliance	NDEP should keep copies of all enforcement actions, including NONCs, in its enforcement case files.	In 2008, NDEP ensured that copies of NONCs are placed in case files.
NV - Round 1	Completed	12/31/2009	CWA	E5	Return to Compliance	NDEP should escalate cases to formal enforcement orders, especially for significant violations, nonresponsive respondents or long duration remedies.	NDEP uses informal enforcement actions as its primary enforcement response for storm water violations.
NV - Round 1	Completed	9/30/2011	CWA	E8	Penalties Collected	NDEP should review its penalty policy and practice of diverting 100% of penalty to SEPs.	NDEP often diverts 100% of penalty to SEPs.
NV - Round 1	Completed	12/31/2009	CWA	E12	Data Complete	NDEP should enter its enforcement actions in ICIS-NPDES.	NDEP is not entering all of its enforcement actions in ICIS-NPDES.

APPENDIX B: OFFICIAL DATA PULL

OTIS State Review Framework Drill Down				(Review Period Ending: FFY10)					
Frozen Data FY2010				FINAL PRELIMINARY DATA ANALYSIS (PDA) SHEET					
				Report Generated on 4/26/2011					
Metric	Metric Description	Metric Type	Agency	National Goal	National Average	Nevada Metric Froz	Count Froz	Universe Froz	Not Counted Froz
P01A1C	Active facility universe: NPDES major individual permits (Current)	Data Quality	Combined			14	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			97	NA	NA	NA
P01A4C	Active facility universe: NPDES non-major general permits (Current)	Data Quality	Combined			0	NA	NA	NA
P01B1C	Major individual permits: correctly coded limits (Current)	Goal	Combined	>=; 95%	92.9%	100.0%	11	11	0
C01B2C	Major individual permits: DMR entry rate based on MRs expected (Forms/Forms) (1 Qtr)	Goal	Combined	>=; 95%	93.7%	100.0%	112	112	0
C01B3C	Major individual permits: DMR entry rate based on DMRs expected (Permits/Permits) (1 Qtr)	Goal	Combined	>=; 95%	96.9%	100.0%	11	11	0
P01B4C	Major individual permits: manual RNC/SNC override rate (1 FY)	Data Quality	Combined			0 / 0	0	0	0
P01C1C	Non-major individual permits: correctly coded limits (Current)	Informational Only	Combined			0 / 0	0	0	0
C01C2C	Non-major individual permits: DMR entry rate based on DMRs expected (Forms/Forms) (1 Qtr)	Informational Only	Combined			0 / 0	0	0	0
C01C3C	Non-major individual permits: DMR entry rate based on DMRs expected (Permits/Permits) (1 Qtr)	Informational Only	Combined			0 / 0	0	0	0
P01D1C	Violations at non-majors: noncompliance rate (1 FY)	Informational Only	Combined			0.0%	0	97	97
C01D2C	Violations at non-majors: noncompliance rate in the annual noncompliance report (ANCR)(1 CY)	Informational Only	Combined			0 / 0	0	0	0
P01D3C	Violations at non-majors: DMR non-receipt (3 FY)	Informational Only	Combined			0	NA	NA	NA
P01E1S	Informal actions: number of major facilities (1 FY)	Data Quality	State			0	NA	NA	NA
P01E2S	Informal actions: number of actions at major facilities (1 FY)	Data Quality	State			0	NA	NA	NA
P01E3S	Informal actions: number of non-major facilities (1 FY)	Data Quality	State			1	NA	NA	NA

OTIS State Review Framework Drill Down

(Review Period Ending: FFY10)

FINAL PRELIMINARY DATA ANALYSIS (PDA) SHEET

Frozen Data FY2010

Report Generated on 4/26/2011

Metric	Metric Description	Metric Type	Agency	National Goal	National Average	Nevada Metric Froz	Count Froz	Universe Froz	Not Counted Froz
P01E4S	Informal actions: number of actions at non-major facilities (1 FY)	Data Quality	State			1	NA	NA	NA
P01F1S	Formal actions: number of major facilities (1 FY)	Data Quality	State			0	NA	NA	NA
P01F2S	Formal actions: number of actions at major facilities (1 FY)	Data Quality	State			0	NA	NA	NA
P01F3S	Formal actions: number of non-major facilities (1 FY)	Data Quality	State			0	NA	NA	NA
P01F4S	Formal actions: number of actions at non-major facilities (1 FY)	Data Quality	State			0	NA	NA	NA
P01G1S	Penalties: total number of penalties (1 FY)	Data Quality	State			0	NA	NA	NA
P01G2S	Penalties: total penalties (1 FY)	Data Quality	State			\$0	NA	NA	NA
P01G3S	Penalties: total collected pursuant to civil judicial actions (3 FY)	Data Quality	State			\$0	NA	NA	NA
P01G4S	Penalties: total collected pursuant to administrative actions (3 FY)	Informational Only	State			\$0	NA	NA	NA
P01G5S	No activity indicator - total number of penalties (1 FY)	Data Quality	State			\$0	NA	NA	NA
P02A0S	Actions linked to violations: major facilities (1 FY)	Data Quality	State	>=, 80%		0 / 0	0	0	0
P05A0S	Inspection coverage: NPDES majors (1 FY)	Goal	State	100%	60.7%	90.9%	10	11	1
P05B1S	Inspection coverage: NPDES non-major individual permits (1 FY)	Goal	State			9.6%	9	94	85
P05B2S	Inspection coverage: NPDES non-major general permits (1 FY)	Goal	State			0 / 0	0	0	0
P05C0S	Inspection coverage: NPDES other (not 5a or 5b) (1 FY)	Informational Only	State			0.0%	0	6	6
P07A1C	Single-event violations at majors (1 FY)	Review Indicator	Combined			0	NA	NA	NA
P07A2C	Single-event violations at non-majors (1 FY)	Informational Only	Combined			0	NA	NA	NA
P07B0C	Facilities with unresolved compliance schedule violations (at end of FY)	Data Quality	Combined		22.6%	0 / 0	0	0	0
P07C0C	Facilities with unresolved permit schedule violations (at end of FY)	Data Quality	Combined		21.9%	0 / 0	0	0	0
P07D0C	Percentage major facilities with DMR violations (1 FY)	Data Quality	Combined		52.8%	7.1%	1	14	13
P08A1C	Major facilities in SNC (1 FY)	Review Indicator	Combined			0	NA	NA	NA
P08A2C	SNC rate: percent majors in SNC (1 FY)	Review Indicator	Combined		24.6%	0.0%	0	14	14

OTIS State Review Framework Drill Down

(Review Period Ending: FFY10)

Frozen Data FY2010

FINAL PRELIMINARY DATA ANALYSIS (PDA) SHEET

Report Generated on 4/26/2011

Metric	Metric Description	Metric Type	Agency	National Goal	National Average	Nevada Metric Froz	Count Froz	Universe Froz	Not Counted Froz
P10A0C	Major facilities without timely action (1 FY)	Goal	Combined	< 2%	18.3%	0.0%	0	14	14

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.

EPA State Review Framework (SRF) first steps and visit to Nevada DEP

02/02/2011 **Jenee Gavette** to: vking
03:33 PM

Cc: Ken Greenberg, Julie Anderson, Laura Bose

From: Jenee Gavette/R9/USEPA/US

To: vking@ndep.nv.gov

Cc: Ken Greenberg/R9/USEPA/US@EPA, Julie Anderson/R9/USEPA/US@EPA, Laura Bose/R9/USEPA/US@EPA

Hi Val,

Per your recent discussions with Ken Greenberg, EPA's State Review Framework (SRF) review of Nevada's FY2010 Clean Water Act (CWA) program has been scheduled for the week of March 14, 2011. I suggest that we visit your offices on March 15-18, 2011. Please confirm if these dates are suitable.

With this e-mail, I'm sending you instructions on the State Review Framework (SRF) and, in particular, how to complete your part of the first step in the SRF process - the Preliminary Data Analysis (PDA). When the PDA is completed, we can proceed with the file selection.

This is the SRF homepage on the OTIS web site. You should be able to access this web site from your office, but not from home. From the SRF homepage, you can read SRF instructions under the "SRF Documentation" link. (I pulled a few key instructions from this Documentation page and attached them below.) Here's the homepage:

<http://www.epa-otis.gov/otis/stateframework.html>

The attached PDF (Nevada FY10 SRF OTIS Results 1.20.11) is the summary report that lists the results of the SRF data query (generated on January 20, 2011) for Nevada FY10 data for each SRF metric.



Nevada FY10 SRF OTIS Results 1.20.11.pdf

The attached excel spreadsheet (Nevada FINAL FY10 SRF OTIS Report and Metrics Frozen on 1.20.11), contains the summary report described above along with the related detailed results as further described below.

This excel spreadsheet is a download of Region 9's Nevada FY2010 data query, generated on January 20, 2011. This will be our "frozen" data set and will be used for the SRF review. The spreadsheet includes several worksheets that contain the report results and drill down data sets for each metric, where applicable. The **second** worksheet in the spreadsheet, titled "OTIS NV 2010 SRF Summary & PDA", has extra columns that can be used to record information about data discrepancies. You should complete columns K, L, M, and N. Column M is where you insert the correct number if the figures in columns G through J are incorrect. Each discrepancy/correction should be supported by a spreadsheet that provides a detailed list, by facility, that provides the pertinent information, i.e., facility name, facility type and sub-type, permit no, type of action (eg. type of inspection, type of enforcement action, etc.), and related dates, etc. This step is known as the Preliminary Data Analysis (PDA).



Nevada FINAL FY10 SRF OTIS Report and Metrics FROZEN on 1.20.11.xls

Here are instructions for the PDA. At this point, we're asking you to work only on step 1. This is the data reconciliation step in which you review the attached Nevada FY 2010 data query and resolve data discrepancies.



PDA Overview and Template 82508.pdf

Once we receive the completed PDA and complete our review, we will proceed with Step 2, file selection.

Finally, I'm attaching two files that provide an explanation of the data metrics:



cwadatametric-final-3-11-09 version 2.2.pdf Final SRF CWA PLG 3-11-2009 Version 2.2.pdf

Please submit the complete PDA by February 16, 2010 to ensure time for our review, to resolve any questions, and to allow enough time for file selection and preparation.

I will call you early next week (week of February 7, 2011) to walk you through this data reconciliation process. Also, in the meantime, please do not hesitate to contact me if you have any questions.

Jenee Gavette
Water Division Compliance Office (WTR-7)
U.S. Environmental Protection Agency, Region
75 Hawthorne Street
San Francisco, CA 94105
415-972-3439 (phone)
415-947-3537 (fax)
gavette.jenee@epa.gov

RE: SRF 2nd Round: revised PDA, file review list, and review dates--now with attachments

04/29/2011
01:22 PM

Jenee Gavette to: Valerie King

04/29/2011 01:22 PM

Cc: Ken Greenberg

From: Jenee Gavette/R9/USEPA/US
To: Valerie King <vking@ndep.nv.gov>
Cc: Ken Greenberg/R9/USEPA/US@EPA

Hi Val, thanks for your quick response. I will contact you next week about the particulars of our visit. Sorry, I failed to add the attachment in my previous email . . . sigh . . .

In this email, I have provided two attachments:

- I. A new PDA because EPA HQs has recently frozen the data and we now have an official data set (final FY10 SRF OTIS Report & Metrics-attached). There are a few revised numbers and the associated supporting lists are different. I copied your comments--verbatim--from your first PDA submittal and pasted them into this new PDA (green-colored entries). I also provided explanations and requests for additional info, etc. in the new PDA (see peach-colored entries).
- II. The list of files we have selected for our CWA SRF on-site review, scheduled for May 9-10, 2011. The list represents each CWA program, facility type, and includes 29 facilities that had compliance or enforcement activity--inspections, enforcement, violations, --during FFY2010). Please make available all compliance and enforcement files (DMRs, inspection reports, enforcement and penalty documents, etc.) related to each facility so that we may begin reviewing them on May 9. Please note that I need additional information for some of the facilities so that I can finalize the review list, as follows: Please provide correct information where there are questions marks (?) for Tahoe Estates, Clark County WRDs, Lander County, Ponderosa Dairy, & Carson City).

Can you please provide the requested information for the PDA and file review list, as well as comments and the correct numbers on any discrepancies you identify, and provide the requested supporting information by May 4, 2011. Please contact me if you have any questions.

Thanks, and have a good weekend.



Nevada FINAL FY10 SRF OTIS Report and Metrics FROZEN on 4.26.11.xls



NV Preliminary FY10 SRF File Review List 4.29.11.xlsx

Jenee Gavette
Water Division Compliance Office (WTR-7)
U.S. Environmental Protection Agency, Region
75 Hawthorne Street
San Francisco, CA 94105
415-972-3439 (phone)
415-947-3537 (fax)

gavette.jene@epa.gov

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.

OTIS State Review Framework Drill Down				(Review Period Ending: FFY10)			
Frozen Data FY2010		FINAL PRELIMINARY DATA ANALYSIS (PDA) SHEET					
Report Generated on 4/26/2011							
Metric	Metric Description	Metric Type	Agency	National Goal	National Average	Nevada Metric Frozen	EPA Initial Findings
P01A1C	Active facility universe: NPDES major individual permits (Current)	Data Quality	Combined			14	
P01A2C	Active facility universe: NPDES major general permits (Current)	Data Quality	Combined			0	
P01A3C	Active facility universe: NPDES non-major individual permits (Current)	Data Quality	Combined			97	
P01A4C	Active facility universe: NPDES non-major general permits (Current)	Data Quality	Combined			0	Need inventory for each permit type
P01B1C	Major individual permits: correctly coded limits (Current)	Goal	Combined	>=; 95%	92.9%	100.0%	
C01B2C	Major individual permits: DMR entry rate based on MRs expected (Forms/Forms) (1 Qtr)	Goal	Combined	>=; 95%	93.7%	100.0%	
C01B3C	Major individual permits: DMR entry rate based on DMRs expected (Permits/Permits) (1 Qtr)	Goal	Combined	>=; 95%	96.9%	100.0%	
P01B4C	Major individual permits: manual RNC/SNC override rate (1 FY)	Data Quality	Combined			0 / 0	
P01C1C	Non-major individual permits: correctly coded limits (Current)	Informational Only	Combined			0 / 0	

OTIS State Review Framework Drill Down

(Review Period Ending: FFY10)

Frozen Data FY2010

FINAL PRELIMINARY DATA ANALYSIS (PDA) SHEET

Report Generated on 4/26/2011

Metric	Metric Description	Metric Type	Agency	National Goal	National Average	Nevada Metric Frozen	EPA Initial Findings
C01C2C	Non-major individual permits: DMR entry rate based on DMRs expected (Forms/Forms) (1 Qtr)	Informational Only	Combined			0 / 0	
C01C3C	Non-major individual permits: DMR entry rate based on DMRs expected (Permits/Permits) (1 Qtr)	Informational Only	Combined			0 / 0	
P01D1C	Violations at non-majors: noncompliance rate (1 FY)	Informational Only	Combined			0.0%	
C01D2C	Violations at non-majors: noncompliance rate in the annual noncompliance report (ANCR)(1 CY)	Informational Only	Combined			0 / 0	
P01D3C	Violations at non-majors: DMR non-receipt (3 FY)	Informational Only	Combined			0	
P01E1S	Informal actions: number of major facilities (1 FY)	Data Quality	State			0	Check if more
P01E2S	Informal actions: number of actions at major facilities (1 FY)	Data Quality	State			0	Check if more
P01E3S	Informal actions: number of non-major facilities (1 FY)	Data Quality	State			1	Check if more
P01E4S	Informal actions: number of actions at non-major facilities (1 FY)	Data Quality	State			1	Check if more
P01F1S	Formal actions: number of major facilities (1 FY)	Data Quality	State			0	Check if more
P01F2S	Formal actions: number of actions at major facilities (1 FY)	Data Quality	State			0	Check if more
P01F3S	Formal actions: number of non-major facilities (1 FY)	Data Quality	State			0	Check if more
P01F4S	Formal actions: number of actions at non-major facilities (1 FY)	Data Quality	State			0	Check if more
P01G1S	Penalties: total number of penalties (1 FY)	Data Quality	State			0	Check if any
P01G2S	Penalties: total penalties (1 FY)	Data Quality	State			\$0	Check
P01G3S	Penalties: total collected pursuant to civil judicial actions (3 FY)	Data Quality	State			\$0	Check
P01G4S	Penalties: total collected pursuant to administrative actions (3 FY)	Informational Only	State			\$0	Check
P01G5S	No activity indicator - total number of penalties (1 FY)	Data Quality	State			\$0	Check
P02A0S	Actions linked to violations: major facilities (1 FY)	Data Quality	State	>=; 80%		0 / 0	
P05A0S	Inspection coverage: NPDES majors (1 FY)	Goal	State	100%	60.7%	90.9%	Check 90.9% coverage
P05B1S	Inspection coverage: NPDES non-major individual permits (1 FY)	Goal	State			9.6%	check
P05B2S	Inspection coverage: NPDES non-major general permits (1 FY)	Goal	State			0 / 0	Need to get inventories for each type
P05C0S	Inspection coverage: NPDES other (not 5a or 5b) (1 FY)	Informational Only	State			0.0%	

OTIS State Review Framework Drill Down

(Review Period Ending: FFY10)

Frozen Data FY2010

FINAL PRELIMINARY DATA ANALYSIS (PDA) SHEET

Report Generated on 4/26/2011

Metric	Metric Description	Metric Type	Agency	National Goal	National Average	Nevada Metric Frozen	EPA Initial Findings
P07A1C	Single-event violations at majors (1 FY)	Review Indicator	Combined			0	Check
P07A2C	Single-event violations at non-majors (1 FY)	Informational Only	Combined			0	Check
P07B0C	Facilities with unresolved compliance schedule violations (at end of FY)	Data Quality	Combined		22.6%	0 / 0	
P07C0C	Facilities with unresolved permit schedule violations (at end of FY)	Data Quality	Combined		21.9%	0 / 0	
P07D0C	Percentage major facilities with DMR violations (1 FY)	Data Quality	Combined		52.8%	7.1%	
P08A1C	Major facilities in SNC (1 FY)	Review Indicator	Combined			0	
P08A2C	SNC rate: percent majors in SNC (1 FY)	Review Indicator	Combined		24.6%	0.0%	
P10A0C	Major facilities without timely action (1 FY)	Goal	Combined	< 2%	18.3%	0.0%	

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

OTIS State Review Framework Drill Down (Review Period Ending: FFY10)										Report Generated on 4/26/2011					
Frozen Data FY2010				FINAL PRELIMINARY DATA ANALYSIS (PDA) SHEET											
										Entries (in green) NV's 5/3/11 PDA submittal; entries (in peach) entered by EPA on 4/26/2011.					
Metric	Metric Description	Metric Type	Agency	National Goal	National Average	NV Metric Froz	Count Froz	Universe Froz	Not Counted Froz	State Discrepancy (Y/N)	State Correction	State Data Source	State Discrepancy Explanation	EPA Initial Findings	EPA Evaluation
P01A1C	Active facility universe: NPDES major individual permits (Current)	Data Quality	Combined			14	NA	NA	NA	N					
P01A2C	Active facility universe: NPDES major general permits (Current)	Data Quality	Combined			0	NA	NA	NA	N					
P01A3C	Active facility universe: NPDES non-major individual permits (Current)	Data Quality	Combined			97	NA	NA	NA	Y	85	State DB			Verified: 97 correct
P01A4C	Active facility universe: NPDES non-major general permits (Current)	Data Quality	Combined			0	NA	NA	NA	Y	5		Small MS4 NVS040000, SW Mining NVR300000, SW Construction NVR100000, SW Industrial NVR050000, De Minimus NVG201000	Need inventory for each permit type	now have inventory for each type
										Please provide inventory lists of individual facilities covered under each general permit (permit type, permittee/facility name, permit no.)					
P01B1C	Major individual permits: correctly coded limits (Current)	Goal	Combined	>=; 95%	92.9%	100.0%	11	11	0	Y	14/14	state database			
										This metric looks for correctly coded limits; it says 100% (11 out of 11) are coded correctly, which is good. I am not sure what the "2556/2556" represents. At any rate, for some reason, the report is only counting 11 as NV's universe, rather than 14. See "Major Ind Correct Coded Limits" worksheet.					
C01B2C	Major individual permits: DMR entry rate based on MRs expected (Forms/Forms) (1 Qtr)	Goal	Combined	>=; 95%	93.7%	100.0%	112	112	0	Y	56/56				OK

Frozen Data FY2010

FINAL PRELIMINARY DATA ANALYSIS (PDA) SHEET

Entries (in green) NV's 5/3/11 PDA submittal; entries (in peach) entered by EPA on 4/26/2011.

Metric	Metric Description	Metric Type	Agency	National Goal	National Average	NV Metric Froz	Count Froz	Universe Froz	Not Counted Froz	State Discrepancy (Y/N)	State Correction	State Data Source	State Discrepancy Explanation	EPA Initial Findings	EPA Evaluation
													This metric represents the number of individual "monitoring reports" (MRs) required and submitted for each major facility. See "Major and DMR entry (MRs)" worksheet.		
C01B3C	Major individual permits: DMR entry rate based on DMRs expected (Permits/Permits) (1 Qtr)	Goal	Combined	>=; 95%	96.9%	100.0%	11	11	0	Y	14				OK
P01B4C	Major individual permits: manual RNC/SNC override rate (1 FY)	Data Quality	Combined			0 / 0	0	0	0						
P01C1C	Non-major individual permits: correctly coded limits (Current)	Informational Only	Combined			0 / 0	0	0	0						
C01C2C	Non-major individual permits: DMR entry rate based on DMRs expected (Forms/Forms) (1 Qtr)	Informational Only	Combined			0 / 0	0	0	0	Y			Not required		
C01C3C	Non-major individual permits: DMR entry rate based on DMRs expected (Permits/Permits) (1 Qtr)	Informational Only	Combined			0 / 0	0	0	0	Y			Not required		
P01D1C	Violations at non-majors: noncompliance rate (1 FY)	Informational Only	Combined			0.0%	0	97	97	Y			not required		
C01D2C	Violations at non-majors: noncompliance rate in the annual noncompliance report (ANCR)(1 CY)	Informational Only	Combined			0 / 0	0	0	0	Y			not required		
P01D3C	Violations at non-majors: DMR non-receipt (3 FY)	Informational Only	Combined			0	NA	NA	NA	Y			not required		

Frozen Data FY2010 **FINAL PRELIMINARY DATA ANALYSIS (PDA) SHEET**

Entries (in green) NV's 5/3/11 PDA submittal; entries (in peach) entered by EPA on 4/26/2011.

Metric	Metric Description	Metric Type	Agency	National Goal	National Average	NV Metric Froz	Count Froz	Universe Froz	Not Counted Froz	State Discrepancy (Y/N)	State Correction	State Data Source	State Discrepancy Explanation	EPA Initial Findings	EPA Evaluation
P01E1S	Informal actions: number of major facilities (1 FY)	Data Quality	State			0	NA	NA	NA	Y	2		Carson City MS4 NVS04000 10/5/09 and CCWRD NV0021261 5/24/10	check if more	verified: none issued
											This metric represents the number of major facilities that had an informal enforcement action during FFY2010. If any meet this criteria, please provide a list of the facilities and include: name & permit no, enforcement type(s) and date(s).				
P01E2S	Informal actions: number of actions at major facilities (1 FY)	Data Quality	State			0	NA	NA	NA	Y	2		CCWRD NV0021261 5/24/10	check if more	verified: none issued
											This metric represents the number of informal enforcement actions at major facilities during FFY2010. If any meet this criteria, please provide a list of the enforcement actions and include: name & permit no, enforcement type(s) and date(s).				
P01E3S	Informal actions: number of non-major facilities (1 FY)	Data Quality	State			1	NA	NA	NA	Y	4			check if more	5 non-major
											This metric represents the number of minor facilities that had an informal enforcement action during FFY2010. If any meet this criteria, please provide a list of the facilities and include: name & permit no, enforcement type(s) and date(s).				
P01E4S	Informal actions: number of actions at non-major facilities (1 FY)	Data Quality	State			1	NA	NA	NA	Y	5		2 x Hawthorne NV0021946, Ponderosa Dairy NV002307, Caesars Palace NV0023191, Fontainebleau NV0023566	check if more	5 non-major; 88 general permitted
											This metric represents the number of informal enforcement actions at minor facilities during FFY2010. If any meet this criteria, please provide a list of the enforcement actions and include: name & permit no, enforcement type(s) and date(s).				
P01F1S	Formal actions: number of major facilities (1 FY)	Data Quality	State			0	NA	NA	NA					check if more	none
P01F2S	Formal actions: number of actions at major facilities (1 FY)	Data Quality	State			0	NA	NA	NA					check if more	none

OTIS State Review Framework Drill Down (Review Period Ending: FFY10) Report Generated on 4/26/2011

Frozen Data FY2010 **FINAL PRELIMINARY DATA ANALYSIS (PDA) SHEET**

Entries (in green) NV's 5/3/11 PDA submittal; entries (in peach) entered by EPA on 4/26/2011.

Metric	Metric Description	Metric Type	Agency	National Goal	National Average	NV Metric Froz	Count Froz	Universe Froz	Not Counted Froz	State Discrepancy (Y/N)	State Correction	State Data Source	State Discrepancy Explanation	EPA Initial Findings	EPA Evaluation
P01F3S	Formal actions: number of non-major facilities (1 FY)	Data Quality	State			0	NA	NA	NA					check if more	2 facilities
P01F4S	Formal actions: number of actions at non-major facilities (1 FY)	Data Quality	State			0	NA	NA	NA	Y	1		Harrah's NV0021598 3/10/10	check if more	1 amended; 1 new
										This metric represents the number of formal enforcement actions at minor facilities during FFY2010. If any meet this criteria, please provide a list of the enforcement actions and include: name & permit no, enforcement type(s) and date(s).					
P01G1S	Penalties: total number of penalties (1 FY)	Data Quality	State			0	NA	NA	NA	Y	2		Harrah's and Tahoe Estates	check if any	verified: 1 issued during review period; others issued after review period
										Please provide a list of the penalty actions and include: facility type, name & permit no; penalty type(s) and date(s); amounts assessed; and amounts collected and dates.					
P01G2S	Penalties: total penalties (1 FY)	Data Quality	State			\$0	NA	NA	NA	Y	66,000		Harrah's and Tahoe Estates	check if any	verified: \$26,000 during review period; others penalized after review period
										Please provide a list of the penalty actions and include: facility type, name & permit no; penalty type(s) and date(s); amounts assessed; and amounts collected and dates.					
P01G3S	Penalties: total collected pursuant to civil judicial actions (3 FY)	Data Quality	State			\$0	NA	NA	NA					check	N/A

Frozen Data FY2010

FINAL PRELIMINARY DATA ANALYSIS (PDA) SHEET

Entries (in green) NV's 5/3/11 PDA submittal; entries (in peach) entered by EPA on 4/26/2011.

Metric	Metric Description	Metric Type	Agency	National Goal	National Average	NV Metric Froz	Count Froz	Universe Froz	Not Counted Froz	State Discrepancy (Y/N)	State Correction	State Data Source	State Discrepancy Explanation	EPA Initial Findings	EPA Evaluation
P01G4S	Penalties: total collected pursuant to administrative actions (3 FY)	Informational Only	State			\$0	NA	NA	NA	Y	37,000		Harrah's and Tahoe Estates	check	verified: \$26,000 during review period; others collected after review period
													Please provide a list of the penalty actions and include: facility type, name & permit no; penalty type(s) and date(s); amounts assessed; and amounts collected and dates.		
P01G5S	No activity indicator - total number of penalties (1 FY)	Data Quality	State			\$0	NA	NA	NA					check	1
													This metric represents the total number/amount of ALL types of penalties. Please provide a list of the penalty actions and include: facility type, name & permit no; penalty type(s) and date(s); amounts assessed; and amounts collected and dates.		
P02A0S	Actions linked to violations: major facilities (1 FY)	Data Quality	State	>=; 80%		0 / 0	0	0	0						
													This metric represents formal enforcement actions taken against major facilities with enforcement violation type EVTP in PCS or equivalent in PCS-ICIS.		
P05A0S	Inspection coverage: NPDES majors (1 FY)	Goal	State	100%	60.7%	90.9%	10	11	1	Y			13 See attachment	check 90.9% coverage	100% coverage
P05B1S	Inspection coverage: NPDES non-major individual permits (1 FY)	Goal	State			9.6%	9	94	85	Y			17 See attachment	check	14% coverage, but on track for 5 yr coverage
P05B2S	Inspection coverage: NPDES non-major general permits (1 FY)	Goal	State			0 / 0	0	0	0	Y	1162		See attachment	Need to get inventories for each type	CMS coverage goals met
P05C0S	Inspection coverage: NPDES other (not 5a or 5b) (1 FY)	Informational Only	State			0.0%	0	6	6						
P07A1C	Single-event violations at majors (1 FY)	Review Indicator	Combined			0	NA	NA	NA					check	not entered

Frozen Data FY2010

FINAL PRELIMINARY DATA ANALYSIS (PDA) SHEET

Entries (in green) NV's 5/3/11 PDA submittal; entries (in peach) entered by EPA on 4/26/2011.

Metric	Metric Description	Metric Type	Agency	National Goal	National Average	NV Metric Froz	Count Froz	Universe Froz	Not Counted Froz	State Discrepancy (Y/N)	State Correction	State Data Source	State Discrepancy Explanation	EPA Initial Findings	EPA Evaluation
P07A2C	Single-event violations at non-majors (1 FY)	Informational Only	Combined			0	NA	NA	NA					check	not entered; not required
										<p>These metrics (A1C & A2C) represents the number of "single-event" violations (SEVs) (e.g., spills, those not reported on DMRs, etc.) at major and minor facilities during FFY2010. If NV tracks this info, please provide a list of the SEVs and include: facility type, name & permit no, SEV type(s) and date(s).</p>					
P07B0C	Facilities with unresolved compliance schedule violations (at end of FY)	Data Quality	Combined		22.6%	0 / 0	0	0	0						
P07C0C	Facilities with unresolved permit schedule violations (at end of FY)	Data Quality	Combined		21.9%	0 / 0	0	0	0						
P07D0C	Percentage major facilities with DMR violations (1 FY)	Data Quality	Combined		52.8%	7.1%	1	14	13						
										<p>This represents those facilities that reported one or more effluent violation on their DMRs and subsequent entry into the PCS-ICIS.</p>					
P08A1C	Major facilities in SNC (1 FY)	Review Indicator	Combined			0	NA	NA	NA						none
P08A2C	SNC rate: percent majors in SNC (1 FY)	Review Indicator	Combined		24.6%	0.0%	0	14	14						good
P10A0C	Major facilities without timely action (1 FY)	Goal	Combined	< 2%	18.3%	0.0%	0	14	14						n/a

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

A. File Selection Process

For NDEP's review, EPA was unable to use the web-based file selection tool described above because NPDES-ISIS was not sufficiently populated with relevant information. Therefore, using the information gathered during the Preliminary Data Analysis (PDA), EPA identified the universe of facilities and actions that should be considered during the review period. File selection was based on the "range of files based on size of universe" criteria, set forth in EPA's SRF Implementation Guidance, April 2006. Specifically, the guidance suggests reviewing between 15 and 30 files, that the files represent different categories of dischargers and include inspections and enforcement actions. The selected files included several inspections and most of the enforcement actions taken by NDEP in FFY 2010. The files selected and reviewed by EPA are listed below.

B. File Selection Table

EPA FFY 2010 NEVADA DEP CWA SRF REVIEW

5/6/2011

FINAL FILE REVIEW LIST

Compliance & Enforcement Activities During 2010													
Facility Name	Program ID	Facility City/County	Inspection	Violation	SEV	SNC	Informal Action	Formal Action	Penalty	Type	Type Total		
Tahoe Estates		Lake Tahoe	0	0	1	0	0	0	0	unpermitted	1		
TRONOX Ker McGee	NV0000078	Henderson	1	0	0	0	0	0	0	Major	5		
City of Las Vegas WPCF	NV0020133	Las Vegas	1	0	0	0	0	0	0				
Truckee Meadows WRF	NV0020150	Reno	1	2	0	0	0	0	0				
Clark Cnty WRD AWT	NV0021261	Las Vegas	1	0	0	0	0	0	0				
Twin Creeks Mine	NV0021725	Golconda	1	0	0	0	0	0	0				
Storey Cnty-Virginia City	NV0020451	Virginia City	1	0	0	0	0	0	0	Minor	9		
Lander Cnty-Battle Mtn WWTP	NV0023167	?	2	0	0	0	0	0	0				
Moody Lane Reg WRF	NV0023582	Fallon	1	0	0	0	0	0	0				
Hawthorne Army Facility	NV0021946	Hawthorne	0	0	0	0	2	0	0				
Ponderosa Dairy	NV0023027	?	0	0	0	0	1	0	0				
McCarran Airport	NV0023761	Las Vegas	2	0	0	0	0	0	0				
Fountainbleau Casino & Resort	NV0023566	Las Vegas	0	0	0	0	1	0	0				
Harrahs Basement Dewatering	NV0021598	Reno	0	0	0	0	1	0	1				
U.S. Navy NAS Fallon	NV0110001	Fallon	1	0	0	0	0	0	0				
Carson City	NVSo40000	Carson City	0	0	0	0	1	0	0			Small MS4	1
Blue Diamond-Green Vly Stge	NVR050000	Clark	1	0	0	0	0	0	0			SW Ind	5
Elevation Transport	NVR050000	Elko	4	0	0	0	0	0	0				
Veka West Inc.	NVR050000	Washoe	1	0	0	0	0	0	0				
Myrnas Hot Shot & Air Freight Co.	NVR050000	Clark	2	0	0	0	0	0	0				
TS Power Plant	NVR050000	Eureka	1	0	0	0	0	0	0				
Carson City Fairgrounds/Fuji Urban Park	NVR100000	Carson City	5	0	0	0	0	0	0	SW Const	5		
Coyote Springs Valley Well & Moapa Transmission System	NVR100000	Clark	2	0	0	0	0	0	0				
Highway Systems SR 317	NVR100000	Lincoln	3	0	0	0	0	0	0				
Ruby Pipeline	NVR100000	Elko	1	0	0	0	0	0	0				
Boulder Village	NVR100000	Clark	2	0	0	0	0	0	0				
Heap Leach Facility	NVR050000	Storey	1	0	0	0	0	0	0	Mining	2		
Lone Tree Mine	NVR050000	Humboldt	1	0	0	0	0	0	0				
			34	2	1	0	6	0	1		28		

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.

Appendix G

Nevada DEP		Review Period: FFY 2010	
CWA Metric #	CWA File Review Metric:	Metric Value	Initial Findings and Conclusions
Metric 2b	% of files reviewed where data is accurately reflected in the national data system.	did not calculate	Most WENBE elements are in system
Metric 4a	% of planned inspections completed	various	All planned inspections, per NDEP's CMS, conducted
Metric 4b	Other planned commitments completed.	N/A	NDEP does not use CWA 106 grant funds to implement its NPDES compliance and enforcement program, so there are no other relevant commitments
Metric 6a	# of inspection reports reviewed.	38	
Metric 6b	% of inspection reports reviewed that are complete.	5%	Most are incomplete, per SRF review criteria; but the minor omissions do not hinder compliance determinations.
Metric 6c	% of inspection reports reviewed that provide sufficient documentation to lead to an accurate compliance determination.	97%	One report not sufficient.
Metric 6d	% of inspection reports reviewed that are timely.	100%	

Nevada DEP		Review Period: FFY 2010	
CWA Metric #	CWA File Review Metric:	Metric Value	Initial Findings and Conclusions
Metric 7e	% of inspection reports or facility files reviewed that led to accurate compliance determinations.	97%	Most made accurate determinations.
Metric 8b	% of single event violation(s) that are accurately identified as SNC	100%	SEVs not tracked in ICIS, however, SW SEVs tracked in state database. In major files reviewed, NDEP inspections found no SEVs, therefore no SNC based on SEVs, therefore NDEP properly assessed SNC rate at its majors.
Metric 8c	% of single event violation(s) identified as SNC that are reported timely.	0%	SEVs not tracked in ICIS, however, SW SEVs timely tracked in state database; SNC criteria not used by NDEP.
Metric 9a	# of formal/informal enforcement responses reviewed	11	3 FAVOs, 4 warning letters, 4 NONCs
Metric 9b	% of enforcement responses that have returned or will return a source in SNC to compliance.	0%	N/A: no SNC facilities
Metric 9c	% of enforcement responses that have returned or will returned a source with non-SNC violations to compliance.	100%	All facilities returned to compliance or remain open with enforceable deadlines.
Metric 10b	% of enforcement responses reviewed that address SNC that are taken in a taken in a timely manner.	0%	N/A: no SNC facilities
Metric 10c	% of enforcement responses reviewed that address SNC that are appropriate to the violations.	0%	N/A: no SNC facilities
Metric 10d	% of enforcement responses reviewed that appropriately address non-SNC violations.	100%	
Metric 10e	% enforcement responses for non-SNC violations where a response was taken in a timely manner.	100%	
Metric 11a	% of penalty calculations that consider and include where appropriate gravity and economic benefit.	100% of reviewed	All documented
Metric 12a	% of penalties reviewed that document the difference and rationale between the initial and final assessed penalty.	100% of reviewed	All assessed amounts properly documented.
Metric 12b	% of enforcement actions with penalties that document	100% of reviewed	All collections documented. All were cash settlements and did not include SEPs.

Nevada DEP		Review Period: FFY 2010	
CWA Metric #	CWA File Review Metric:	Metric Value	Initial Findings and Conclusions
	collection of penalty.		

APPENDIX H: CORRESPONDENCE



STATE OF NEVADA
Department of Conservation & Natural Resources
DIVISION OF ENVIRONMENTAL PROTECTION

Brian Sandoval, Governor
Leo M. Drazdoff, P.E., Director
Colleen Cripps, Ph.D., Administrator

December 14, 2011

Mr. Jared Blumenfeld, Regional Administrator
US EPA Region IX
75 Hawthorne Street
San Francisco, CA 94105-3901

RE: Draft Report for Round 2 of the State Review Framework
State of Nevada Enforcement Program reviews by EPA

Dear Mr. Blumenfeld:

We have reviewed the draft report reflecting the results of Round 2 of the State Review Framework. The report reviews compliance and enforcement activities conducted by the Nevada Division of Environmental Protection (NDEP) related to RCRA Subtitle C and the National Pollutant Discharge Elimination System of the Clean Water Act. Our comments on the findings of each of these two program reviews are attached. We have also attached a narrative for each program area to be included as Element 13 of the final report.

Our comments reflect a consistent theme that we have repeated many times over the years in our discussions with EPA. The primary goal of NDEP has always been to achieve and maintain compliance with environmental regulations. Toward that end, we invest in compliance assistance, outreach, and an active and effective field presence. We find that the effectiveness of our efforts is best measured by the rate of compliance among regulated facilities, not by the number or amount of penalties collected. We recognize that this strategy may be impractical for EPA and States with very large regulatory universes and that a more reactive approach may be needed. However, given the relatively small number of regulated facilities in Nevada and our willingness to invest State resources beyond federal grant funding, we find that our proactive, compliance-focused approach works.

Thank you for the opportunity to comment on this draft SRF. We also appreciate the positive commendations on our good inspection programs. Please factor our comments into your finalization of the 2010 SRF and include our respective Element 13 narratives.

Sincerely,

A handwritten signature in blue ink, appearing to read "Colleen Cripps".

Colleen Cripps, Ph.D.
Administrator



Page 2

Attachments

cc: David Gaskin, Deputy Administrator, NDEP
David Emme, Deputy Administrator, NDEP
Eric Noack, Chief, Bureau of Waste Management, NDEP
Alan Tinney, Chief, Bureau of Water Pollution Control, NDEP
Mr. Ken Greenberg, US EPA Region IX, WTR-7, 75 Hawthorne Street
San Francisco, CA 94105-3901
✓ John Schofield, US EPA Region IX, 75 Hawthorne Street San Francisco, CA
94105-3901

NDEP Bureau of Water Pollution Control
NPDES CWA Comments on Draft SRF II

These comments are specific to the EPA review of the National Pollutant Discharge Elimination System Program enforcement activities in the SRF report.

Before providing our comments and responses, NDEP reiterates that as with past SRF responses, the recent draft SRF would require NDEP to allocate additional time and financial resources for efforts that *will not* add any substantive value to our compliance and enforcement programs. We stress to EPA that NDEP remains one of the leanest state environmental programs in the U.S. and as such we focus our resources on achieving water pollution control compliance statewide based upon our State priorities.

With this in mind, NDEP offers the following comments to EPA:

1. Data reporting systems/architecture:

The general program overview section, page 6 of the report states that NDEP enters general permit information into ICIS. This is not correct. Per our mutual agreement (June 18, 2004 letter to John Kemmerer) on ICIS entry roles, NDEP is not responsible for entering information on general permits or storm water permits into ICIS. This reference to general permit entry should be removed.

2. Single Event Violation (SEV) entry into ICIS (Element 7):

Element 7 of the SRF report states that EPA is in consultation with NDEP on options and procedures for entering SEV's into ICIS for major NPDES facilities. This is not an accurate statement as NDEP has not agreed to entry of SEV's into ICIS. NDEP does not have sufficient staffing or funding for this additional data entry activity and to do so would take critical resources away from our compliance and enforcement program.

3. Economic Benefit Penalty Calculation Method (Element 11)

The Element 11 review recommendation is to obtain facility cost data, where appropriate, when determining the economic benefit factor in assessing noncompliance penalties. While economic benefit is not broken out as a separate line item, NDEP factors economic benefit into all its NPDES penalty determinations.

NDEP does not believe that a compliance and enforcement program should be evaluated merely by counting violations and the response to those violations. NDEP is proud of its compliance record and believes the compliance rate to be the true metric necessary to

accurately represent the effectiveness and success of a compliance and enforcement program.

If NDEP is forced to increase data entry into the national database, we will need to shift resources away from environmental protection efforts identified as priorities in Nevada. This will have a direct negative impact on our ability to ensure compliance and protect the waters of the state.

NDEP thanks you for the opportunity to comment on this draft SRF. Please contact Deputy Administrator David Gaskin at (775) 687-9302 or dgaskin@ndep.nv.gov if you have any questions or would like to discuss these comments further.

State Review Framework II Element 13 Clean Water Act

Introduction

NDEP does not believe the SRF fully defines the effectiveness of a Clean Water Act compliance and enforcement program. The 12 elements evaluate a program on its ability to identify and react appropriately to violations and subsequently track them, but ignore the important efforts implemented by a program to achieve and maintain compliance so that violations are not realized. An enforcement program's success should be measured by the compliance rate, as opposed to the violation/enforcement rate. This philosophy is the cornerstone of NDEP's successful compliance and enforcement program.

NDEP strives for compliance by working cooperatively and reasonably with the regulated community. This allows us to achieve and maintain a high level of compliance, in many cases outside of formal enforcement. In certain areas, we go above and beyond federal requirements to achieve better environmental results. For example, we require that all wastewater treatment plants be managed by certified wastewater treatment operators. We ensure that all design plans for construction of wastewater treatment plants are prepared by Nevada Licensed Professional Engineers. Such requirements greatly enhance the compliance rate for many of our NPDES facilities.

Inspections and Assistance

NDEP inspects all of its eleven major NPDES facilities on an annual basis, doubling the EPA national coverage goal of inspecting the majors every two years. At each of the major Publically Owned Treatment Works inspections, NDEP performs compliance sampling inspections (CIS) over a two-day period. Additionally, we conduct compliance evaluation inspections (CEI) on at least 20% of all minor NPDES facilities statewide each year. We do this because we know inspections are a critical factor in tracking and ensuring compliance for these key dischargers. Our stormwater inspection schedule is robust, and each year NDEP far exceeds the minimum criteria of site inspections for this program.

NDEP also believes public outreach and education efforts are key to a successful compliance program. Our efforts associated with public outreach and education continue to be effective in achieving and maintaining compliance. One example is the NPDES storm water program. We provide stormwater compliance workshops each year to developers, contractors, consultants, engineers and other interested parties. In 2010, NDEP participated in ten separate training sessions with NDOT to educate all of their field stations in stormwater permit requirements. Also, we assisted in training sessions for MS4 permittees in Clark County and Washoe County.

We continue to fund our wastewater operator's Circuit Rider Program even after federal funding stopped several years ago. This is because our program has proven to be significant for achieving compliance in the State of Nevada for the rural wastewater treatment plants.

Compliance inspections conducted by NDEP CWA Program:

	<u>Minimum Required</u>	<u>SFY2010</u>	<u>SFY2011</u>
Major NPDES CEI/CIS conducted	6	11	11
Minor NPDES CEI	16	17	22
Industrial stormwater inspections	75	698	183
Construction site stormwater inspections	150	690	710

Enforcement

NDEP uses both formal and informal enforcement to achieve compliance with all its permittees. Our priority is to get noncompliant facilities to return to compliance as quickly as possible and minimize environmental impacts. Tools that we use include Cease and Desist Orders, formal Findings of Alleged Violation and Orders, informal compliance Action Letters and Administrative Orders on Consent. Through the judicious use of these options, we are able to address compliance matters quickly and effectively.

NDEP maintains a database in which pertinent compliance and enforcement data are stored and managed. We are able to track submittal dates and follow up on failures to submit required reports. Exceedances of DMR limits are tracked to establish compliance histories of permittees. Our state database is the system of record and is available for public review. NDEP is currently enhancing the database to allow DMR data to be submitted electronically which will allow us to process DMRs more rapidly, and therefore address noncompliance issues in a timelier manner.

NDEP issues formal enforcement actions and collects penalties when necessary. Formal enforcement is implemented mainly in cases demonstrating culpability and harm to the environment, and also where corrective actions by the permittee are not being made or are not sufficient.

NDEP Enforcement Actions:

	<u>SFY2010</u>	<u>SFY2011</u>
Total NPDES Permittees	84	85
Informal enforcement actions	9	2
Formal enforcement actions	2	2
Compliance rate	87%	94%

Conclusion

To summarize, NDEP does not believe that a compliance and enforcement program should be evaluated merely by counting violations and the response to those violations. NDEP is proud of its compliance record and believes the compliance rate to be the true metric necessary to accurately represent the effectiveness and success of a compliance and enforcement program.

NDEP Bureau of Waste Management
RCRA Comments on Draft SRF II

Element 1: No Comment

Element 2: No Comment

Element 3:

The 2003 RCRA ERP requires SNC determination by a State or Region within 150 days of the initial inspection (Day Zero).

The **Description** for element 3a states “[p]ercent of SNCs that are entered to RCRAInfo more than 60 days after the determination. Measures the “lag” between the date of SNC determination and the actual reporting of the SNC determination to RCRAInfo.”

Furthermore, the **Guidance Requirement or Goal** for element 3a states “data should be entered when the determination is made (determination must be made by 150 days after Day Zero). SNC entry should not be withheld until the action is completed. EPA expects SNC data to be entered more quickly than 60 days after determination, so this metric provides some “cushion.”

Therefore, the statement in the Finding section of Element 3 “All SNCs were entered into RCRAInfo within 60-days of the first day of the inspection [Day Zero]” incorrectly states the data metric. The data metric requires SNC data entry within 60 days of SNC determination not Day Zero. NDEP has 100% compliance with the data metric. All SNCs were entered into RCRAInfo within 60 days of SNC **determination**.

Element 4: No Comment

Element 5:

NDEP’s RCRA C&E program has annual inspection goals of; 100% Treatment, Storage, and Disposal Facilities (TSDFs) annually, 100% Large Quantity Generators (LQG) of hazardous waste annually, and 100% Small Quantity Generators (SQG) of hazardous waste biennially. USEPA annually inspects a number of LQG and TSDF facilities in Nevada. In order to eliminate duplication of effort, efficient allocation of resources, and unnecessary confusion and burden to the regulatory community, USEPA inspections are counted towards NDEP’s commitment goals.

The inspection universe of LQG is established on July 1 of each state fiscal year (SFY). The RCRA C&E program established the goal to inspect all Small Quantity Generator (SQGs) facilities on a biennial cycle. The inspection universe of SQG facilities was established on July 1, 2009 for SFYs 2010-2011. The inspection universes are provided to USEPA Region IX in the form of an excel spreadsheet.

- All TSDFs were inspected during SFY2010 (6/6) 100% and SFY2011 (6/6) 100%.

- LQG non TSDf inspections SYF 2010, 99% (75/76) and SYF 2011, 99% (77/78)
The federal goal is 20%, or 15 facility inspections.
- SQG inspections SFY 2010-2011 biennium, 100% (429/429)
There is no federal inspection goal for SQGs

Element 6: No Comment

Element 7: No Comment

Element 8: No Comment

Element 9: No Comment

Element 10:

100% of enforcement actions issued by NDEP were both timely and appropriate. NDEP meets or exceeds all data metrics found in Element 10. It is difficult to comprehend why a finding of "Area for State Attention" is indicated under this circumstance. We find no additional attention is required.

Element 11:

Economic benefit is considered in all penalty calculations by NDEP as described in the "Hazardous Waste Policy and Procedures, Staff Guide" dated October 20, 2008.

Element 12: No Comment

State Review Framework II Element 13 RCRA

Introduction

The Nevada Division of Environmental Protection (NDEP) has an obligation to protect human health and the environment and a responsibility to safeguard our limited natural resources particularly waters of the State. One of the key elements in the protection of Nevada's water resources is the RCRA Compliance & Enforcement (C&E) Program. Recognizing the need for proactive water resource protection, NDEP has developed its RCRA C&E program maximizing the prevention of hazardous constituent releases to waters of the State. Nevada cannot afford to implement USEPA's typical RCRA C&E program that relies on reactive enforcement metrics as the measurement of success. This reactive approach is unacceptable to Nevada as it drastically increases the threat to waters of the State.

NDEP's RCRA C&E program's primary goal as a regulatory program is to gain voluntary compliance with applicable regulations throughout the regulated universe. Compliance rates are a measurement of success for the NDEP's RCRA C&E program not the number of enforcement actions or facilities designated as Significant Non-Compliers (SNC). The program has developed a number of strategies to reach its goal of voluntary compliance within the regulated universe. The most important and successful strategy employed by the program is a visible field presence. Saturating the regulated universe with compliance inspections has facilitated voluntary compliance.

An Assistance Agreement of \$750,000 per year from the USEPA supports less than 50% of the Nevada's RCRA C&E program. The amount of the Assistance Agreement has remained constant since 2004.

Inspections and Assistance

A typical EPA approved RCRA C&E program attempts to inspect 20% of the generator universe annually and finds a large percentage of those facilities out-of-compliance with some facilities significantly out-of-compliance. In contrast, NDEP's RCRA C&E program has committed to EPA Region IX a goal of annual inspections for all Large Quantity Generator (LQG) of hazardous waste and all Treatment, Storage, and Disposal Facilities (TSDFs). Additionally, NDEP's RCRA C&E program has committed to EPA Region IX a goal of biennial inspections for Small Quantity Generator (SQG) of hazardous waste. USEPA annually inspects a number of LQG and TSDF facilities in Nevada. In order to eliminate duplication of effort, efficient allocation of resources, and unnecessary confusion and burden to the regulatory community, USEPA inspections are counted towards NDEP's commitment goals.

Nevada is fortunate in that the regulated universe is relatively small; approximately 1,700 facilities possess active EPA ID numbers, as compared with heavily industrialized states.

Facilities, as of July 1, 2011 with active EPA ID numbers, broken down by Handler status;

- ◆ 6 TSDf also LQG
- ◆ 78 LQG non TSDf
- ◆ 329 SQG
- ◆ 1,207 Conditionally Exempt Small Quantity Generators (CESQG)
- ◆ 100 (est.) other facilities, primarily "Used Oil" regulated activities

All Treatment, Storage, and Disposal Facilities (TSDf)s are inspected annually by the NDEP.

The inspection universe of LQG non TSDf facilities is established on July 1 of each state fiscal year (SFY). The annual LQG non TSDf inspection universe is provided to USEPA Region IX in the form of an excel spreadsheet. During SYF 2010, 99% (75/76) of the identified LQG non TSDf facilities were inspected. During SYF 2011, 99% (77/78) of the identified LQG non TSDf facilities were inspected. The federal goal is 20%, or 15 facility inspections, for SFYs 2010 and 2011.

The RCRA C&E program established the goal to inspect all Small Quantity Generator (SQGs) facilities on a biennial cycle. The inspection universe of SQG facilities was established on July 1, 2009 for SFYs 2010-2011. The biennial SQG inspection universe is provided to USEPA Region IX in the form of an excel spreadsheet. During SFY 2010-2011 biennium, 100% (429/429) of identified SQG facilities were inspected. There is no federal inspection goal for SQGs.

To expand our coverage in the two largest urban counties, the RCRA C&E program has also entered into contracts with the Southern Nevada Health District in Clark County and Washoe County District Health Department to conduct inspections at Conditionally Exempt Small Quantity Generators (CESQG) and some SQG facilities. Each county agency completes approximately 300 inspections annually from a regulated universe of approximately 500 in Clark and 400 in Washoe County. Approximately half of the CESQG universe in Nevada is inspected annually. There is no federal inspection goal for CESQGs.

Hazardous waste statutes and regulations are complicated and public finds them difficult to understand. Many small businesses lack environmental compliance staff and have a poor understanding of the statutes and regulations. In an effort to maximize compliance, the RCRA C&E program has entered into a contract with the Nevada Small Business Development Center, Business Environmental Program (BEP). The amount of the contract is \$150,000 per year.

In a free and confidential setting, the BEP provides the public and regulated community information and answers to hazardous waste management questions. The BEP also provides one-on-one free and confidential counseling on environmental management and waste minimization over the phone and through on-site visits. Additionally, BEP produces a newsletter covering environmental compliance issues and develops fact sheets on key regulatory issues and case studies.

During calendar year 2009, the BEP responded to 1,582 requests for assistance through the compliance assistance hotline, trained 233 individuals in compliance assistance seminars, completed 73 on-site consultations, distributed the "BEP Reporter" newsletter

to a targeted mailing list of 4,300 readers, and maintained a compliance assistance website which received more than 70,000 hits. The number of contacts with the public and regulated community was enormous when compared to the size of Nevada's regulated universe. Additionally, at three facilities receiving on-site BEP assistance, hazardous waste was reduced by more than 3,000 pounds.

Results from BEP's 2010 effectiveness survey include:

- ◆ 100% of the respondents found the information BEP provide was helpful for their operation
- ◆ 84% had improved operations or processes
- ◆ 100% indicated BEP helped them maintain or improve compliance with hazardous waste regulations
- ◆ 72% passed information onto other businesses or referred businesses to BEP
- ◆ 54% indicated a reduction in generated waste as a result of BEP information

Environmental Results Program

The NDEP received grant funding from USEPA for an "Environmental Results Program" for dry cleaners. The program measures improvements in compliance and provides quantifiable estimates of emissions that were prevented by dry cleaners using perchloroethylene. Baseline measures were developed in the first year of the project for Washoe County and in year two for Clark County. Educational materials, including a detailed compliance manual for dry cleaners, and free training were provided to the participating dry cleaners. A Self-Certification was developed for dry cleaning businesses to conduct internal compliance audits. The program was successfully concluded with the September 30, 2011 publication of the Nevada Dry Cleaner ERP Final Report.

Compliance and Enforcement

Compliance

The data metrics chosen for the State Review Framework (SRF) by the USEPA's Office of Enforcement and Compliance Assurance (OECA) only address Inspections, Enforcement Activity, and Data Integrity. Noticeably absent from the data metrics is any mention of Compliance. As stated earlier, NDEP's RCRA C&E program primary goal as a regulatory agency is to gain voluntary compliance with applicable regulations thereby protecting human health and the environment, particularly preventing releases to waters of the State.

The RCRA C&E program calculates compliance rates and reports the results to EPA Region IX quarterly. Compliance rates are calculated for the previous quarter using the following data criteria: facilities in compliance at the time of inspection, and facilities that corrected alleged violations within 90 days of the inspection are considered to be in compliance. The number of facilities in compliance divided by the total number of inspections for that quarter yields the compliance rate. The compliance rate for SFY2010 was 98% and SFY2011 was 91%. The RCRA C&E program is extremely proud of our

high compliance rates and look to these rates of compliance as a measure of program success.

The SRF neglects to consider this measure of achievement.

Enforcement

The RCRA C&E program credits the high rates of compliance to the intense inspection schedule and a successful enforcement program. A successful enforcement program relies on a broad array of tools to achieve voluntary compliance not the single solution approach for every compliance issue. It is the policy of the RCRA C&E program that, whenever possible, enforcement should be progressive, generally selecting the least aggressive enforcement tool necessary to achieve compliance. While a certain degree of flexibility and discretion are permitted, procedures are in place to ensure, to the extent possible, that enforcement of the state and federal hazardous waste statutes and regulations is applied consistently within the RCRA C&E program. The selection of an appropriate enforcement action is based upon the worst alleged violation present and the facility's previous compliance history.

Enforcement Actions taken by the Nevada RCRA C&E Program are listed below.

	<u>SFY2010</u>	<u>SFY2011</u>
Informal Enforcement Actions	58	152
Formal Enforcement Actions Initiated	3	7
SNC designations	2	3

EPA Region IX has stated that all Formal Enforcement Actions, some Informal Enforcement Actions, and even some facilities without alleged RCRA violations require SNC designation. Nevada fundamentally disagrees with EPA's position that facilities receiving an Informal Enforcement Action and facilities without alleged RCRA violations are candidates for SNC designation by Nevada's RCRA C&E program. It is important to note that Nevada's program has issued Formal Enforcement Actions for relatively minor alleged violations in order to meet with facilities in Formal Show Cause Conferences. The Enforcement Conference provides an early opportunity for compliance before minor alleged violations become larger compliance issues and potential threats to human health and the environment. Under Nevada's program procedures, final SNC designations are made by the BWM Chief from recommendations developed by RCRA C&E program staff. The RCRA C&E program recommendations are based on specific information about the actual facility, processes, generated wastes, and alleged RCRA violations observed during an inspection. USEPA's position arbitrarily removes an effective enforcement tool from our program and eliminates another compliance opportunity.

It is critical for the SRF to include in the report that the Nevada RCRA C&E program continues to follow the guidelines contained in the Hazardous Waste Civil Enforcement Response Policy (ERP) document dated December 2003. In particular, Nevada's RCRA C&E program SNC designation procedure falls within the guidelines of the 2003 ERP.

The Nevada RCRA C&E program acknowledges that the number of SNC designated facilities (0.3%) is significantly below the national average (2.9%). Nevada maintains that this validates the effectiveness of our RCRA C&E program, intense field presence through inspections and compliance assistance activities. Nevada's RCRA C&E program strives to have zero tolerance for SNCs.

It appears that the goal of the federal program has shifted away from compliance to an arbitrary statistic of national average of SNC designations. For Nevada to comply with this new approach, Nevada would need to conduct less frequent inspections (20% of LQs annually instead of 100%) and eliminate compliance assistance in its entirety. This course of action would certainly increase the number of facilities that are out-of-compliance and increase the number of facilities designated as SNCs; however, this reactive approach to environmental protection is unacceptable to Nevada. The reactive approach is undesirable as it drastically increases the threat to waters of the State. Nevada prefers the proactive, preventive approach to environmental protection by complete coverage of the regulated universe through field presence and compliance assistance.

Conclusion

The obligation to protect human health and the environment and a responsibility to safeguard our limited natural resources, particularly waters of the State, is not taken lightly by NDEP. NDEP developed its RCRA C&E program to maximize prevention of hazardous constituent releases. The key elements of the program are inspection saturation, aggressive compliance assistance, program innovation, and enforcement flexibility. NDEP's RCRA C&E program measures success through compliance not in the number of enforcement actions or facilities designated as Significant Non-Compliers. Nevada cannot afford to implement USEPA's typical RCRA C&E program that relies on reactive enforcement metrics as the measurement of success. Nevada's RCRA C&E program, as configured, effectively and efficiently protects human health and the environment and safeguards waters of the State

**Clark County, Nevada
Department of Air Quality & Environmental Management
(DAQEM)
Compliance and Enforcement Program FFY 2010**

**State Review Framework
Final Report –March 18, 2015**

**Review Conducted by the
Enforcement Office, Air Division
U.S. Environmental Protection Agency, Region 9**

Table of Contents

I.Executive Summary

II.Background Information on State Program and Review Process

III.Status of Outstanding Recommendations from Previous Reviews

IV.Findings and Recommendations

V.Appendices

- A. Status of Recommendations from Previous Reviews
- B. Official Data Pull
- C. PDA Transmittal Letter
- D. PDA Analysis Chart
- E. PDA Worksheet
- F. File Selection
- G. File Review Analysis

I. EXECUTIVE SUMMARY

Summary of Programs Reviewed

Problems which necessitate state improvement and therefore require recommendations and actions include:

- Element 8: Identification of HPV (*See further information below. Note: this issue also impacts Elements 2 and 7. Improvement in Element 8 will result in improvement in Elements 2 and 7, which therefore were identified as Areas for State Attention*).

Good practices identified:

- Element 5: Inspection Coverage
- Element 6: Quality of Inspection Reports

Areas meeting SRF program requirements or with issues raised for attention and correction include:

- Element 1: Data Completeness
- Element 2: Data Accuracy
- Element 3: Timeliness of Data Entry
- Element 4: Completion of Commitments
- Element 7: Identification of Alleged Violations
- Element 9: Enforcement Actions Promote Return to Compliance
- Element 10: Timely and Appropriate Action
- Element 11: Penalty Calculation
- Element 12: Final Penalty Assessment and Collection

Note on Element 8: EPA found three unreported HPVs during the review. In fact, there have been no new HPVs reported to AFS since 10/01/2005. There was not time during the visit to determine if there were other unreported violations in previous years. Region 9 will work with DAQEM to clarify and improve future HPV reporting by improving tracking, documentation, justification, and timeliness. EPA recommends the implementation of a modified HPV/FRV (Federally Reportable Violation) tracking worksheet, similar to one utilized by the California Air Resources Board, which might help to better document details that led to a determination that cases were not reportable.

We observed that DAQEM's compliance staff and management have a thorough understanding of federal regulatory programs. The clarity and details included in most of the inspection reports, including the identification of applicable County and federal regulations, was noteworthy.

DAQEM gave a presentation of their automated permit tracking system under development, which is intended to eventually also track compliance and enforcement information (and perhaps

with AFS, if sufficient funding can be obtained). Region 9 supports their efforts to secure funding if it again becomes available for such data connectivity projects. Clark County applied twice previously for EPA assistance with this project, but was unsuccessful. We are impressed that they have continued to develop the system on their own.

Clark County has an exemplary dust compliance and enforcement program. During the early 2000's they combined an aggressive enforcement stance with a robust outreach and education program. This effective approach was a primary factor contributing to the area's recent attainment of the PM-10 NAAQS. EPA believes that it is essential that DAQEM continue to implement an extensive and assertive PM-10 compliance and enforcement program. It seems only a matter of time until the U.S. economy improves and construction increases. If the regulated community has been allowed to lessen their emphasis on continuous compliance under a relaxed program, the PM-10 NAAQS may very well be violated in Clark County once again.

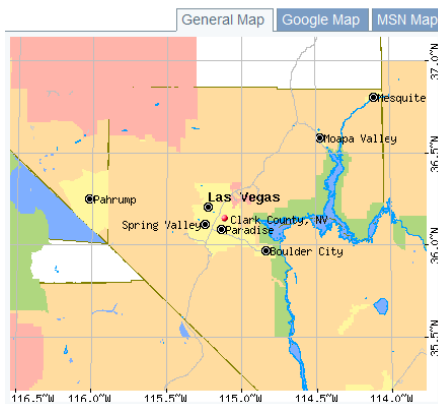
II. BACKGROUND INFORMATION ON COUNTY PROGRAM AND REVIEW PROCESS

The State Review Framework (SRF) is designed to ensure that EPA conducts oversight of state and EPA direct implementation compliance and enforcement programs in a nationally consistent and efficient manner. The reviews look at 12 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: analysis of information from national data systems; review of a limited set of files; and development of findings and recommendations. Consultation is built into the process to ensure EPA and the state understand the causes of issues, and to seek agreement on identifying the actions needed to address problems. The reports 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

DAQEM was established by the Clark County Board of County Commissioners in 2001, and is designated under state law as the air pollution control agency for the purpose of implementing the federal Clean Air Act.

Clark County encompasses 7,910 square miles and includes Las Vegas (the 28th largest city in the U.S.). Las Vegas itself makes up a small physical footprint within the large, mostly rural county:

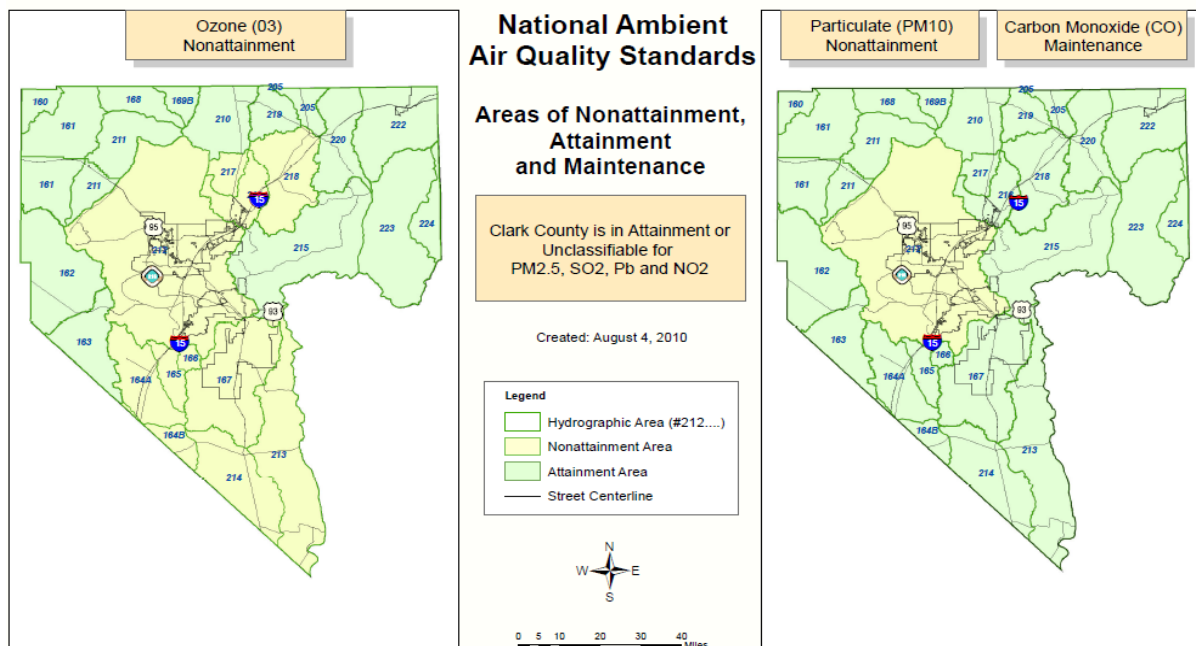


Clark County’s population of 1.95 million comprises over 72% of Nevada’s population, and is augmented by an annual influx of over 40 million visitors.

The county’s climate is extremely dry and prone to dust; summer high temperatures often exceed 100 degrees for extended periods. Wind gusts of up to 50 mph are not uncommon, and dust control is an important recurring priority issue for the DAQEM, for construction sites, and for the regulated community in general.

A. Attainment/Non-Attainment Designations:

Clark County, NV



Hydrographic Areas 164A, 164B, 165, 166, 167, 212, 213, 214, 216, 217 and 218 do not meet the O3 NAAQS.



Hydrographic Area 212 is the only area in Clark County that does not meet the PM10 and CO NAAQS.

This information is for display purposes only. No liability is assumed as to the accuracy of the data delineated herein.

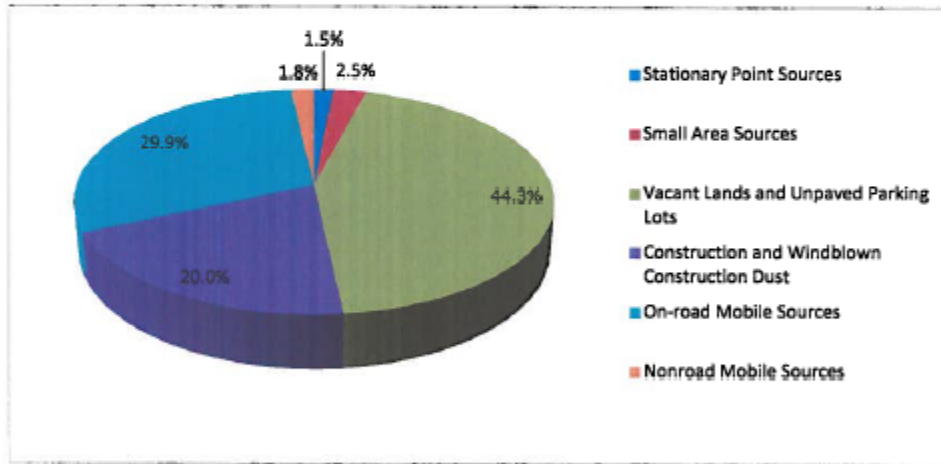
On July 21, 2010, EPA issued a finding that the Las Vegas Valley had attained the PM-10 NAAQS. This determination was based on three years of quality-assured air quality monitoring data.

B. Emissions Inventory: In understanding the priorities of the DAQEM air pollution control program, it is important to understand the nature of their air quality problems and the relative contributions of various source categories. In short, the County does not have a heavy industrial base and its air quality problems do not include a significant contribution from stationary sources.

The following DAQEM charts display how emissions in Clark County are distributed among various source categories. For example, PM-10 from vacant lots and unpaved parking lots, construction and windblown construction sources, non-road mobile, and on-road mobile sources represents a combined total of 96% for this area. Stationary sources are a very small portion of the area's PM-10 inventory. Consequently, DAQEM has for years focused its compliance program on controlling dust from construction and other sources. They also are using computers and remote sensing to better map, digitize, and predict the impacts of localized soil disturbance from construction, roads, and planned business/commercial growth.

PM₁₀ Emissions Inventory
(Source: 2006 PM10 Milestone Achievement Report--Attainment Inventory)

Stationary Point Sources	3.29
Small Area Sources	5.49
Vacant Lands and Unpaved Parking Lots	96.67
Construction and Windblown Construction Dust	43.58
On-road Mobile Sources	65.38
Nonroad Mobile Sources	3.9
TOTAL:	218.31 Tons per Day

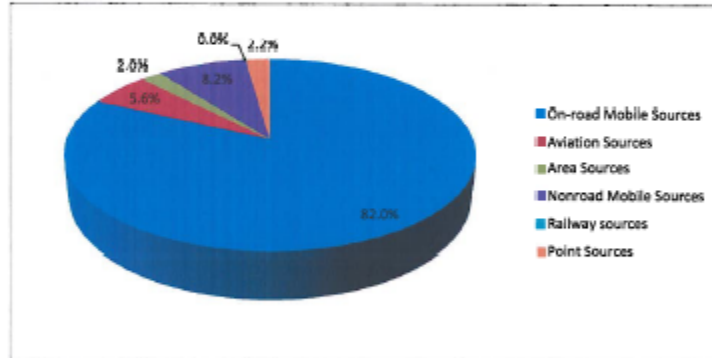


Prepared by: Clark County Department of Air Quality and Environmental Management
 Point of Contact: Stephen Deyo
 Phone: 702-455-1675
 E-mail: deyo@ClarkCountyNV.gov

Similarly, mobile sources account for 95.6% of the CO emissions in the area:

CO Emissions Inventory
(Source: 2008 CO Maintenance Plan)

On-road Mobile Sources	579.3
Aviation Sources	39.7
Area Sources	13.9
Nonroad Mobile Sources	57.7
Railway sources	0.3
Point Sources	15.8
TOTAL:	706.7 Tons per Day

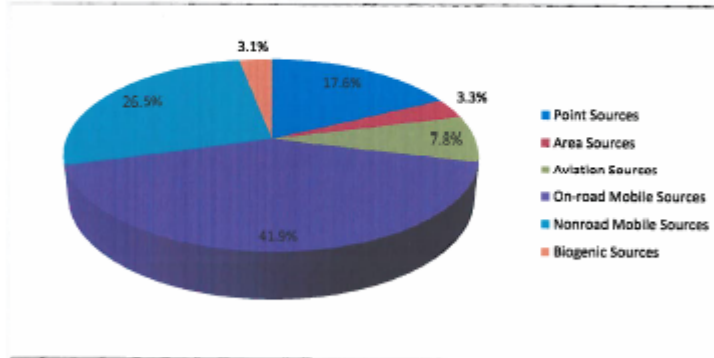


Prepared by: Clark County Department of Air Quality and Environmental Management
Point of Contact: Stephen Deyo
Phone: 702-455-1675
E-mail: deyo@ClarkCountyNV.gov

Stationary sources contribute only 20.9% of the NOx total:

NOx Emissions Inventory
(Source: 2011 Ozone Maintenance Plan)

Point Sources	28.73
Area Sources	5.41
Aviation Sources	12.68
On-road Mobile Sources	68.46
Nonroad Mobile Sources	43.28
Biogenic Sources	5
TOTAL:	163.56 Tons per Day

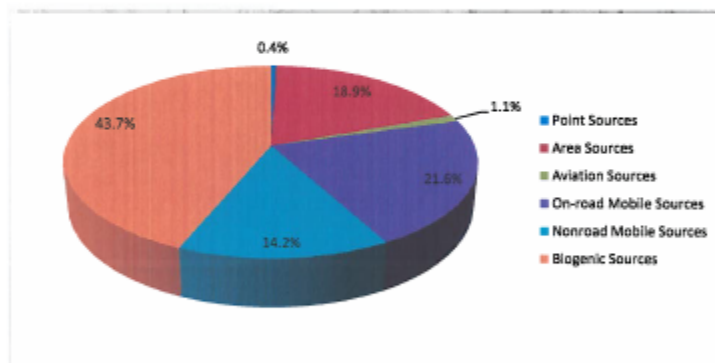


Prepared by: Clark County Department of Air Quality and Environmental Management
Point of Contact: Stephen Deyo
Phone: 702-455-1675
E-mail: deyo@ClarkCountyNV.gov

Finally, in the VOC emissions category, we find point sources contributing only 1.32% of the inventory:

VOC Emissions Inventory
(Source: 2011 Ozone Maintenance Plan)

Point Sources	1.32
Area Sources	57.07
Aviation Sources	3.39
On-road Mobile Sources	65.08
Nonroad Mobile Sources	42.91
Biogenic Sources	132
TOTAL:	301.77 Tons per Day



Prepared by: Clark County Department of Air Quality and Environmental Management
 Point of Contact: Stephen Deyo
 Phone: 702-455-1675
 E-mail: deyo@ClarkCountyNV.gov

In order to make progress toward its air quality goals, Clark County, like many of the nonattainment areas in nearby Arizona and California, needs to focus its resources on a variety of mobile and area sources rather than the major stationary sources that are more predominant in many other parts of the country.

C. Staffing/Resources: Stationary source air permits, including Title V permits, are issued through the Permitting Division (18 positions). The Compliance and Enforcement Division (42 positions) is comprised of the Fugitive Dust Section (16 positions), the Stationary Source Section (14 positions) and the Enforcement Section (7 positions) (see Appendix C). The Planning Division (16 positions) is responsible for preparing SIPs, emissions inventories and modeling. The Engineering Division (14 positions) is responsible for maintaining and operating the ambient monitoring network and informing the public about current air conditions.

D. Scope of Compliance Program: Clark County has an exemplary dust compliance and enforcement program. During the early 2000's they combined an aggressive enforcement stance with a robust outreach and education program. This effective approach was a primary factor contributing to the area's recent attainment of the PM-10 NAAQS. EPA believes that it is essential that DAQEM continue to implement an extensive and assertive PM-10 compliance and enforcement program. It seems only a matter of time until the U.S. economy improves and construction increases. If the regulated community has been allowed to lessen their emphasis on

continuous compliance under a relaxed program, the PM-10 NAAQS may very well be exceeded in Clark County once again.

Dust control continues to dominate their program's activity. During FFY 2010 DAQEM issued 2,095 dust control permits covering over 21,000 acres. They also conducted 45 dust control classes for 1,446 personnel.

Overall, including dust control, Asbestos NESHAP, major, minor and area sources, during FFY 2010 DAQEM conducted 15,305 inspections, witnessed 208 source tests and responded to 1,647 complaints.

E. Compliance Evaluation and Enforcement Process:

Compliance Monitoring and Data Entry: The "Compliance Monitoring Procedure for Major and Synthetic Minor Sources" (CMP flow chart) outlines DAQEM's process for completing full and partial compliance evaluations, including review of compliance reports, source tests, onsite inspections, NOV issuance and AFS data entry. The CMP flow chart states that if "deficiencies meet HPV criteria" then an NOV would be required to be issued, leading to an HPV Day Zero and routine HPV reporting being initiated. In non-HPV circumstances, the district procedure flow chart indicates it may either issue a NOV or prepare a Letter of Non Compliance (known as a LON), which is the district's informal enforcement mechanism.

The flow chart suggests that only HPVs are set up for AFS entry. We did not find Federally Reportable Violations (FRVs) mentioned in the Enforcement Procedure or CMP flow chart, nor the "formal action" or changes in plant compliance status (for non-HPVs) as being reportable triggers for AFS. EPA requires authorized agencies to enter some non-HPV enforcement data (i.e. Tier I FRVs). We will work with DAQEM to ensure they are familiar with the March 22, 2010 OECA memorandum "Clarification Regarding Federally-Reportable Violations for Clean Air Act Stationary Sources."

HPV Determination: EPA found three unreported HPVs. In fact, there have been no new HPVs reported to AFS since 10/01/2005. There was not time during the visit to determine if there were other unreported violations in previous years. Region 9 will work with DAQEM to clarify and improve future HPV reporting by improving documentation, justification, and timeliness, and by ensuring that the ongoing regular discussions between Region 9 and DAQEM include discussion of potential HPVs.

Penalties: At the time of the file review, DAQEM's penalty matrix was undergoing revision. NOV writing procedures note that while computing recommended penalty for a violation, AQMS (the DAQEM's internal spreadsheet of historic violations) is to be checked for previous violations. If there are any "adjudicated violations" those may also increase penalties by a multiplier factor. The maximum penalty is figured by charging \$10,000 for each violation day and each regulation violation; the average penalty is approximately \$4,000 per violation. We did not see any information related to gravity or economic benefit calculation in the NOV writing procedures.

Clark County issued 129 NOVs (113 of which were for dust-related violations) and assessed \$243,376 in penalties during FFY 2010.

Settlement Process: NOVs are issued by the DAQEM and approved by the Air Pollution Control Hearing Officer (the DAQEM does not have the authority to assess penalties). The Hearing Officer also hears testimony on contested NOVs. Violators may appeal Hearing Officer decisions to the Hearing Board and then to state court. The Hearing Board is comprised of seven private sector individuals appointed by the Board of County Commissioners, typically with working knowledge of air quality issues, arbitration, law and engineering.

F. General Observations:

We observed that DAQEM's compliance staff and management have a thorough understanding of federal regulatory programs. The clarity and details included in most of the inspection reports, including the identification of applicable County and federal regulations, was noteworthy.

DAQEM gave a presentation of their automated permit tracking system under development, which may eventually also track compliance and enforcement information, and perhaps eventually with AFS, if sufficient funding can be obtained. Region 9 supports their efforts to secure OEI and/or other funding if it again becomes available at the national level for such data connectivity projects. (Clark County applied twice previously for EPA assistance with this project, but was unsuccessful.) We are impressed that Clark County has continued to develop the system on its own.

Clark County's new GIS mapping of present and future PM-10 sources will help enable them to respond quickly and appropriately in the future to construction increases, generate estimates of soil disturbance, and expedite construction permits within the framework of their air pollution control work. Additionally, the mapping of permitted construction projects will provide a more accurate PM-10 emission inventory of the area. We encourage Clark County to continue this initiative.

The DAQEM Small Business Assistance Program (SBAP) has been very active in providing assistance to small businesses in Clark County. Currently DAQEM has assigned two personnel who conduct outreach and compliance assistance and assist minor sources with permitting.

In formal comments to the SRF, DAQEM supplied the following additional information (*italicized*):

“The following is a summary of Clark County Department of Air Quality and Environmental Management's (DAQEM) SBAP outreach activities:

Revised the DAQEM / SBAP Website:

When Clark County updated their website, DAQEM's SBAP personnel took the opportunity to revise their web page. The SBAP web page can be found at the following link:

<http://www.clarkcountynv.gov/Depts/daqem/Pages/SmallBusinessAssistance.aspx>

Advocacy for Small Business:

SBAP personnel have assisted small businesses in reconciling billing, compliance and permitting issues. In cases where advocacy is warranted, SBAP personnel have filed reports with the SBAP supervisor, who has taken the matters up with management for resolution.

Field Visits:

At clients request SBAP assistance is provided for both Compliance and Permitting assistance. SBAP Compliance assists with record keeping, compliance assessments, permit requirements, annual reporting and other air quality compliance. SBAP Permitting assists with permit applicability assessments, completing permit applications and application reviews.

Office Assistance – Phone, Front Counter, Email, Meetings:

SBAP Compliance assists with record keeping, compliance assessments, permit requirements, annual reporting and other air quality compliance. SBAP Permitting assists with permit applicability assessments, completing permit applications and application reviews.

Presentations:

- *Cashman Equipment – Participation in three outreach seminars targeting general contractors, architectural firms and Clark County School District personnel.*
 - *Power point presentation on non-road engines.*
- *Rotary Club – Presentation on DAQEM's SBA Program*
- *AWMA – Presentation on DAQEM's SBA Program*
- *UNLV small business – get name*

SBAP Brochures:

- *General tri-fold SBAP brochure*
- *Two-sided SBAP flyer*
- *AQ Permit Check-up: Consolidating Multiple Permits*
- *AQ Permit Check-up: Updating Your Permit*
- *AQ Permit Check-up: Updating Responsible Official*
- *AQ Permit Check-up: New Permit Alert*
- *AQ Permit Check-up: Canceling Your Permit*
- *Brochure sent with each Minor Source Permit – Need Help? Contact SBAP*

Annual Reporting and Emission Inventory:

- *In the past year two e-mails were sent to permit holders to remind of reporting deadlines.*
- *Developed emission inventory reporting sheets for individual sources.*
- *Developed emission inventory reporting sheets for various source categories.*

Billing Assistance and Explanation:

Field calls and inquiries from permit holders requesting explanations of annual billing codes and practices.

Assistance with: NOVs / Letters of Non – Compliance / Letters of Incompleteness

At the source's request SBAP has assisted sources with addressing Notices of Violation, Letters of Non-Compliance (LON) and Letters of Incompleteness (LOI) for permitting and annual reporting.

Revocation of Permit Assistance:

- *Compliance – Assist sources with resolving the Notice of Revocation.*
- *Permitting – Assist sources with re-permitting after Letter of Revocation is received.*

40 CFR 63, Subpart 6 H – Mass Mailing to Surface Coaters:

- *EPA Region 9 assistance*
- *Notification Letter, Brochure, Opt Out Template*

Outreach to Small Business Assistance Organizations and Chamber of Commerce:

- *UNLV – Nevada Small Business Development Center, Nevada Micro Enterprise, Small Business Assistance (SBA)*
- *Chamber of Commerce in the Cities of Las Vegas, Henderson and North Las Vegas*

Outreach and Education to Business Licensing:

- *Clark County, City of Las Vegas, City of Henderson, City of Mesquite*

Participation in EPA Region 9 Conference Calls regarding Outreach Activities”

Clark County's facility files were well organized and maintained electronically as scanned documents stored in folders. Electronic files included permits, inspection reports, correspondence, and completed enforcement actions. Inspection, test, and certification dates and details in the compliance files were found to correlate well with the data that had been reported to AFS. Plant compliance status, compliance history flags, and High Priority Violations (HPVs) did not correlate as well and should be improved.

DAQEM provided the reviewers with a 3-page index of 3-character file suffixes they use to identify various file types and formats. We found this file coding difficult to use. DAQEM staff was very helpful with this and also collected many of the files into facility folders for us. We believe that a facility-based filing system is preferable when matching documents with activity reported to AFS. We recommend that, for AFS, audit and internal controls purposes, a facility-based e-file system be maintained; we note that we found several relevant documents necessary to our review filed elsewhere than the DAQEM's filing suggested. We have learned DAQEM has been working toward an internal electronic filing system that follows the facility-based filing system which will allow the new database to search these documents and review them.

In addition, several documents, including enforcement actions relevant to FFY2010, were filed in FFY2009 files. Since some of these failed tests, NOVs, formal actions, and potential HPVs were not reported to AFS as detailed elsewhere in this report; we conclude that if DAQEM cross-filed AFS-reportable actions and added some HPV tracking forms, this might resolve some of the reporting-related issues we document in this report. EPA has offered to work with DAQEM on this matter.

DAQEM is currently working on the development of a new database that will have an enforcement module which will provide tracking systems for all enforcement actions and have the ability to identify HPV and monitor action timelines. Current databases do not have this ability thus tracking is done manually. Once the database module is functioning, DAQEM will discuss the features of the system with EPA.

G. EPA's Enforcement Role: EPA continues to conduct a variety of investigations and enforcement cases in Clark County. The DAQEM works very well with EPA. We welcome this partnership role and will continue, as necessary, to support their air pollution control program.

H. Process for SRF Review: The initial SRF data used for the review was pulled January 25, 2011. A "kickoff letter" which transmitted the data and described the review process was sent to Clark County DAQEM on February 24, 2011. The on-site CAA portion of the SRF review was conducted March 29-31, 2011. Region 9 maintained a dialogue with the DAQEM throughout the course of the review. Files were randomly selected by the review team, using the EPA SRF File Selection Protocol issued 9/30/08.

Information Sources Included in the Review:

- Clark County DAQEM FY2010 inspection and enforcement files
- Management and staff interviews
- EPA databases, primarily AFS and OTIS/SRF
- Clark County DAQEM documents

EPA On-Site Reviewers:

Douglas McDaniel	Chief, R9 Air Enforcement	(415) 947-4106
John Brock	R9 Air Enforcement	(415) 972-3999
John Borton	R9 Air Enforcement	(415) 972-3985

Clark County DAQEM Contacts:

Lewis Wallenmeyer	DAQEM Director	(702) 455-1600
Tina Gingras	Assistant Director	(702) 455-1602
Gary Miller	Compliance Manager	(702) 455-5199

III. STATUS OF RECOMMENDATIONS FROM PREVIOUS REVIEW

This is the first SRF review of Clark County DAQEM. In 2007, in the first round of the SRF, EPA conducted a multi-media review of the Nevada Division of Environmental Protection (NDEP). Although the R9 Air Division has chosen to focus this year on Clark County DAQEM, the Water and Waste Divisions conducted reviews of water quality and RCRA programs for which the state of Nevada (NDEP) is responsible. The final combined report will include all three reviews and will be issued in September 2011.

There are no outstanding NDEP air issues from the 2007 SRF report.

IV. FINDINGS AND RECOMMENDATIONS

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

Finding	Description
Good Practices	This describes activities, processes, or policies that the SRF data metrics and/or the file reviews show are being implemented exceptionally well, and which the State is expected to maintain at a high level of performance. Additionally, the report may highlight specific innovative and noteworthy activities, processes, or policies that have potential to be replicated by other States. No further action is required by either EPA or the State.
Meets SRF Program Requirements	This indicates that no issues were identified under this Element.
Areas for State* Attention *or, EPA Region’s attention where program is directly implemented	This describes activities, processes, or policies that 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. 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.
Area for State* Improvement— Recommendations Required *or, or, EPA Region’s attention where program is directly implemented	This describes activities, processes, or policies that the metrics and/or the file reviews show are being implemented by the State that have significant problems that need to be addressed and that require follow-up EPA oversight. This can describe a situation where a State is implementing either EPA or State policy in a manner requiring EPA attention. For example, these would be areas where the metrics indicate that the State is not meeting its commitments, there is a pattern of incorrect implementation in updating compliance data in the data systems, there are incomplete or incorrect inspection reports, and/or there is ineffective enforcement response. These would be significant issues and not 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.

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

E1.01	Finding	Minor source universe and identifying federal applicability at minors needs improvement.
	Finding is:	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements Area for State Attention XX Area for State Improvement – Recommendations Required
	Explanation	Clark County DAQEM's universe of federally-reportable minors and completeness of air program markers for federal applicability is not yet current.
	Metric(s) and Quantitative Value	1B2C Source Count NESHAP Minors (Current) - 0. 1B3C Source Count Active Minors or other Federal Reportable sources, not including NESHAP Part 61 (Current) – 0 1C2C Source Count NESHAP (Current) - 0
	Local Response	<p><i>“On September 2, 2010, the Department was delegated for the first time the authority to apply and enforce 40 CFR Parts 60 and 61, and on January 3, 2011 authority to enforce Part 63. Prior to this delegation, the Department had not been delegated full authority to enforce these federal EPA regulations and issued permits did not reference these federal regulations, but the permits did contain the regulation conditions, limitations, and requirements, citing local AQR Section 19 and 16 as the basis of authority. Therefore, the Department did not identify these regulations in the permit nor track the Minimum Data Requirements (MDR) and place them in AFS. With the adoption of new Section 12 regulations, which establishes a five year permit, each source will submit an application and be fully evaluated on its applicability to these EPA regulations. When source permits are reissued these EPA regulations will be referenced and AFS will be updated to identify the MDRs. We anticipate this task will be completed when all sources permits have been reissued by June 30, 2015.”</i></p>
	Recommendations	EPA accepts DAQEM's explanation above, and the anticipated resolution by June 30, 2015. DAQEM shall update EPA on progress of this issue by April 1, 2015 and (if necessary) again by July 1, 2015. In addition, EPA will also monitor entries in the data system for additional updates and confirmation of resolution.

Element 2: Data accuracy. Degree to which the Minimum Data Requirements are accurate in EPA's national database.

E2.01	Finding	Data accuracy needs improvement.
	Finding is:	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements Area for State Attention XX Area for State Improvement – Recommendations Required
	Explanation	There were no failed stack tests results reported to AFS in FFY10, but 1 failed test was found during the review of 17 files. Failed stack tests are automatic HPV/FRVs, and thus are reportable to AFS. See Element 8 (SNC/HPV identification). Element 8 has been identified as an Area for State Improvement. Recommendations for State Improvement have been made under Element 8 which, if implemented, will result in improvement in this associated Element.
	Metric(s) and Quantitative Value	2B2S Stack Test results at federally-reportable sources - 100% without pass/fail results (1FY). Also see Element 7 re stack test failures.

	Local Response	<p><i>“This finding is in reference to Source ID# 95. The permit required an initial Vapor Recovery Test on a 1,000 gallon underground gasoline storage tank and the test was conducted on December 15, 2010, with failing results. After repairs, the tank was retested on December 17, 2010, and passed the Vapor Recovery Test. Based on established department policies and past enforcement practices for similar emission units that have a local-only test requirement, Air Quality issued a verbal warning to the source on this deficiency identified in the Full Compliance Evaluation (FCE) report. The failed test was never reported in AFS because a Vapor Recovery Test on a small underground gasoline storage tank was not considered a typical performance test that is subject to EPA’s National Stack Testing Guidance. It was concluded that the Vapor Recovery Test on a Gasoline Dispensing Operation conducted solely to satisfy a local only requirement does not meet the criteria to be entered into AFS as an HPV.”</i></p> <p>[EPA addendum reflecting subsequent conversation: Test results revealed an exceedance of the permitted lb/hr rate; however, it passed the mass concentration limit (grain loading limits in grains per dry standard cubic feet contained in 40 CFR Part 60, Subpart OOO). A review of the test report for the PM10 emissions revealed the tester reported both filterable and condensable particulates in the lb/hr emission rate. For the grain loading or mass, they only counted the PM10 or filterable emissions. Therefore, DAQEM determined the source passed the overall performance test based on their compliance with the grain loading standard. Since the performance test values provided for the lb/hr rate were questionable, DAQEM acknowledged the deficiency but did not consider it a HPV.]</p>
	Recommendations	See recommendation under Element 8.

Element 3: Data timeliness. Degree to which the Minimum Data Requirements are timely in EPA’s national database.		
E3.01	Finding	Data timeliness needs improvement.
	Finding is:	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements Area for State Attention <input checked="" type="checkbox"/> Area for State Improvement – Recommendations Required
	Explanation	DAQEM entered 34.7% of MDRs within 60 days of designation. National average is 63.1%. DAQEM should work to improve in this area.
	Metric(s) and Quantitative Value	3B1 - DAQEM entered 34.7% of MDRs within 60 days of designation. National average is 63.1%

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

Local Response	<p><i>“On September 2, 2010, the Department was delegated for the first time the authority to apply and enforce 40 CFR Parts 60 and 61, and on January 3, 2011 authority to enforce Part 63. Prior to this delegation, the Department had not been delegated full authority to enforce these federal EPA regulations and county issued permits did not reference these federal regulations, but the permits did contain the regulation conditions, limitations, and requirements. Therefore, the Department did not fully identify these regulations nor track these MDRs and place them in AFS. With the adoption of new Section 12 regulations, which establishes a five year permit, each source will be fully evaluated on its applicability to these EPA regulations. When source permits are issued that reference these EPA regulations, the MDRs will be updated accordingly in AFS. We anticipate this task will be completed when all sources permits have been reissued by June 30, 2015.”</i></p> <p>[EPA addendum: The majority of the entries beyond 60 days were related to the review of performance test results. In the second quarter of 2009 the staff person assigned to review test reports resigned from the department and the position was left unfilled due to a county wide hiring freeze and subsequent layoffs. In the past, DAQEM had one staff person assigned to reviewing test protocols, observing tests, and reviewing test reports. In late 2009, two staff from other programs were reassigned to perform the function of processing and reviewing test reports. It took several months to train the individuals and to review the backlog of test reports. Prior to the audit in August of 2010, staff had completed reviewing the backlog of tests and entered the data into AFS. Despite the loss of personnel and inability to rehire, DAQEM resolved this issue by reassigning resources and accomplishing retraining in a reasonable amount of time. Although DAQEM did not meet the 60-day data entry requirement, the audit report should reflect the proactive measures that DAQEM took to bring these reviews back on track despite Clark County government’s current economic situation.]</p>
Recommendations	EPA accepts DAQEM’s explanation. EPA recommends DAQEM continue to monitor timeliness of data entries, and update EPA on current status on or before April 1, 2015.

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

E4.01	Finding	DAQEM largely met CMS commitments.
	Finding is:	<input type="checkbox"/> Good Practice <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required
	Explanation	EPA R9 has no Performance Partnership Agreements or State Enforcement Agreements with its agencies. DAQEM submitted an adequate CMS plan on December 9, 2009. During FFY 2010 DAQEM successfully met their CMS commitments except as otherwise outlined in this report. Note: As described elsewhere in this report, the County does not have a heavy industrial base, and its air quality problems do not include a significant contribution from stationary sources, which is the air program the State Review Framework monitors. In order to make progress toward its air quality goals, Clark County needs to focus its resources on controlling dust from construction, and a variety of mobile and area sources not addressed by State Review Framework. EPA supports DAQEM's efforts to implement an extensive and assertive PM-10 compliance and enforcement program.
	Metric(s) and Quantitative Value	n/a
	Local Response	N/A
	Recommendations	None

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

E5.01	Finding	Clark County DAQEM does an excellent job of FCE coverage of its major, SM, and CMS targeted minor universe sources.
	Finding is:	Good Practice <input checked="" type="checkbox"/> Meets SRF Program Requirements Area for State Attention Area for State Improvement – Recommendations Required

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

Explanation	Clark County is commended for achieving 100% coverage of DAQEM's CMS targeted universe for FFY10.
Metric(s) and Quantitative Value	Metrics 5A1 through 5C1 show 100% coverage of DAQEM's CMS targeted universe for FFY10.
Local Response	N/A
Recommendations	None

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

E6.01	Finding	DAQEM's inspection reports were well organized and detailed. The impressive electronic file system included permits, inspection reports, Title V compliance certifications, monitoring reports, correspondence, and enforcement records.
	Finding is:	<input checked="" type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required
	Explanation	<p>A review of 17 files found that Clark County DAQEM's inspection reports were well organized and detailed. The electronic file system included permits, inspection reports, Title V compliance certifications, monitoring reports, correspondence, and enforcement records. We found 100% of the reviewed FCEs met the definition of a FCE per EPA's CMS policy.</p> <p>We found that some inspectors included more detail in their reports than others, but all seemed to follow the permit closely and paid special attention to AFS needs, such as Plant ID and Plant Name, and most included a box or table with such specific AFS information, such as the record number when an inspection, test, or cert had been</p>

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

	reported to AFS. These elements in the electronic documents were helpful to ensure good AFS match-up.
Metric(s) and Quantitative Value	n/a
Local Response	N/A
Recommendations	None

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

E7.01	Finding	DAQEM should report all its failed stack tests to AFS and also link them in as HPV/FRVs as appropriate.
	Finding is:	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input checked="" type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required
	Explanation	There were no failed stack tests results reported to AFS in FFY10, but 1 failed test was found during the file review of 17 files. Failed stack tests are automatic HPV/FRVs, and thus are reportable to AFS. See Element 8 (SNC/HPV identification). Element 8 has been identified as an Area for State Improvement. Recommendations for State Improvement have been made under Element 8 which, if implemented, will result in improvement in this associated Element.
	Metric(s) and Quantitative Value	7C1 - % facilities in noncompliance that have had FCE, stack test or enforcement. National average 22.9%, DAQEM 0%.

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.

Local Response	<p><i>“The Department does enter failed stack performance tests in AFS. It was the Department’s position that the two tests identified during the SRF did not qualify as HPVs. The first test was related to a Vapor Recovery test conducted on a 1,000 gallon gasoline storage tank. The tank was tested and failed a local regulation limit. It was not reported to AFS since the Vapor Recovery Test is not a typical performance test subject to EPA’s source test guidance.</i></p> <p><i>The second test was related to a performance test on a baghouse associated with five rock crushers. The test results revealed an exceedance of the permitted lb/hr rate; however, it passed the mass concentration limit (grain loading limits in grains per dry standard cubic feet contained in 40 CFR Part 60, Subpart OOO). A review of the test report for the PM10 emissions revealed the tester reported both filterable and condensable particulates in the lb/hr emission rate. For the grain loading or mass, they only counted the PM10 or filterable emissions.” [EPA addendum: Therefore, DAQEM determined the source passed the overall performance test based on their compliance with the grain loading standard. Since the performance test values provided for the lb/hr rate were questionable, DAQEM acknowledged the deficiency but did not consider it a HPV.]</i></p>
Recommendations	None

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.		
E8.01	Finding	There have been no new HPVs reported to AFS since 10/01/2005. File review of 17 files revealed 5 potentially reportable HPVs, although further review of the facts revealed that two of the five did not qualify as HPVs.
	Finding is:	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input checked="" type="checkbox"/> Area for State Improvement – Recommendations Required
	Explanation	<p>High staff turnover and a need for training contributed to this finding. Here are details on the five unreported potential HPVs:</p> <p>1) Aggregate Industries - This plant is now a Title V major (it was SM at the time of the original NOV) and on the date of the FCE (3/31/2010) was operating in excess of its PM emissions limit (a GC3 HPV category reportable violation).</p> <p>2) Las Vegas Paving – This synthetic minor source exceeded its production, emission, and fuel usage limits on heater, for the pollutant for which it is a SM.</p> <p>3) Republic Dumpco – This Title V source had numerous reporting and recordkeeping violations during an FCE in March 2010, making it in EPA’s opinion “difficult to determine overall compliance” and therefore an HPV under GC7.</p> <p>4) Tronox – The file documented a clear “failure to test on time” violation. The units were shown to have tested compliant 18 days AFTER the test due date. EPA’s source test guidance covers this issue - tests not done by the 180 day deadline are actionable violations and should be reported as HPVs.</p> <p>5) Wells Cargo – the file showed violations had been noted at this SM source for unpermitted emissions units, an untested storage tank, disturbed acreage, and one unit lacking required vapor recovery controls. The inspection report included a recommendation for an \$80,000 penalty. The violations were apparently later resolved through permitting instead of enforcement. Regardless, this should have been initially reported as an HPV and then if no penalty were warranted, an alternative resolution could have been documented.</p>
	Metric(s) and Quantitative Value	High Priority Violation Discovery Rate - Per Major Source (1 FY). National average is 6.3%. DAQEM’s value was 0%.

Local Response	<p>1) <i>Aggregate Industries - A Title V application had been submitted by the source but the department had not yet issued the Title V Operating Permit. Staff was reviewing the submitted 3rd quarter report for calendar year 2009 when they identified a diesel engine unit had exceeded its permitted hours of operation. The department issued a Section 4 letter requesting further information regarding the incident. The source responded in February 2010 to the Section 4 letter and advised that the subject diesel engine was immediately removed from service when the quarterly report was being prepared. They further reported that the subject engine was no longer needed since the electric pump which powered the dust control system for the ready mix plant had been connected to the electrical grid system. The FCE was finalized on August 31, 2010 and the engine had been taken out of service by them. The source was operating under an Authority to Construct/Operating Permit under the old Air Quality Regulations. With total production from the facility less than 40 percent of normal, there was no exceedance of any limit that restricted their PTE below major source threshold. In consideration of these facts a Notice of Violation was issued for the documented violation. However, due to the fact a Title V Operating Permit had not been issued and the source initiated measures to address the violation before we became aware of the exceedance, it was the department's position this violation did not qualify has a HPV. [EPA addendum: EPA does not agree.] In the explanation of findings, the source was referenced as a SM and the date of the FCE was listed as March 31, 2010. The applicable permit does not reference SM and the FCE was finalized on August 31, 2010.</i></p> <p>2) <i>Las Vegas Paving - Currently, this source operates under an Authority to Construct/Operating Permit and classified as a Synthetic Minor permit. This permit was issued under the old Air Quality Regulations and the Potential-to-Emit (PTE) calculations did not follow the EPA method for calculating the PTE from this source. In July 2010, the department adopted EPA's definition of PTE in promulgating the New Source Review Regulations. Under the new regulations, this source will be required to submit an application to receive a new operating permit. A quick review of current PTE calculations using EPA methods label this as a minor source. When a new application is submitted, the department will perform a comprehensive evaluation and decide at that time what type of permit to issue the source. The department did document a violation and issued a Notice of Violation for the observed</i></p>
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violations. Since it is unclear as to the classification of this source, it was the department's position not to identify this violation as an HPV. [EPA addendum: Upon further review, DAQEM agreed that the short term limits for this source were necessary and that the documented violation is an HPV.]

- 3) *Republic Dumpco - In the review of the 2009 first and second quarter reports submitted by Republic Dumpco staff identified several deficiencies related to permit conditions and the data provided in the reports. Staff closely reviewed the data and the ATC/OP, Mod 4 permit conditions and determined the permit contained many unenforceable conditions related to limitations, recordkeeping and reports. The permit required records to be maintained but failed to clearly identify how the data shall be reported or recorded. Subsequently, a Section 4 letter was hand delivered to the source at the commencement of the FCE, which required the source to provide detailed information responding to the quarterly reports and other significant data found during a comprehensive review of the ATC/OP, Mod 4. The source responded to the information request which led to a submittal of an application and revisions to the ATC/OP. Because of issues related to the permit's enforceability and the source was cooperatively working to fix the identified issues with [enforceability of] the permit, it was the department's position to not initiate enforcement action for these minor infractions and not reporting it has a HPV. [EPA addendum: After reviewing the facts, EPA agrees that this was more a problem with a poorly written permit than compliance, and therefore a matter of enforcement discretion for the County.]*
- 4) *Tronox - The permit required an initial Vapor Recovery Test on a 1,000 gallon underground gasoline storage tank and the test was conducted on December 15, 2010, with failing results. After repairs, the tank was retested on December 17, 2010, and passed the Vapor Recovery Test. Based on established department policies and past enforcement practice for similar emission units that have a local-only test requirement, Air Quality issued a verbal warning to the source on this deficiency identified in the Full Compliance Evaluation (FCE) report. The failed test was never reported in AFS because a Vapor Recovery Test on a small underground gasoline storage tank was not considered a typical performance test that is subject to EPA's National Stack Testing Guidance. It was concluded that the Vapor Recovery Test on a Gasoline Dispensing Operation conducted solely to satisfy a local only requirement does not*

		<p><i>need to be entered into AFS as a HPV. [EPA addendum: EPA’s 2009 Stack Testing Guidance supports this position: “the guidance does not apply to tests in situations such as the following: ... tests conducted only to determine and demonstrate compliance with State Implementation Plan (SIP) requirements.”]</i></p> <p><i>5) Wells Cargo - An enforcement action was issued for unpermitted equipment, disturbed acreage, vapor recovery controls not installed and tested, and exceedance of permitted daily production limit. A Notice of Violation was issued with a proposed penalty of \$80,000. In the investigation, it was discovered in a previous permitting action that the PTE was not properly calculated in accordance with EPA’s definition. As part of the enforcement action, we have required them to perform a thorough evaluation of all emission units at the facility, which includes submitting maximum design capacities of all emission units, dates units were placed in operation, and identifying dust control systems. In providing this information, we will determine the correct PTE for the source and what type of permit they will need to acquire. The information has been submitted and the Permitting Division is currently evaluating the application and corresponding with the source to obtain information as needed. With the current ATC/OP, it is unclear how the source should be properly permitted. Once that determination has been made and they are in fact a Major, SM or Minor source, AFS will be updated to reflect the HPV status. The parties are working to resolve the enforcement action.</i></p>
	<p>Recommendations</p>	<p>Region 9 will work with DAQEM to clarify and improve future HPV reporting, by improving tracking, documentation, justification, and timeliness by March 31, 2015. Initially, EPA recommends the implementation of a modified HPV/FRV tracking worksheet, similar to one utilized by the California Air Resources Board, which might provide a solution to these and future reportable HPV/FRVs (and help to better document details that led to a determination that cases were not reportable). Improvement in this Element should bring about improvement in related findings for Elements 2 and 7, which therefore have been identified as Area for State Improvement and Area for State Attention, respectively.</p>

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.

E9.01	Finding	Compliance was achieved in enforcement cases.
	Finding is:	<input type="checkbox"/> Good Practice <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required
	Explanation	All of the three potential HPVs had returned to compliance at the time of NOV issuance.
	Metric(s) and Quantitative Value	n/a
	Local Response	<i>See Element 8 for an explanation related to Tronox.</i>
	Recommendations	None

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

E10.01	Finding	Action timely based on minimal data.
	Finding is:	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input checked="" type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required
	Explanation	Based on the file review, at least two of the five possible HPVs were resolved within 270 days, which indicates that DAQEM would exceed the national average of 36.4%.
	Metric(s) and Quantitative Value	10A - % HPV's not meeting timeliness goals. DAQEM 60%.

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

Local Response	[EPA addendum: As mentioned above DAQEM does not totally agree with EPA’s explanation. The Department does a timely review of each enforcement action related to a major or SM source to determine if the violation meets the criteria for a HPV and enters the data into AFS, as appropriate. In the instances identified by EPA, it is DAQEM’s position that based on extenuating circumstances in most instances, there was justification the violations did not meet the HPV policy and were not entered as such. When the violation is clearly documented and meets the HPV policy, the data will be entered into AFS. DAQEM is working on the development of a new database that will clearly document management oversight of enforcement actions and processing of them in a timely manner that meets the HPV policy.]
Recommendations	None

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

E11.01	Finding	File penalty documentation should be improved.
	Finding is:	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input checked="" type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required
	Explanation	The two files containing penalty documentation did not contain gravity or economic benefit calculations. At the time of the SRF file review, DAQEM’s penalty matrix was undergoing revision. EPA will review the new matrix upon completion to affirm that gravity and economic benefit are accounted for.
	Metric(s) and Quantitative Value	n/a

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.

Local Response	<p><i>“The Department is currently working on revisions to the local Air Quality Regulation pertaining to civil penalties. The maximum penalty that can be assessed as provided for in Nevada Revised Statutes is \$10,000 per violation per day.”</i> [EPA addendum: DAQEM is a SIP program and follows the Nevada Revised Statutes (NRS). The NRS does not specifically address specific gravity or economic penalty calculations. The maximum penalty that can be assessed as provided for in Nevada Revised Statutes is \$10,000 per violation per day, which has been approved by EPA in the approval of the state and local air programs. DAQEM is currently working on revisions to the local Air Quality Regulation pertaining to the assessment of civil penalties and will attempt to incorporate these components into the local regulation as practical.]</p>
Recommendations	None

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

E12 .01	Finding	Penalty payment documentation adequate.
	Finding is:	<input type="checkbox"/> Good Practice <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required
	Explanation	There were no files where the Hearing Officer or Board assessed a different penalty than was recommended. The two files containing penalty documentation did contain documentation of payment in full.
	Metric(s) and Quantitative Value	12A – not applicable, no penalty actions in AFS. See Element 8.

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.

Local Response	[EPA addendum based on subsequent conversation: When the Hearing Officer (HO) or Board renders a decision related to any corrective action or assesses a civil penalty, an Order is prepared for the HO's signature that directs the respondent to comply with the Order. When the HO renders a decision regarding an NOV, that decision is contained in each respective Order.]
Recommendations	None

V. APPENDICES

APPENDIX A: STATUS OF RECOMMENDATIONS FROM PREVIOUS REVIEWS

(not applicable)

APPENDIX B: OFFICIAL DATA PULL

Official data serving as the foundation of this report was pulled January 25, 2011. A “kickoff letter” which transmitted the data and described the review process was sent to Clark County DAQEM on February 24, 2011 (see Appendix C for the letter itself). The on-site CAA portion of the SRF review was conducted March 29-31, 2011.

OTIS State Review Framework Results

CAA Data for Nevada, LCON 01 [Clark County DAQEM] (Review Period Ending: FY10)

Please note: For display purposes, some important explanatory details about the data metrics that follow are not included on the metrics results screen. To see detailed information about each data metric, refer to the data metrics informational spreadsheet or data metrics plain language guide when reviewing the data - all SRF guidance is available on the [OTIS SRF documents page](#). The SRF [data problems page](#) on the web indicates any known SRF data metrics issues. LCON 01 in Nevada is Clark County DAQEM only (so all in the following which say “State” from the SRF report are actually only counting Clark County DAQEM reported performance bubbled up from AFS

Production FY 2010 Data (Current Data Refresh Dates)									
Metric	Metric Type	Agency	National Goal	National Average	Nevada LCON 01 (Metric= x/y) ⁰	Count (x)	Universe (y)	Not Counted (y-x)	
1. Data completeness, degree to which the minimum data requirements are complete.									
2. Previous Resolved NDEP Recommendation(s) in SRF Tracker, & 0 Prior Recommendations for Clark County DAQEM									
A	Title V Universe: AFS Operating Majors (Current)	Data Quality	State		<u>28</u>	NA	NA	NA	
	Title V Universe: AFS Operating Majors with Air Program Code = V (Current)	Data Quality	State		<u>25</u>	NA	NA	NA	
B	Source Count: Synthetic Minors (Current)	Data Quality	State		<u>7</u>	NA	NA	NA	
	Source Count: NESHAP Minors (Current)	Data Quality	State		0	NA	NA	NA	
	Source Count: Active Minor facilities or otherwise FedRep, not including NESHAP Part 61 (Current)	Informational Only	State		0	NA	NA	NA	
C	CAA Subprogram Designations: NSPS (Current)	Data Quality	State		<u>26</u>	NA	NA	NA	
	CAA Subprogram Designations: NESHAP (Current)	Data Quality	State		<u>1</u>	NA	NA	NA	
	CAA Subprogram Designations: MACT (Current)	Data Quality	State		<u>6</u>	NA	NA	NA	
	CAA Subpart Designations: Percent NSPS facilities with FCEs conducted after 10/1/2005	Data Quality	State	100%	86.3%	96.3%	<u>26</u>	<u>27</u>	1
	CAA Subpart Designations: Percent NESHAP facilities with FCEs conducted after 10/1/2005	Data Quality	State	100%	47.5%	100%	40	40	0
	CAA Subpart Designations: Percent MACT facilities with FCEs conducted after 10/1/2005	Data Quality	State	100%	92.8%	83.3%	<u>5</u>	<u>6</u>	1
D	Compliance Monitoring: Sources with FCEs (1 FY)	Data Quality	State		89.4%	<u>91.5%</u>	65	71	6
	Compliance Monitoring: Number of FCEs (1 FY)	Data Quality	State			<u>20</u>	NA	NA	NA
	Compliance Monitoring: Number of PCEs (1 FY)	Informational Only	State			<u>16</u>	NA	NA	NA

E	Historical Non-Compliance Counts (1 FY)	Data Quality	State			0	NA	NA	NA
F	Informal Enforcement Actions: Number Issued (1 FY)	Data Quality	State			0	NA	NA	NA
	Informal Enforcement Actions: Number of Sources (1 FY)	Data Quality	State			0	NA	NA	NA
G	HPV: Number of New Pathways (1 FY)	Data Quality	State			0	NA	NA	NA
	HPV: Number of New Sources (1 FY)	Data Quality	State			0	NA	NA	NA
H	HPV Day Zero Pathway Discovery date: Percent DZs with discovery	Data Quality	State	100%	58.1%	0 / 0	0	0	0
	HPV Day Zero Pathway Violating Pollutants: Percent DZs	Data Quality	State	100%	89.5%	0 / 0	0	0	0
	HPV Day Zero Pathway Violation Type Code(s): Percent DZs with HPV Violation Type Code(s)	Data Quality	State	100%	91.0%	0 / 0	0	0	0
I	Formal Action: Number Issued (1 FY)	Data Quality	State			0	NA	NA	NA
	Formal Action: Number of Sources (1 FY)	Data Quality	State			0	NA	NA	NA
J	Assessed Penalties: Total Dollar Amount (1 FY)	Data Quality	State			\$0	NA	NA	NA
K	Major Sources Missing CMS Policy Applicability (Current)	Review Indicator	State	0		0	NA	NA	NA
2. Data accuracy. degree to which the minimum data requirements are accurate.									
1 Previous Resolved NDEP Recommendation in SRF Tracker, & 0 Prior Recommendations for Clark County DAQEM									
A	Number of HPVs/Number of NC Sources (1 FY)	Data Quality	State	≤ 50%	44.6%	0 / 0	0	0	0
B	Stack Test Results at Federally-Reportable Sources - % Without Pass/Fail Results (1 FY)	Goal	State	0%	1.4%	0.0%	0	152	152
	Stack Test Results at Federally-Reportable Sources - Number of Failures (1 FY)	Data Quality	State			0	NA	NA	NA
3. Timeliness of data entry. degree to which the minimum data requirements are complete.									
1 Previous Resolved NDEP Recommendation(s) in SRF Tracker, & 0 Prior Recommendations for Clark County DAQEM									
A	Percent HPVs Entered ≤ 60 Days After Designation, Timely Entry (1 FY)	Goal	State	100%	36.0%	0 / 0	0	0	0
B	Percent Compliance Monitoring related MDR actions reported ≤ 60 Days After Designation, Timely Entry (1 FY)	Goal	State	100%	63.1%	34.7%	67	193	126
	Percent Enforcement related MDR actions reported ≤ 60 Days After Designation, Timely Entry (1 FY)	Goal	State	100%	74.2%	0 / 0	0	0	0
C	Comparison of Frozen Data Set	Compare the production data results under Element 1 to the frozen data. Please see Plain Language Guide for details.							
5. Inspection coverage. degree to which state completed the universe of planned inspections/compliance evaluations.									
2 Previous Resolved NDEP Recommendation(s) in SRF Tracker, & 0 Prior Recommendations for Clark County DAQEM									
A	CMS Major Full Compliance Evaluation (FCE) Coverage (2 FY CMS Cycle) ¹	Goal	State	100%	88.6%	100.0%	28	28	0
	CAA Major Full Compliance Evaluation (FCE) Coverage (most recent 2 FY) ²	Review Indicator	State	100%	85.1%	100.0%	28	28	0
B	CAA Synthetic Minor 80% Sources (SM-80) FCE Coverage (5 FY CMS Cycle) ³	Review Indicator	State	20% - 100%	91.6%	100.0%	6	6	0
	CAA Synthetic Minor 80% Sources (SM-80) FCE Coverage (last full 5 FY) ⁴	Informational Only	State	100%	92.2%	100.0%	6	6	0
C	CAA Synthetic Minor FCE and reported PCE Coverage (last 5 FY)	Informational Only	State		81.4%	100.0%	8	8	0
D	CAA Minor FCE and Reported PCE Coverage (last 5 FY)	Informational Only	State		29.1%	0 / 0	0	0	0
E	Number of Sources with Unknown Compliance Status (Current)	Review Indicator	State			0	NA	NA	NA
F	CAA Stationary Source Investigations (last 5 FY)	Informational Only	State			1	NA	NA	NA
G	Review of Self-Certifications Completed (1 FY)	Goal	State	100%	94.0%	91.3%	21	23	2

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.

0 Previous Resolved NDEP Recommendation(s) in SRF Tracker, & 0 Prior Recommendations for Clark County DAQEMs

C	Percent facilities in noncompliance that have had an FCE, stack test, or enforcement (1 FY)	Review Indicator	State	> 1/2 National Avg	22.9%	0.0%	0	<u>31</u>	31
	Percent facilities that have had a failed stack test and have noncompliance status (1 FY)	Review Indicator	State	> 1/2 National Avg	46.6%	0 / 0	0	0	0

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.

2 Previous Resolved NDEP Recommendation(s) in SRF Tracker, & 0 Prior Recommendations for Clark County DAQEM

A	High Priority Violation Discovery Rate - Per Major Source (1 FY)	Review Indicator	State	> 1/2 National Avg	6.3%	0.0%	0	<u>28</u>	28
B	High Priority Violation Discovery Rate - Per Synthetic Minor Source (1 FY)	Review Indicator	State	> 1/2 National Avg	0.4%	0.0%	0	<u>7</u>	7
C	Percent Formal Actions With Prior HPV - Majors (1 FY)	Review Indicator	State	> 1/2 National Avg	69.8%	0 / 0	0	0	0
D	Percent Informal Enforcement Actions Without Prior HPV - Majors (1 FY)	Review Indicator	State	< 1/2 National Avg	50.5%	0 / 0	0	0	0
E	Percentage of Sources with Failed Stack Test Actions that received HPV listing - Majors and Synthetic Minors (2 FY) ²	Review Indicator	State	> 1/2 National Avg	40.9%	0.0%	0	1	<u>1</u>

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

0 Previous Resolved NDEP Recommendation(s) in SRF Tracker, & 0 Prior Recommendations for Clark County DAQEM

A	Percent HPVs not meeting timeliness goals (2 FY)	Review Indicator	State		36.4%	0 / 0	0	0	0
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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.

0 Previous Resolved NDEP Recommendation(s) in SRF Tracker, & 0 Prior Recommendations for Clark County DAQEM

A	No Activity Indicator - Actions with Penalties (1 FY)	Review Indicator	State			0	NA	NA	NA
B	Percent Actions at HPVs With Penalty (1 FY)	Review Indicator	State	≥ 80%	88.3%	0 / 0	0	0	0

Report Generated on 1/25/2011

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

General Notes:

* Blue-shaded rows denote that the metric was pulled manually.

* The results counts of some metrics contain enforcement sensitive (ES) records/actions. When using the drilldowns, [enforcement sensitive access](#) may be required to view all records/actions included in the results counts.

* Because of timeout issues, links are not provided to drilldowns that produce more than 1500 records.

Caveats:

⁰ State Metric column is generally computed from the value in the Count column (x) divided by the value in the Universe column (y).

¹ FY2008 Frozen data for for metric 5A1 is inaccurate. FY2008 5A1 production data is correct.

² FY2008 Frozen data for for metric 5A2 is inaccurate. FY2008 5A2 production data is correct.

³ The current CMS Cycle for SM80s started with FY07; therefore, metric 5B1 includes number of FYs since FY07 through selected FY. Goal percentages expected to increase with selected FY until CMS Cycle completion in FY11, e.g., 20% - FY07,40% -FY08, etc.

⁴ FY2008 Frozen data for for metric 5B2 is inaccurate. FY2008 5B2 production data is correct.

⁵ FY2008 Frozen data for metric 8ES is inaccurate. FY2008 8ES production data is correct.

APPENDIX C: PDA Transmittal Letter



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street

San Francisco, CA 94105-3901

FEB 24 2011

Lewis Wallenmeyer, Director
Clark County Department of Air Quality and Environmental Management
500 South Grand Central Parkway
Las Vegas, NV 89155

Dear Mr. Wallenmeyer:

This letter is to confirm that EPA Region 9 is conducting a review of the Clark County Department of Air Quality and Environmental Management (DAQEM) enforcement program this year under the second round of the national State Review Framework (SRF 2).

For this review we will evaluate compliance and enforcement activity conducted by DAQEM during Federal Fiscal Year 2010 (October 1, 2009 through September 30, 2010). As you are aware, our Air Enforcement Office has been working closely with your staff to plan this review. We will share our findings as the review progresses, and you will have an opportunity to comment on the draft report prior to finalizing the review.

SRF 2 is a continuation of a national effort that allows Region 9 to ensure state and local environmental enforcement programs meet agreed-upon minimum performance levels. In 2007, in the first round of the SRF, EPA conducted a multi-media review of the Nevada Division of Environmental Protection (NDEP). Although the Air Division has chosen to focus this year on Clark County, Region 9's Water and Waste Divisions will be again be conducting reviews of water quality and RCRA programs for which NDEP is responsible. The reviews will be combined in a final report to be issued in September 2011.

Our review of DAQEM will include:

- Discussions between Region 9 and DAQEM program managers and staff;
- Examination of data in EPA and DAQEM data systems; and
- Review of selected DAQEM inspection and enforcement files and policies.

With the assistance of your management team, the onsite file review has been scheduled for March 29-31 at the DAQEM offices. The EPA review team will consist of Doug McDaniel (Air Enforcement Office Chief), John Brock (Air Enforcement Staff Engineer) and John Borton (Air Enforcement Data Coordinator).

Our intent is to assist you in ensuring the program meets federal standards and is based on goals we have mutually agreed to. If we find issues, we want to address them together in the most constructive manner possible.

You may recall that EPA first used the State Review Framework protocol developed by EPA and the Environmental Council of the States (ECOS) to conduct an initial round of reviews in all fifty states. Upon completion of all Round 1 reviews, a work group composed of EPA, ECOS, state associations, and state agencies convened to evaluate Round 1 and revise the SRF elements, metrics, process and guidance. These revised protocols are being employed in the SRF 2 reviews.

The revised State Review Framework protocol employs standard metrics, worksheets and report templates that will be used to complete this review. In addition, EPA has designed an SRF Tracker as the repository for SRF final reports, comment letters, etc. State and local agencies are encouraged to view these materials, and may comment on their own information securely via the internet (http://www.epa-otis.gov/srf/srf_tracking.html).

All information and materials used in this review may be subject to federal and/or state disclosure laws, and may be released in response to a Freedom of Information Request. In addition, EPA will post the final report on a public website.

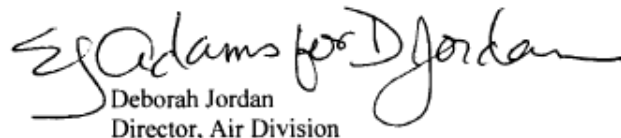
Region 9's primary contacts for the SRF reviews are:

Coordinator:	Julie Anderson	(415) 947-4260	anderson.julie@epa.gov
Air:	Doug McDaniel	(415) 947-4106	mcdaniel.doug@epa.gov
Water:	Ken Greenberg	(415) 972-3577	greenberg.ken@epa.gov
RCRA:	Amy Miller	(415) 947-3530	millier.amy@epa.gov

As part of this review, EPA conducts preliminary assessments of the DAQEM program based on state/local-verified compliance and enforcement data contained in the OTIS database. Changes to the air data were able to be made through January 25, when we jointly agreed to pull the final air report from OTIS for this review. Attachment 1 transmits the data pull from OTIS for your information.

We look forward to working with you again on this project, and will strive to make the review as efficient and productive as possible.

Sincerely,


Deborah Jordan
Director, Air Division

Attachment: Data Summary Sheets

cc: Colleen Cripps, Administrator, NDEP (w/o attachment)

	10/1/2005								
	CAA Subpart Designations: Percent MACT facilities with FCEs conducted after 10/1/2005	Data Quality	State	100%	92.8%	83.3%	5	8	1
	Compliance Monitoring: Sources with FCEs (1 FY)	Data Quality	State			20	NA	NA	NA
D	Compliance Monitoring: Number of FCEs (1 FY)	Data Quality	State			20	NA	NA	NA
	Compliance Monitoring: Number of PCEs (1 FY)	Informational Only	State			16	NA	NA	NA
E	Historical Non-Compliance Counts (1 FY)	Data Quality	State			0	NA	NA	NA
	Informal Enforcement Actions: Number Issued (1 FY)	Data Quality	State			0	NA	NA	NA
F	Informal Enforcement Actions: Number of Sources (1 FY)	Data Quality	State			0	NA	NA	NA
	HPV: Number of New Pathways (1 FY)	Data Quality	State			0	NA	NA	NA
G	HPV: Number of New Sources (1 FY)	Data Quality	State			0	NA	NA	NA
	HPV Day Zero Pathway Discovery date: Percent DZs with discovery	Data Quality	State	100%	58.1%	0 / 0	0	0	0
H	HPV Day Zero Pathway Violating Pollutants: Percent DZs	Data Quality	State	100%	89.5%	0 / 0	0	0	0
	HPV Day Zero Pathway Violation Type Code(s): Percent DZs with HPV Violation Type Code(s)	Data Quality	State	100%	91.0%	0 / 0	0	0	0
	Formal Action: Number Issued (1 FY)	Data Quality	State			0	NA	NA	NA
I	Formal Action: Number of Sources (1 FY)	Data Quality	State			0	NA	NA	NA
J	Assessed Penalties: Total Dollar Amount (1 FY)	Data Quality	State			\$0	NA	NA	NA
K	Major Sources Missing CMS Policy Applicability (Current)	Review Indicator	State	0		0	NA	NA	NA
[REDACTED SECTION]									
A	Number of HPVs/Number of NC Sources (1 FY)	Data Quality	State	≤ 50%	44.8%	0 / 0	0	0	0
B	Stack Test Results at Federally-Reportable Sources - % Without Pass/Fail Results (1 FY)	Goal	State	0%	1.4%	0.0%	0	152	152
	Stack Test Results at Federally-Reportable	Data Quality	State			0	NA	NA	NA

Sources - Number of Failures (1 FY)									
3. Timeliness of data entry, degree to which the minimum data requirements are complete.									
0 Recommendations:									
A	Percent HPVs Entered ≤ 60 Days After Designation, Timely Entry (1 FY)	Goal	State	100%	36.0%	0 / 0	0	0	0
B	Percent Compliance Monitoring related MDR actions reported ≤ 60 Days After Designation, Timely Entry (1 FY)	Goal	State	100%	63.1%	34.7%	67	193	126
	Percent Enforcement related MDR actions reported ≤ 60 Days After Designation, Timely Entry (1 FY)	Goal	State	100%	74.2%	0 / 0	0	0	0
C	Comparison of Frozen Data Set	Compare the production data results under Element 1 to the frozen data. Please see Plain Language Guide for details.							
6. Inspection coverage, degree to which state completed the universe of planned inspection/compliance evaluations.									
0 Recommendations:									
A	CMS Major Full Compliance Evaluation (FCE) Coverage (2 FY CMS Cycle) ¹	Goal	State	100%	88.6%	100.0%	28	28	0
	CAA Major Full Compliance Evaluation (FCE) Coverage (most recent 2 FY) ²	Review Indicator	State	100%	85.1%	100.0%	28	28	0
B	CAA Synthetic Minor 80% Sources (SM-80) FCE Coverage (5 FY CMS Cycle) ³	Review Indicator	State	20% - 100%	91.6%	100.0%	6	6	0
	CAA Synthetic Minor 80% Sources (SM-80) FCE Coverage (last full 5 FY) ⁴	Informational Only	State	100%	92.2%	100.0%	6	6	0
C	CAA Synthetic Minor FCE and reported PCE Coverage (last 5 FY)	Informational Only	State		81.4%	100.0%	6	6	0
D	CAA Minor FCE and Reported PCE Coverage (last 5 FY)	Informational Only	State		29.1%	0 / 0	0	0	0
E	Number of Sources with Unknown Compliance Status (Current)	Review Indicator	State			0	NA	NA	NA
F	CAA Stationary Source Investigations (last 5 FY)	Informational Only	State			1	NA	NA	NA
G	Review of Self-Certifications Completed (1 FY)	Goal	State	100%	94.0%	91.3%	21	23	2
7. Identification of alleged violations, degree to which compliance determinations are accurately made and promptly reported in the regional database based upon compliance monitoring report observations and other compliance monitoring information.									
0 Recommendations:									
C	Percent facilities in noncompliance that have had an FCE, stack test, or	Review Indicator	State	> 1/2 National Avg	22.9%	0.0%	0	31	31

	enforcement (1 FY)								
	Percent facilities that have had a failed stack test and have noncompliance status (1 FY)	Review Indicator	State	> 1/2 National Avg	46.6%	0 / 0	0	0	0
B. Identification of SNG and HPV - Degree to which the data assembly identifies enforcement sensitive records for the national system. 1 C. Discompliance									
A	High Priority Violation Discovery Rate - Per Major Source (1 FY)	Review Indicator	State	> 1/2 National Avg	6.3%	0.0%	0	28	28
B	High Priority Violation Discovery Rate - Per Synthetic Minor Source (1 FY)	Review Indicator	State	> 1/2 National Avg	0.4%	0.0%	0	2	7
C	Percent Formal Actions With Prior HPV - Majors (1 FY)	Review Indicator	State	> 1/2 National Avg	69.8%	0 / 0	0	0	0
D	Percent Informal Enforcement Actions Without Prior HPV - Majors (1 FY)	Review Indicator	State	< 1/2 National Avg	50.5%	0 / 0	0	0	0
E	Percentage of Sources with Failed Stack Test Actions that received HPV listing - Majors and Synthetic Minors (2 FY) ²	Review Indicator	State	> 1/2 National Avg	40.9%	0.0%	0	1	1
A									
A	Percent HPVs not meeting timeliness goals (2 FY)	Review Indicator	State		36.4%	0 / 0	0	0	0
B									
A	No Activity Indicator - Actions with Penalties (1 FY)	Review Indicator	State			0	NA	NA	NA
B	Percent Actions at HPVs With Penalty (1 FY)	Review Indicator	State	≥ 80%	88.3%	0 / 0	0	0	0

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

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

Report Generated on 1/25/2011
[Data Refresh Dates](#)

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

General Notes:

* Blue-shaded rows denote that the metric was pulled manually.

* The results counts of some metrics contain enforcement sensitive (ES) records/actions. When using the drilldowns, enforcement sensitive access may be required to view all records/actions included in the

results counts.

Because of timeout issues, links are not provided to drilldowns that produce more than 1500 records.

Caveats:

⁰ State Metric column is generally computed from the value in the Count column (x) divided by the value in the Universe column (y).

¹ FY2008 Frozen data for for metric 5A1 is inaccurate. FY2008 5A1 production data is correct.

² FY2008 Frozen data for for metric 5A2 is inaccurate. FY2008 5A2 production data is correct.

³ The current CMS Cycle for SM80s started with FY07; therefore, metric 5B1 includes number of FYs since FY07 through selected FY. Goal percentages expected to increase with selected FY until CMS Cycle completion in FY11, e.g., 20%- FY07, 40% -FY08, etc.

⁴ FY2008 Frozen data for for metric 5B2 is inaccurate. FY2008 5B2 production data is correct.

⁵ FY2008 Frozen data for metric 8ES is inaccurate. FY2008 8ES production data is correct.

CLARK COUNTY DAQEM FILES SELECTED TO BE REVIEWED

10 out of 28 **Majors** (35.7%)

32003A0372	AGGRIGATE INDUSTRIES	Major
32003A0004	CERTAINTFEED GYPSUM	Major
32003A0329	LAS VEGAS COGENERATION	Major
32003A1520	LAS VEGAS POWER COMPANY (APEX)	Major
32003A0360	NEVADA COGENERATION ASSOCIATES #1 (APEX)	Major
32003A1513	NEVADA POWER-CHUCK LENZIE	Major
32003A1584	NEVADA POWER-SILVERHAWK POWER PLANT	Major
32003A0011	PABCO GYPSUM WALLBOARD PLANT	Major
32003A0395	REPUBLIC DUMPCO (ENVIRONMENTAL TECH),	Major
32003A0138	SIMPLOT SILICA	Major

6 out of 8 **SM80's** (75%)

32003A0005	CHEMICAL LINE	SM80
32003A0105	LAS VEGAS PAVING	SM80
32003A0512	NEVADA READY MIX	SM80
32003A0095	TRONOX LLC	SM80
32003A0859	UNIVERSAL URETHANE	SM80
32003A0012	WELLS CARGO	SM80

1 out of 1 **Other SM** (100%)

32003A0837	LAS VEGAS WATER DIST (CAMPBELL)	SM
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17 files total

APPENDIX D: PRELIMINARY DATA ANALYSIS CHART

The PDA Chart in this section of the SRF report only includes metrics where potential issues were identified. Initial findings are preliminary observations and were used as a basis for further investigation. Findings were developed only after evaluating them against the file review results and after discussion with the DAQEM. Through this process, initial findings were confirmed, modified, or determined not to be supported. [The full PDA may be found in Appendix E.]

Metric	Metric Description	Measure Type	Metric Type	Nat'l Goal	Nat'l Avg	State Metric	DAQEM Correction	Initial Findings
1B2C	Source Count NESHAP Minors (Current);	Data Quality	State			0	In process	Potential Concern: DAQEM Permitting group is reviewing all minor sources and will provide updated list of any that are found to be subject to NESHAP.
1B3C	Source Count: Active Minors or other Fed-Reportable, & not including NESHAP Part 61 (Current), CAA Subprogram Designation: NESHAP (Current)	Data Quality	State			0	In process	Potential Concern: DAQEM Permitting group is reviewing all minor sources and will provide updated list of any that are found to be subject to NESHAP.
1C2C	CAA Subprogram Designation: NESHAP (Current)	Data Quality	State			0	In process	Potential Concern: DAQEM Permitting group is reviewing all minor sources and will provide updated list of any that are found to be subject to NESHAP.
1C4S	CAA Subprogram Designation: Percent NSPS facilities with FCEs conducted after 10/1/2005	Data Quality	State	100%	86.3%	96.3%	Fixed	Minor Concern: Corrected 1 NSPS facility (Harrah's 32003A0257) had an FCE, but lacked a plant subpart & so initially did not count properly in SRF.
1C6S	CAA Subprogram Designation: Percent MACT facilities with FCEs conducted after 10/1/2005	Data Quality	State	100%	92.8%	83.3%	Fixed	Minor Concern: Corrected 1 MACT facility (Chemical Lime - BMI [Henderson] 32003A0005) w/ 3 FCEs since 2005 (7/28/09, 8/28/09, & 3/25/11), lacked 1 MACT subpart at AFS plant level. Thus SRF didn't count.
1D1S	Compliance Monitoring Sources with FCEs (1 FY)	Data Quality	State		89.4%	91.5%		Minor Concern: 6 sources are on two year CMS cycle and did receive FCEs within their targeted 2 year window.
1ES	Historical Non-Compliance Counts (1 FY)	Goal	State			0		Potential Concern: SRF showed no facilities in historical non-compliance for the entire year. File review found 3 HPVs.
1FS & 1F2S	Informal Enforcement Actions (NOVs)	Goal	State			0		Potential Concern: There were no NOVs reported to AFS during the FY10 review year. File review revealed 3 HPVs that included 3 NOVs.

1G1S & 1G2S	HPV Number of New Pathways & new HPV sources	Goal	State				0		Potential Concern: There were no new HPVs (pathways or sources) reported to AFS during the review year. File review found 3 HPVs.
1H1S & 1H2S	HPV Day Zero Pathways (since 10/01/2005)	Goal	State	100%	58.1%		0		Potential Concern: There were no new HPVs (pathways or sources) reported to AFS since 10/01/2005. File review revealed 3 potentially reportable HPVs in FY10.
1I1S & 1I2S	Number of Formal Actions & Number of Sources with Formal Actions (1FY)	Data Quality	State				0		Potential Concern: File review revealed 3 potential reportable HPVs, two of which included Formal Actions.
1JS	Assessed Penalties: Total Dollar Amount (1FY)	Data Quality	State				\$0		Potential Concern: File review found two formal actions with penalties assessed and paid, plus an additional \$80,000 penalty specified in an initial NOV.
2A-S	Number of HPVs per Number of Non-Compliant Sources.	Data Quality	State	Less than 50%	44.6%		0%		Potential Concern: There were no NOV's reported to AFS during the FY10 review year.
2B2-S	Stack Test Results at Federally-Reportable Sources - % Without Pass/Fail Results (1 FY)	Data Quality	State		2		0%		Potential Concern: No stack test failures were reported, but 1 test failure was documented in the files reviewed.
3AS & 3B2-S	Percent Enforcement related MDR actions & HPVs reported more than 60 Days After Designation, Timely Entry (1 FY)	Data Quality	State	100%	74.2%		0.0%		Potential Concern: There were no NOV's reported to AFS during the FY10 review year.
3B1S	Percent Compliance Monitoring related MDR actions reported more than 60 Days After Designation, Timely Entry (1 FY)	Data Quality	State	100%	63.1%		34.7%		Potential Concern: DAQEM had a number of Compliance Monitoring actions reported > 60 days. This was largely due to staffing turnover, reorganization, funding and related issues. Region notes that the national relaxation from 60 to 120 days allotted for source test reporting timeliness should make it easier to meet this goal.
5D-S	CAA Minor FCE and Reported PCE Coverage (last 5 FY)	Goal	State				29.1%	0%	In Process Minor Issue: FCEs, targeting, and PCE's are optional for minor sources.
7C1-S	Percent facilities in non-compliance that have had an FCE, stack test, or enforcement (1 FY)	Goal	State	½ National Average	46.6%		0%		Potential Concern: SRF showed no facilities in non-compliance. File review found 3 potentially reportable HPVs.

72C-S	Percent facilities that have had a failed stack test and have noncompliance status (1 FY)	Goal	State	½ National Average	46.6%	0%	Potential Concern: No stack test failures were reported, but 1 test failure was found in the files reviewed. Plant non-compliance should have been reported, as well as the failed test action and associated HPV.
8A1-S	HPVs Discovered per major(1 FY)	Goal	State	½ National Average	6.3%	0%	Potential Concern: There were no new HPVs reported to AFS during the FFY10 review year. File review revealed 2 majors with reportable HPVs.

APPENDIX E: PDA WORKSHEET

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

CAA PDA Worksheet – FY10 Official Metrics Results for Clark County DAQEM

Original Data Pulled from Online Tracking Information System (OTIS)								EPA Preliminary Analysis	
Metric	Metric Description	Metric Type	Agency	Goal	National Average	State Metric	Discrepancy Explanation	Evaluation	Initial Findings
1A1-C	Title V Universe: AFS Operating Majors (Current)	Data Quality	State			28		Appears Acceptable	
1A2-C	Title V Universe: AFS Operating Majors with Air Program Code = V (Current)	Data Quality	State			25		Appears Acceptable	
1B1-C	Source Count: Synthetic Minors (Current)	Data Quality	State			7		Appears Acceptable	
1B2-C	Source Count: NESHAP Minors (Current)	Data Quality	State			0	No minors present in AFS under this element. Clark is reviewing its minors & will add any facilities it finds subject once reviews are completed.	Potential Concern	Finding - Clark should report any minors subject to federal NESHAPs to AFS once it has completed its review of all its minors (Clark is in process reviewing its minors & expects to be completed by date?)
1B3-C	Source Count: Active Minor facilities or otherwise FedRep, not including NESHAP Part 61 (Current)	Informational Only	State			0	No minors present in AFS under this element. Clark is reviewing its minors & will add any facilities it finds subject once reviews are completed.	Potential Concern	(Same as 1B2-C issue) Finding - Clark should report any minors subject to federal NESHAPs to AFS once it has completed its review of all its minors (Clark is in process reviewing its minors & expects to be completed by date?)

1C1-C	CAA Subprogram Designation: NSPS (Current)	Data Quality	State			26		Appears Acceptable	
1C2-C	CAA Subprogram Designation: NESHAP (Current)	Data Quality	State			0	No minors present in AFS under this element. Clark is reviewing its minors & will add any facilities it finds subject once reviews are completed.	Potential Concern	(Same as 1B2-C issue) Finding - Clark should report any minors subject to federal NESHAPs to AFS once it has completed its review of all its minors (Clark is in process reviewing its minors & expects to be completed by date?)
1C3-C	CAA Subprogram Designation: MACT (Current)	Data Quality	State			6		Appears Acceptable	
1C4-S	CAA Subprogram Designation: Percent NSPS facilities with FCEs conducted after 10/1/2005	Data Quality	State	100%	86.3%	96.3%	1 NSPS facility Harrah's 32003A0257 had an FCE, but lacked a plant subpart & so initially did not trigger as counted. This issue is resolved & subpart is present at plant.	Minor Issue	Resolved - FCE was present within timeframe & missing subpart at plant prevented it from counting & has been entered in AFS.
1C5-S	CAA Subprogram Designation: Percent NESHAP facilities with FCEs conducted after 10/1/2005	Data Quality	State	100%	47.50%	100%		Appears Acceptable	
1C6-S	CAA Subprogram Designation: Percent MACT facilities with FCEs conducted after 10/1/2005	Data Quality	State	100%	92.80%	83.3%	1 MACT facility (Chemical Lime - BMI in Henderson - 32003A0005) had several FCEs since 2005 (7/28/09, 8/28/09, & 3/25/11), but simply lacked a MACT subpart at plant level & so initially these FCEs could not trigger SRF as counted. This issue has been resolved & subpart is present at plant.	Minor Issue	Resolved - FCE was present within timeframe & missing subpart at plant prevented it from counting & has been entered in AFS.
1D1-S	Compliance Monitoring: Sources with FCEs (1 FY)	Data Quality	State		89.40%	91.50%	6 sources did not show FCE within 1 FY per SRF for this metric	Minor Issue	All 6 sources were on 2 yr CMS cycles & did receive FCEs within their targeted 2 year frequency.
1D2-S	Compliance Monitoring: Number of FCEs (1 FY)	Data Quality	State			20		Appears Acceptable	
1D3-S	Compliance Monitoring: Number of PCEs (1 FY)	Informational Only	State			16		Appears Acceptable	
1E-S	Historical Non-Compliance Counts (1 FY)	Data Quality	State			0		Potential Concern - Supplemental File Review	No sources were reported in historical non-compliance. However, review of facility file FCE, test, & enforcement documents, revealed 3 potential unreported HPVs
1F1-S	Informal Enforcement Actions: Number Issued (1 FY)	Data Quality	State			0		Potential Concern - Supplemental File Review	No NOV's were reported as issued in FFY10, but However, review of facility file FCE, test, & enforcement documents, revealed 3 potential unreported HPVs

1F2-S	Informal Enforcement Actions: Number of Sources (1 FY)	Data Quality	State			0			Potential Concern - Supplemental File Review	Essentially same issue as 1F1 (previous item).
1G1-S	HPV: Number of New Pathways (1 FY)	Data Quality	State			0			Potential Concern - Supplemental File Review	No HPVs in FY10, but review of facility files showed 3 potential unreported HPVs.
1G2-S	HPV: Number of New Sources (1 FY)	Data Quality	State			0			Potential Concern - Supplemental File Review	No HPVs in FY10, but review of facility files showed 3 potential unreported HPVs.
1H1-S	HPV Day Zero Pathway Discovery date: Percent DZs reported after 10/01/2005 with discovery	Data Quality	State	100%	58.10%	0			Potential Concern - Supplemental File Review	No HPVs reported since 10/01/2005, but review of facility files showed 3 potential unreported HPVs.
1H2-S	HPV Day Zero Pathway Violating Pollutants: Percent DZs reported after 10/01/2005	Data Quality	State	100%	89.50%	0			Potential Concern - Supplemental File Review	No HPVs reported since 10/01/2005, but review of facility files showed 3 potential unreported HPVs.
1H3-S	HPV Day Zero Pathway Violation Type Code(s): Percent DZs reported after 10/01/2005 with HPV Violation Type Code(s)	Data Quality	State	100%	91.00%	0			Potential Concern - Supplemental File Review	No HPVs reported since 10/01/2005, but review of facility files showed 3 potential unreported HPVs.
1I1-S	Formal Action: Number Issued (1 FY)	Data Quality	State			0			Potential Concern - Supplemental File Review	No HPVs in FY10, but review of facility files showed 3 potential unreported HPVs.. HPVs normally include formal actions and at least 2 formal actions through hearing board were discovered unreported.
1I2-S	Formal Action: Number of Sources (1 FY)	Data Quality	State			0			Potential Concern - Supplemental File Review	No HPVs in FY10, but review of facility files showed 3 potential unreported HPVs.. HPVs normally include formal actions and at least 2 formal actions through hearing board were discovered unreported
1J-S	Assessed Penalties: Total Dollar Amount (1 FY)	Data Quality	State			\$0			Potential Concern - Supplemental File Review	No HPVs in FY10, but review of facility files showed 3 potential unreported HPVs.. HPVs/FRVs normally include formal actions and penalties and at least 2 formal actions did go through hearing board and were discovered unreported with penalties assessed, paid, and uncontested in files.
1K-S	Major Sources Missing CMS Policy Applicability (Current)	Review Indicator	State			0			Appears Acceptable	All Major sources required to be targeted for CMS, had a target.
2A-S	Number of HPVs/Number of NC Sources (1 FY)	Data Quality	State	less than 50%	44.60%	0%			Potential Concern	Far below national average, no HPVs and no non-complying sources were reported in FY10, however 3 potential unreported HPVs and at least 2 of those having gone uncontested through hearing board suggests this number is understated.
2B1-S	Stack Test Results at Federally-Reportable Sources - % Without Pass/Fail Results (1 FY)	Goal	State	0%	1.40%	0.0%			Appears Acceptable	No reported tests were missing pass/fail results (however 1 unreported test failure was found in the files, so this value may not be correct - that issue will be dealt with in the subsequent finding 2B2-S).

2B2-S	Stack Test Results at Federally-Reportable Sources - Number of Failures (1 FY)	Data Quality	State			0		Potential Concern	No stack test failures, But we found one unreported test failure in the file
3A-S	Percent HPVs Entered less than 60 Days After Designation, Timely Entry (1 FY)	Goal	State	100%	36%	0.0%		Potential Concern - Supplemental File Review	No HPVs in FY10, but our file review suggests at least 3 potentially unreported ones
3B1-S	Percent Compliance Monitoring related MDR actions reported more than 60 Days After Designation, Timely Entry (1 FY)	Goal	State	100%	63.10%	34.7%		Potential Concern	65.28% of Compliance actions in FY2010 were entered late (> 60 days).
3B2-S	Percent Enforcement related MDR actions reported more than 60 Days After Designation, Timely Entry (1 FY)	Goal	State	100%	74.20%	0.0%		Potential Concern - Supplemental File Review	No HPVs in FY10, but our file review suggests at least 3 potentially unreported ones
	Frozen (this was not working at time of our retrieval)								
5A1-S	CMS Major Full Compliance Evaluation (FCE) Coverage (2 FY CMS Cycle)	Goal	State	100%	88.6%	100.0%		Appears Acceptable	
5A2-S	CAA Major Full Compliance Evaluation (FCE) Coverage (most recent 2 FY)	Review Indicator	State	100%	85.1%	100.0%		Appears Acceptable	
5B1-S	CAA Synthetic Minor 80% Sources (SM-80) FCE Coverage (5 FY CMS Cycle)	Review Indicator	State	20%-100%	91.60%	100.0%		Appears Acceptable	
5B2-S	CAA Synthetic Minor 80% Sources (SM-80) FCE Coverage (last full 5 FY)	Informational Only	State	100%	92.20%	100.0%		Appears Acceptable	
5C-S	CAA Synthetic Minor FCE and reported PCE Coverage (last 5 FY)	Informational Only	State		81.40%	100.0%		Appears Acceptable	
5D-S	CAA Minor FCE and Reported PCE Coverage (last 5 FY)	Informational Only	State		29.10%	0.0%		Potential Concern	(Same as 1B2-C issue) Co-locate this issue with Finding that DAQEM should report any minors subject to federal rules to AFS once it has completed its review of all its minors (DAQEM is in process of reviewing its minors & expects to be completed by at least 09/30/2011.)
5E-S	Number of Sources with Unknown Compliance Status (Current)	Review Indicator	State			0		Appears Acceptable	No sources show system-generated automatic unknown compliance status which would be triggered by FCEs not done (and there were none of those, so this is correct).
5F-S	CAA Stationary Source Investigations (last 5 FY)	Informational Only	State			1	Typo on one action type corrected. No reported investigations.	Appears Acceptable	District reported 1 investigation, but this was due to a typo on an action type code & has been corrected. District does not currently intend to report investigations.

5G-S	Review of Self-Certifications Completed (1 FY)	Goal	State	100%	94.00%	91.30%	District had 2 certs not counted (Republic Dumpco 32003A0395 & NV Cogen 32003A0391) because they had come in incomplete & had to be resubmitted or supplemented from the facilities. Both were resolved within a month & District entered both in AFS, shortly after our initial SRF pull.	Appears Acceptable	None - 32003A0395 Cert action #00116 entered 5/27/10 & 32003A0391 Cert action #00116 entered 5/27/10 confirmed in AFS.
7C1-S	Percent facilities in noncompliance that have had an FCE, stack test, or enforcement (1 FY)	Review Indicator	State	> 1/2 National Avg	22.90%	0.0%		Potential Concern	No facilities show non-compliance, but this is not likely correct. (This will need to be reassessed once the missing HPVs are documented from this review & entered in AFS, but because of those SOME non-compliance is theoretically possible.)
7C2-S	Percent facilities that have had a failed stack test and have noncompliance status (1 FY)	Review Indicator	State	> 1/2 National Avg	46.60%	0.0%		Potential Concern	No Failed stack tests were reported, but file review identified one test failure. So this number is incorrect. District SHOULD report all stack test failures and treat them as HPVs per the EPA guidance.
8A-S	High Priority Violation Discovery Rate - Per Major Source (1 FY)	Review Indicator	State	> 1/2 National Avg	6.30%	0.0%		Potential Concern	No HPVs were reported at the 28 Majors in FY10
8B-S	High Priority Violation Discovery Rate - Per Synthetic Minor Source (1 FY)	Review Indicator	State	> 1/2 National Avg	0.40%	0.0%		Potential Concern	File Review revealed some potential HPVs at SM sources.
8C-S	Percent Formal Actions With Prior HPV - Majors (1 FY)	Review Indicator	State	> 1/2 National Avg	69.88%	0.0%		Potential Concern	File Review indicated 3 potential HPVs and at least some were at facilities that are now major.
8D-S	Percent Informal Enforcement Actions Without Prior HPV - Majors (1 FY)	Review Indicator	State	< 1/2 National Avg	50.50%	0.0%		Potential Concern	Similar to previous response, No Informal Enforcement (NOVs) were reported in FY2010, but file review suggests 3 HPVs were unreported & some of these may have been at major sources . The DAQEM's handling of the 3 identified potential HPVs and implementation of the HPV/FRV tracking for formal & informal actions related to those actions will resolve this issue.
8E-S	Percent Failed Stack Test Actions that received HPV listing - Majors and Synthetic Minors (2 FY)	Review Indicator	State	> 1/2 National Avg	40.90%	0.0%		Potential Concern	District reported zero failed tests, but file review identified one test failure. Similar to the previous response, the districts handling of the 5 identified HPV/FRVs will address this element, as one of those included failed stack test issues at a major or SM.
10A-S	Percent HPVs not meeting timeliness goals (2 FY)	Review Indicator	State		36.40%	0.0%		Potential Concern - Supplemental File Review	No HPVs were reported to AFS in FY10, but our file review suggests at least 3 potential ones may have been unreported. From our review it would appear that number might be 3 since the 2 cases that went through the hearing board were determined to have been handled timely, even if not reported to AFS.
12A-S	No Activity Indicator - Actions with Penalties (1 FY)	Review Indicator	State			0		Potential Concern	No HPVs were reported to AFS in FY10, but our file review suggests at least 3 potentially unreported HPV/FRVs were found and at least 2 of the 5 had penalties already assessed/paid.

12B-S	Percent Actions at HPVs With Penalty (1 FY)	Review Indicator	State	>=80%	88.30%	0.0%	Potential Concern	No HPVs were reported to AFS in FY10, but our file review suggests at least 3 unreported HPVss were found and at least 2 had penalties already assessed/paid.
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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) and using a web-based file selection tool (available here: http://www.epa-otis.gov/cgi-bin/test/srf/srf_fileselection.cgi). The protocol and tool are designed to provide consistency and transparency in the process.

Inspection Files Reviewed:

AFS ID#	Plant Name	Size
32003A0372	AGGREGATE INDUSTRIES	Major
32003A0004	CERTAINTED GYPSUM	Major
32003A0005	CHEMICAL LIME	SM80
32003A0329	LAS VEGAS COGENERATION	Major
32003A0105	LAS VEGAS PAVING	SM80
32003A1520	LAS VEGAS POWER COMPANY (APEX)	Major
32003A0837	LAS VEGAS WATER DISTRICT (CAMPBELL)	SM(other)
32003A0360	NEVADA COGENERATION ASSOCIATES #1 (APEX)	Major
32003A1513	NEVADA POWER (CHUCK LENZIE)	Major
32003A1584	NEVADA POWER (SILVERHAWK POWER PLANT)	Major
32003A0512	NEVADA READY MIX	Major
32003A0011	PABCO GYPSUM WALLBOARD	Major
32003A0395	REPUBLIC DUMPCO (ENVIRONMENTAL TECH)	Major
32003A0138	SIMPLOT SILICA	Major
32003A0095	TRONOX	SM80
32003A0859	UNIVERSAL URETHANE	SM80
32003A0012	WELLS CARGO	SM80

Enforcement Files Reviewed:

32003A0372	AGGREGATE INDUSTRIES*	Major
32003A0004	CERTAINTED GYPSUM	Major
32003A0105	LAS VEGAS PAVING*	SM80
32003A0837	LAS VEGAS WATER DISTRICT (CAMPBELL)	SM (other)
32003A0360	NEVADA COGENERATION ASSOCIATES #1 (APEX)	Major
32003A0395	REPUBLIC DUMPCO* (ENVIRONMENTAL TECH)	Major
32003A0095	TRONOX*	SM80
32003A0012	WELLS CARGO*	SM80

APPENDIX G: FILE REVIEW ANALYSIS

Name of State: Clark County, Nevada

Review Period: FFY 2010

CAA Metric #	CAA File Review Metric Description:	Metric Value	Initial Findings
Metric 2c	% of files reviewed where MDR data are accurately reflected in AFS.	94.1%	16 of 17. 1 failed stack test not reported.
Metric 4a	Confirm whether all commitments pursuant to a traditional CMS plan (FCE every 2 yrs at Title V majors; 3 yrs at mega-sites; 5 yrs at SM80s) or an alternative CMS plan 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% coverage	
Metric 4b	Delineate the air compliance and enforcement commitments for the FY under review. This should include commitments in PPAs, PPGs, grant agreements, MOAs, or other relevant agreements.	NA	
Metric 6a	# of files reviewed with FCEs.	17	
Metric 6b	% of FCEs that meet the definition of an FCE per the CMS policy.	17	
Metric 6c	% of CMRs or facility files reviewed that provide sufficient documentation to determine compliance at the facility.	100%	
Metric 7a	% of CMRs or facility files reviewed that led to accurate compliance determinations.	94.1%	16 of 17
Metric 7b	% of non-HPVs reviewed where the compliance determination was timely reported to AFS.	0	No non-HPVs reported.

Metric 8f	% of violations in files reviewed that were accurately determined to be HPV.	0	
Metric 9a	# of formal enforcement responses reviewed.	5	
Metric 9b	% of formal enforcement responses that include required corrective action (i.e., injunctive relief or other complying actions) that will return the facility to compliance in a specified time frame.	0%	All facilities had returned to compliance before resolution.
Metric 10b	% of formal enforcement responses for HPVs reviewed that are addressed in a timely manner (i.e., within 270 days).	40%	Exceeds national average
Metric 10c	% of enforcement responses for HPVs appropriately addressed.	100%	No HPV's reported, however, HPVs identified later were addressed.
Metric 11a	% of reviewed penalty calculations that consider and include where appropriate gravity and economic benefit.	0%	
Metric 12c	% of penalties reviewed that document the difference and rationale between the initial and final assessed penalty.	n/a	
Metric 12d	% of files that document collection of penalty.	100%	The two files that contained penalty documentation from the hearing officer also contained documentation of collection.