STATE REVIEW FRAMEWORK AND INTEGRATED CLEAN WATER ACT PERMIT QUALITY REVIEW

Florida

Clean Water Act, Clean Air Act, and Resource Conservation and Recovery Act Implementation in Federal Fiscal Year 2011

U.S. Environmental Protection Agency
Region 4, Atlanta

Final Report
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Note to Users

This report is structured in four parts, with three media sections and one overarching Executive Summary. The intent of this structure is to allow the user to choose to look exclusively at one media-specific set of information, to look at just Permit Quality Review (PQR) or State Review State Review Framework (SRF) information individually, or to look at all at issues across all media programs.

To review Clean Water Act (CWA) information only, see the sections titled "CWA-NPDES Integrated PQR & SRF Review," "CWA-NPDES Permit Quality Review," and "State Review Framework Report: Clean Water Act Review."

If you are interested in reviewing the CWA PQR information only, see the section titled "CWA-NPDES Permit Quality Review."

If you are interested in reviewing the SRF information across all programs, look to the section titled State Review Framework Report.

If you are interested in reviewing information related to the Resource Conservation and Recovery Act only, look to the section titled Resource Conservation and Recovery Act.

If you are interested in reviewing information related to the Clean Air Act, look to the section titled Clean Air Act.

Information in this report related to the CWA National Pollutant Discharge Elimination System (NPDES) permit reviews under the PQR and NPDES enforcement under the SRF have been integrated as part of the EPA's 2009 Clean Water Act Action Plan. Information is not integrated in this report for reviews of the state's Clean Air Act (CAA) and RCRA programs because the SRF only examines enforcement information, and permit oversight under the CAA and RCRA programs are conducted through different mechanisms not associated with this review process.

The NPDES integrated oversight effort is a way to provide EPA with a comprehensive understanding of permitting and compliance elements of the NPDES program. Integrated reviews reduce the burden on states by having one joint visit and integrated report. The integrated reviews provide EPA and the public with a greater understanding of the challenges of a state NPDES program, and increases transparency through making PQR and SRF results publicly available on EPA's website.

SRF and Integrated CWA PQR Executive Summary

Introduction

State Review Framework (SRF) and Permit Quality Review (PQR) oversight reviews of the Florida Department of Environmental Protection (DEP) were conducted during the week of June 25, 2012; July 9, 2012 and August 19, 2012 by EPA Region 4 permitting and enforcement staff. This review covered permit and compliance/enforcement activities in federal fiscal year (FY) 2011 (October 1, 2010 to September 30, 2011) and as such it represents a snapshot in time and may not reflect DEP's current practices.

The Clean Water Act National Pollutant Discharge Elimination System (CWA-NPDES) program was reviewed under both SRF and PQR. The Clean Air Act (CAA) Stationary Source and Resource Conservation and Recovery Act (RCRA) Subtitle C programs were reviewed only under SRF.

SRF findings are based on file metrics derived from file reviews, data metrics, and conversations with program staff. PQR findings are based on reviews of permits, fact sheets, and interviews.

Priority Issues to Address

The following are the top priority issues affecting the state's program performance based on the findings pertinent to FY 2011. In discussions with EPA, DEP has indicated that they have addressed or are in the process of addressing many of these issues. EPA will monitor progress through periodic reviews and other oversight activities.

- DEP needs to improve timeliness and accuracy of data reporting
- DEP needs to improve the identification and reporting of high priority violations (HPVs) and significant non-compliance (SNCs)
- DEP needs to improve how they document the consideration of economic benefit in penalty calculations

CWA-NPDES Integrated Findings

The following issues apply to both the permitting and enforcement program:

- DEP needs to improve the inclusion of Total Maximum Daily Load (TMDL) requirements in permits to ensure compliance with the TMDL's water quality goals.
- DEP needs to improve tracking and reporting of TMDL requirements in Discharge Monitoring Reports (DMRs) to ensure compliance with the permit and the TMDL's water quality goals.

Major PQR CWA-NPDES Findings

The PQR found the following issues to be most significant:

- The majority of NPDES permits include in-stream monitoring requirements that supplement water quality data and support water quality permitting decisions.

- NPDES permits protect surface waters by requiring criteria end-of-pipe limits for dischargers where reasonable potential is documented.

- The NPDES storm water program is of advanced quality incorporating many program elements for effective storm water control.

- NPDES general/generic permits need to address the five year permit term as required by federal regulation.

- NPDES permits that do not have pretreatment programs do not always include a special condition to include a specific reopener clause to require development of a pretreatment program, if conditions warrant.

- NPDES permit standard conditions are generally consistent with the requirements at 40 CFR 122.41; however, specific wording of some of the conditions needs to be reassessed.

Major SRF CWA-NPDES Program Findings

- DEP met their inspection goals for major and non-major traditional facilities, with most of their inspections; including the identification, reporting and tracking of major facilities in Significant Non-compliance (SNC) and Single Event Violations (SEVs), leading to an accurate compliance determination.

- The accuracy and timeliness of enforcement and compliance data entered by DEP in ICIS-NPDES needs improvement. The recommendation for improvement is for DEP to revise and implement procedures to address the causes of inaccurate reporting of Minimum Data Requirements (MDRs) into ICIS-NPDES. EPA will monitor the progress through periodic data reviews.

- DEP needs to ensure that inspection reports are completed timely and contain adequate information to support accurate compliance determinations. The recommendation for improvement is for DEP to revise and implement procedures which will ensure that inspection reports include all required elements. EPA will monitor progress through a remote file review using DEP's electronic file system (OCULUS).

- DEP needs to improve the timely and appropriate identification of facilities in Significant Non-Compliance (SNCs) based on DEP's approved SNC criteria. The recommendation

for improvement is for DEP to revise and implement procedures that will improve the timeliness of SNC identification and the appropriateness of addressing actions. These procedures should include notification to EPA and the identification of other enforcement mechanisms when negotiations are protracted. EPA will monitor progress through existing oversight calls with DEP.

- DEP's documentation in penalty calculations needs improvement. The majority of penalty calculations reviewed did not adequately document the consideration of economic benefit in establishing penalty amounts. The recommendation for improvement is for DEP to document in penalty calculations economic benefit, using the BEN model or a state method that is equivalent to and consistent with national policy. EPA will monitor improvement in penalty documentation through a remote file review using DEP's OCULUS system.

Major SRF CAA Stationary Source Program Findings

- DEP met its enforcement and compliance commitments made in state/EPA agreements and met the negotiated frequency for compliance evaluations for major sources and synthetic minor sources.

- The accuracy and timeliness of enforcement and compliance data entered by DEP in AFS needs improvement. The recommendation for improvement is for DEP to develop and implement revised procedures that will ensure accurate and timely reporting of MDRs and high priority violations (HPVs) in AFS. EPA will monitor progress through existing oversight calls and other periodic data reviews.

- DEP needs to ensure that compliance monitoring reports (CMRs) include applicable requirements and a description of observations. The recommendation for improvement is for DEP to revise and implement procedures to ensure the CMRs include all required elements and that inspection reports are properly maintained in DEP's filing system. EPA will review sample CMRs provided by DEP to determine the adequacy of the revised procedures.

- DEP needs to improve the timely and appropriate identification of HPVs. The timely identification of HPVs was identified as an issue in Round 1. The recommendation for improvement is for DEP to submit and implement revised procedures to ensure accurate and timely identification of HPVs. The accuracy and timeliness of identifying HPVs will be monitored by EPA through existing monthly oversight calls and through a formal consultation on or around day 150.

- DEP's documentation in penalty calculations needs improvement. This was an issue during the Round 1 review. The recommendation for improvement is for DEP to implement for every penalty action existing State procedures to ensure that economic benefit is considered, assessed (where appropriate) and documented. EPA will monitor improvement by reviewing final penalty worksheets for federal reportable violations submitted by DEP for the six months following the issuance of the final report.

Major SRF RCRA Subtitle C Program Findings

- The DEP RCRA program consistently achieved timely and appropriate enforcement actions that returned violating facilities to compliance.

- The accuracy of enforcement and compliance data entered by DEP in RCRAInfo needs improvement in a few areas. This is a continuing problem of one of the data accuracy issues identified from Round 1. The recommendation for improvement is for DEP to develop and implement procedures to ensure timely and accurate entry of data into RCRAInfo. EPA will conduct a remote file review and SRF data metric analysis at the end of FY 2013 to assess progress.

- In some cases, DEP did not appropriately identify Significant Non-Compliers (SNCs) and enter the data timely in RCRAInfo. DEP needs improvement in SNCs identification and entering data into RCRAInfo. The recommendation for improvement is for DEP to develop and implement procedures to ensure that SNC determinations are made within 150 days and properly recorded in RCRAInfo. EPA will conduct a remote file review over the next six months to assess progress.

- DEP's documentation in penalty calculations needs improvement. The majority of penalty calculations reviewed did not document the consideration of economic benefit in establishing penalty amounts nor was there documentation of the rationale between the initial and final assessed penalty. The recommendation for improvement is for DEP to document in penalty calculations (1) economic benefit, using the BEN model or a state method that is equivalent to and consistent with national policy, and (2) the rationale between the initial and final assessed penalty. EPA will conduct a remote file review over the next six months to assess progress.

Major Follow-Up Actions

Actions to address the findings found during the PQR will be implemented and tracked in an Office of Water database. Recommendations and actions identified from the SRF review will be tracked in the SRF Tracker.

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CWA-NPDES Integrated SRF and PQR Review

I. Introduction

EPA reviews regional and state Clean Water Act National Pollutant Discharge Elimination System (NPDES) permitting and enforcement programs every four years. During these reviews, EPA staff reviews topics related to NPDES program implementation and enforcement. A large component of each review is the Permit Quality Review (PQR), which assesses whether a state adequately implements the requirements of the NPDES program as reflected in the permit and other supporting documents (e.g., fact sheet, calculations). A second primary component of these reviews is the State Review Framework (SRF) which evaluates 12 elements of state enforcement programs.

Through this review, EPA promotes national consistency, identifies successes in implementation of the base NPDES program, and identifies opportunities for improvement in the development of NPDES permits and enforcement. The findings of the review may be used by EPA headquarters to identify areas for training or guidance, and by the EPA region to help identify or assist states in determining action items to improve their NPDES programs.

EPA conducted an integrated oversight review of the Florida NPDES permitting and enforcement and compliance program by combining a PQR and SRF review. The PQR was designed to assess how well the State implements the requirements of the NPDES program as reflected in NPDES permits and other supporting documents. The PQR looked at four core topic areas of national importance (nutrients, pesticides, pretreatment, and storm water) and four special focus area of regional importance: Reasonable Potential/Reasonable Assurance; Total Maximum Daily Load (TMDL) Implementation in Priority Watersheds; Enforcement of General/Generic Permits; and Phosphate Mines/ Fertilizer Plants. The SRF review is designed to ensure a minimum baseline of consistent performance across states, and that EPA conducts oversight of state enforcement and compliance programs in a nationally consistent and efficient manner. The SRF review looks 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).

The integrated review examined data and files generated and kept by the State's Division of Water Resource Management. This section focuses only on the integrated PQR and Clean Water Act (CWA) SRF NPDES program findings.

The integrated review was 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 was 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 issues.

The report is designed to capture the information and agreements developed during the review process in order to facilitate program improvements. The report is designed to provide factual information. EPA also uses the information from the integrated reviews to draw a "national

picture" of the NPDES program, to develop comparable state performance dashboards, and to identify any issues that require a national response.

II. Coordination Between Permitting and Enforcement

For background information on the permitting and enforcement programs, please refer to the PQR and SRF sections of this report and Appendix E.

III. Integrated Review Background

EPA Region 4 conducted reviews of both permitting and compliance/enforcement components of seventeen common facilities permitted by the State. Twelve facilities were identified using the PQR core review criteria. Five additional facilities were selected for review using the SRF file selection protocol in the PQR special focus areas (i.e., Reasonable Potential/ Reasonable Assurance; TMDL Implementation in Priority Watersheds; Enforceability of General/Generic Permits; and Phosphate Mines/Fertilizer Plants.).

Permits and supporting documentation were reviewed by NPDES permit reviewers in DEP's Tallahassee and Tampa and Orlando District Offices during August 19-23, 2012. The PQR review team consisted of Region 4 NPDES permit staff, Headquarters PQR staff, and contractor support. Compliance and enforcement files and supporting documentation were reviewed from July 9-13, 2012, in Tallahassee by Region 4 enforcement staff from the Water Protection Division and the Office of Environmental Accountability.

Meetings of Regional permitting and enforcement reviewers were held prior to the state visits to discuss the permits and potential enforcement and compliance aspects related to the files to be reviewed by both programs. Introductory phone calls and meetings were held with the State's permitting and enforcement managers and staff prior to the on-site reviews. EPA reviewers conducted their on-site file reviews, followed by Regional meetings to discuss preliminary findings leading to the identification of common issues.

IV. How Report Findings Are Made

The findings in this report were made by EPA Region 4's permitting and enforcement staff after analyzing data in the national data systems and reviewing facility files at the state. Permitting and enforcement staff consulted with state staff and each other before determining findings. Findings cover both positive and negative aspects of the state's performance. Where the state program was doing particularly well or was meeting all of its requirements, EPA identified these areas in the reports below. Where EPA found the state had opportunities to improve both permitting and enforcement, EPA suggested an appropriate course of action.

V. Common Findings

Implementation of TMDL Requirements

Finding: In cases where TMDLs have been prepared to address water quality impairments in CWA Section 303(d) listed waters, it is common to develop water quality requirements for regulated point source NPDES permitted discharges to establish discharge or loading limits for pollutants of concern. It is then required to implement these discharges or loading limits through conditions in NPDES issued permits for facilities in the affected water body. It was noted that special conditions related to implementing the Total Nitrogen (TN) TMDL for Tampa Bay were incorporated into numerous NPDES permits. These permits established annual TN loads for either an individual facility or for groups of facilities and required the facility or facilities to calculate and report TN loadings. It was noted during the PQR/SRF review that the TN loads for some of these facilities were not regularly reported in monthly Discharge Monitoring Reports (DMRs) making it difficult to determine compliance with the permit and ultimately with the TMDL's requirements.

Recommendation: DEP should continue to make it a priority to ensure all regulated facilities with water quality requirements established by TMDLs are being implemented through NPDES permits, and are being reported as required. EPA and DEP will discuss progress on a quarterly basis. Once EPA is satisfied that State action has addressed the finding, this recommendation will be considered complete.

Finding: One of the TN aggregate permits omitted a component of the TN loads that were addressed by the TMDLs. For example, some facilities have a TN aggregate permit grouped with other permitted facilities with all facilities in that group reporting their loads to one facility. Often, there were two components to be reported from each facility - the TN load discharged from the outfall and a material losses component which is based on how much product is transported from the facility. In one instance, only one facility in the group has the material losses component as a part of the permit reporting and thus total material losses could be under-reported since not all facilities in the group were reporting material losses. It is necessary, therefore, for the other permits in the group to be modified during the permit renewal process to include material loss reporting. Without this additional material loss component added, compliance with the TMDL and WQBEL cannot be determined.

Recommendation: DEP should continue to take the necessary steps to ensure that permits reflect the water quality requirements outlined in TMDLs in order to meet established water quality goals. Permits that do not now include such requirements need to be modified or include the additional reporting requirement at the time of permit renewal. Permits that reflect all appropriate limits can then be more effectively tracked for compliance. EPA and DEP will discuss progress on a quarterly basis. Once EPA is satisfied that State action has addressed the finding, this recommendation will be considered complete.

CWA-NPDES Permit Quality Review

I. PQR Background

National Pollutant Discharge Elimination System (NPDES) Permit Quality Reviews (PQRs) are an evaluation of a select set of NPDES permits to determine whether permits are developed in a manner consistent with applicable requirements established in the Clean Water Act (CWA) and NPDES regulations. Through this review mechanism, EPA promotes national consistency, identifies successes in implementation of the NPDES program as well as opportunities for improvement in the development of NPDES permits.

EPA's Florida PQR consisted of two components, permit reviews and special focus area reviews. The permit reviews focused on core permit quality and included a review of the permit application, permit, fact sheet, correspondence, documentation, administrative process, and select core topic areas, as well as other factors.

The core permit review process involves evaluating selected permits and supporting materials using basic NPDES program criteria. Reviewers complete the core review by examining selected permits and supporting documentation, assessing these materials using standard PQR tools, and talking with permit writers regarding technical questions related to the permit development process. The core review focuses on evaluation of the aspects identified in the *Central Tenets of the NPDES Permitting Program*.[1] In addition, discussions between EPA Region 4 and state staff address a range of topics including program status, the permitting process, relative responsibilities, organization, and staffing. Core topic area permit reviews were conducted to evaluate specific issues or types of permits in all states. The core topics reviewed in Florida were nutrients, the pesticide general permit, pretreatment, and storm water.

Special focus area reviews target specific types or aspects of permits. These include special focus areas selected by the EPA regions on a state-by-state basis. Region 4 special focus area reviews addressed the following areas: Reasonable Potential/Reasonable Assurance; Total Maximum Daily Load (TMDL) Implementation in Priority Watersheds; Enforceability of General/Generic Permits; and Fertilizer Production Facilities/Phosphate Mines. The results of these reviews provide important information to the EPA region, EPA headquarters and the public.

Twelve permits were selected for the core review. Selection criteria included the following:

1. Issued within the last 2 – 3 years;
2. Representative of the breakdown of domestic and industrial permits within the state;
3. Permits written at the Tallahassee headquarters office, Tampa or Orlando district DEP Office; and
4. Two permits, randomly selected.

[1] http://www.epa.gov/npdes/pubs/tenets.pdf

Permits that were selected were issued by one of two DEP district office areas or the Tallahassee office in order to limit the associated travel for conduct of the on-site file reviews. For the core topic areas the number of permits reviewed in each category is as follows:

Nutrients – four permits
Pesticides – the general pesticide permit
Pretreatment – four permits, plus the results of the Pretreatment Audit
Storm water – five permits.

For the regional special focus areas the breakdown of permits selected for review is as follows:

Reasonable Potential/Reasonable Assurance – five permits
TMDL Implementation in Priority Watersheds – nine permits in two TMDLs
Enforceability of General Permits – three permits
Phosphate mines and Fertilizer Plants – two mining permits and three fertilizer plants.

A complete list of permits reviewed is located in Appendix G.

EPA Region 4 conducted a comprehensive core review in Florida, including on-site visits in Tallahassee, Orlando and Tampa. The review team consisted of Region 4 NPDES permit staff, EPA Headquarters PQR staff, and contractor support. The PQR site visits occurred August 19 – 23, 2012. The information in Section II is based on written feedback and interviews with state personnel.

II. State Permitting Program Overview

A. Program Structure

The information provided in this section of the report is based on data as of July 2012.

The Florida Department of Environmental Protection (DEP) develops, issues, and administers NPDES permits in Florida. DEP has its headquarters in Tallahassee. The DEP headquarters office staff oversees and coordinates NPDES permitting, issues wastewater permits for power generating facilities and pesticide applications, issues Municipal Separate Storm Sewer Systems (MS4) storm water discharge permits and develops and administers general (called generic) storm water permits. They also develop program rules, manage the Pretreatment program, and enter Discharge Monitoring Report (DMR) data into EPA's Integrated Compliance Information System (ICIS). All remaining municipal and industrial wastewater permitting is conducted within DEP's six district offices. These offices also perform NPDES permit compliance monitoring and enforcement activities. NPDES permitting is conducted within the DEP's Division of Water Resource Management, as is mining and minerals regulation, storm water permitting, and groundwater regulation (as well as numerous other activities). Florida does not have CWA section 503 (biosolids) delegation. It does have state biosolids and sludge regulations.

DEP has an NPDES permitting staff of 56 full-time employees (industrial and municipal) across all offices. DEP has 10 water quality modelers and 25 TMDL staff personnel in the Division of Environmental Assessment and Restoration (DEAR) that provide support to the NPDES permitting program as needed. Additional NPDES permitting support staff includes biologists, a

toxicity and variance coordinator, watershed assessment and management staff, water quality-based effluent limitations (WQBEL) evaluation staff, mixing zone specialists, field sampling staff, and laboratory staff.

Permit writers are offered training (e.g., opportunities to attend the NPDES Permit Writers' Course) and are provided with DEP's *Wastewater Permit Writer's Manual* (PWM). In addition, DEP trains permit writers and provides them with guidance on how to use Permit Builder, DEP's internal software program for developing NPDES permits. Permit writers are further provided with internal mentoring by experienced permit writers and access to NPDES program subject matter experts. Staff in the Tallahassee office reviews permits for major wastewater facilities, Concentrated Animal Feeding Operations (CAFOs), and other facilities as requested by the district offices.

As permit applications are received, they are assigned to the appropriate district office permit writer for review, development of the draft permit, response to comments, final agency action, and development of the administrative record.

The DEP NPDES permitting staff uses the Wastewater Facility Regulation (WAFR) database to track permitting, compliance and enforcement information for both NPDES and state programs. WAFR/PA is used to track specific permitting actions and Compliance and Enforcement Tracking System (COMET), which is part of WAFR, is used to track compliance and enforcement activities. Additional information management systems used by DEP include Permit Builder, Florida's TMDL Tracker (an internal system used to provide access to TMDL information), and a Pretreatment Program Tracking System (used to manage pretreatment information). DEP provides state NPDES permitting data to ICIS. DEP utilizes an electronic DMR (eDMR) reporting system. Monitoring requirements from WAFR are loaded into eDMR and monitoring data is loaded into ICIS.

The key permit development tools used by DEP NPDES permitting staff include Permit Builder (which includes permit, fact sheet and public notice template language) and the *Permit Builder User Guide*, the PWM, TMDL Tracker, and state regulations. In addition, the state has an Excel 5.0 Workbook called Reasonable Assurance Verification (RAV) that can be used to statistically evaluate effluent data for Reasonable Assurance (RA) determinations. (Florida requires Reasonable Assurance that wastewater discharges do not cause or contribute to exceedances of water quality standards.) The RAV workbook is based on a model, FLOTOX9, which has been used by the EPA to determine reasonable potential. Accordingly, the RAV methodology is consistent with EPA's *Technical Support Document for Water Quality-based Toxics Control* (TSD).[2] Consistency among permits is achieved due to the use of Permit Builder and guidance/policy provided by DEP Headquarters in Tallahassee. These tools are essential because of the decentralized nature of the DEP permitting processes.

The DEP has an existing QA/QC process. Draft permit documents for major wastewater facilities, demineralization concentrate facilities, facilities required to develop Pretreatment

[2] http://www.epa.gov/npdes/pubs/owm0264.pdf

programs, and CAFOs are reviewed in the Tallahassee office by qualified staff that can include permitting engineers, a toxicity coordinator, DMR specialists, a pretreatment coordinator, a bio-solids coordinator, and ground water specialists. Managers in the district offices and in Tallahassee review draft, proposed, and final permit documents before they are signed and/or issued. Permit documents issued by the district offices are signed by the Water Facilities Administrator or District Director. Permit documents issued by the Tallahassee office are signed by the Division Director. Checklists are used in the QA/QC process. Tallahassee uses the same QA/QC process for each permit it reviews and issues. Each district office has an internal QA/QC process. Also, Permit Builder serves as a QA/QC mechanism for all permits.

Permit development documents and relevant correspondence are maintained in a central location at the district office where the relevant permit is issued. Documents, including correspondence, developed or issued by the Tallahassee office are maintained in Tallahassee. With regard to monitoring and reporting, DMRs and other monitoring and reporting documents are maintained in a central location at the district offices. Similarly, compliance records are maintained in a central location at the district office where the permit is issued. The DEP is in the process of converting all NPDES permit administrative records (including applications, development documents, correspondence, DMRs, compliance records, etc.) to an electronic data management storage system used by DEP (i.e., OCULUS).

The information below is based on written responses from the DEP and discussions with state DEP staff during the site visits.

B. Universe and Permit Issuance

The PQR determines permit universe numbers by looking at the number of active permits at the time of the on-site permit quality review. Florida DEP administers 546 individual NPDES permits, including 193 permits for publicly-owned treatment works or POTWs (105 major permits and 88 minor permits; no CSOs) and 353 permits for non-municipal facilities (87 major permits and 207 minor permits; 59 CAFO permits). In addition, DEP administers storm water general permits that cover municipal, industrial, and construction permittees, respectively.

The DEP also has four NPDES non-storm water general permits that address approximately 700 dischargers. The state has an electronic Interactive Notice of Intent (iNOI) system for use with storm water general permits. It should be noted that the SRF uses permit universe data that was verified by the State for the prior federal fiscal year and that EPA has subsequently frozen in the database of record. Due to this difference in the methods of determining the permit universe, there may be slight differences between the universe of numbers reported in this section and the universe numbers reported in the sections on SRF and in Appendix A.

Significant industries within the state include: mining (phosphate, limestone, sand, certain metals), building construction and construction materials, fertilizer manufacturing, pulp and paper and associated products, wood preserving, electric power services, concrete products, fruit and vegetable processing, beverage production, meat and seafood processing, dairy farming and dairy products, and other industries.

The DEP estimates that the overall backlog of domestic and industrial NPDES permits is 9 percent (13 percent of major NPDES permits and 7 percent of minor NPDES permits). Florida has steadily met the nationwide goal of less than 10 percent backlog. Most of the delays to proceeding with permit drafting involve coordinating and receiving all application data to make permit applications complete. Other delays were permit-specific.

Permit development: Florida DEP develops and administers NPDES permits pursuant to applicable regulations and its PWM. DEP uses its own NPDES permit applications forms, which are generally consistent with EPA forms. Each district sends out permit renewal reminder letters to facilities located in their district. The districts typically offer to have a pre-application meeting with the permittee. Applicants submit applications at least 180 days prior to permit expiration. Permit applications are submitted to the appropriate district office and, upon receipt, the district office staff processes the application and a permit writer is assigned. The permit writer reviews the application for completeness and coordinates with other appropriate DEP staff.

Permits are drafted in accordance with the procedures outlined in Chapter 6 of the PWM, which outlines a standard format for permits and discusses the use of Permit Builder. After coordinating with the applicant and appropriate DEP staff to obtain all of the information needed to draft the permit, the permit writer develops and enters information into Permit Builder to create a draft permit. The permit application provides key information for developing technology-based effluent limitations (TBELs) and water quality-based effluent limitations (WQBELs) and for conducting water quality modeling. DEP staff specializing in the development of TBELs and WQBELs (including water quality modeling) review the information received and play a key supporting role in developing effluent limitations and loads.

Technology-based effluent limitations: For domestic wastewater facilities, TBELs (i.e., secondary treatment regulations) are established in DEP rules and statutes as described in Section 6.4.3 of the PWM. Section 6.4.2 of the PWM describes how TBELs are established for industrial wastewater facilities. Industrial wastewater TBELs are established by EPA in 40 CFR 400-471 and the state has adopted 51 of these guidelines under Rule 62-660.400, F.A.C.

Water quality-based effluent limitations: As discussed in DEP's PWM (Section 13.6), DEP has a two-tiered approach to developing WQBELs. A permit writer can perform a Level I or Level II analysis to determine WQBELs. The Level I process is a "desktop" analysis typically used for renewals or new permits when data are sufficient to determine that the receiving water will meet water quality standards when subject to the discharge. The Level II analysis is used for new permits and for renewals when water quality data are insufficient to evaluate expected impacts. The PWM indicates that in determining water quality criteria (i.e., parameters addressed in WQS) of concern permit writers start with an inventory of existing discharges. DEP staff further explained that pollutants of concern are reported in the permit application form and identified during third and fifth year inspections.

The Level I analysis is described in the PWM as a desktop analysis that uses available data to determine whether the water body will continue to meet standards, if the discharge is allowed. The PWM indicates that a Level I analysis is based on best professional judgment (BPJ) using simple modeled dilution. Mixing zones may be used, if requested, and applicable requirements are met. Mixing zone modeling is designed to fit the complexity of the situation. For simple

situations, simple dilution modeling or simple statistical calculations are considered appropriate. More complex situations involve the use of mixing zone models such as PLUMES or CORMIX. However, DEP does not mandate specific modeling approaches in rules.

For a Level II analysis, a plan of study addressing the necessary data, method of collection and analysis, and QA/QC must be developed and approved by DEP and the applicant. The entire Level II process can take up to two years. DEP's Watershed Assessment Section (WAS) supports the Level II process. Overall, permit limits generally reflect the water quality standards as criteria end-of-pipe.

As stated previously, DEP has developed the RAV as a tool for statistically evaluating effluent data for RA determinations. The RAV workbook is intended for use with data sets ranging from one (1) to twenty-five (25) data points. When used, the RAV worksheet becomes part of the permit file.

Mixing zones: State regulations provide for mixing zones (Rule 62-4.244, F.A.C.) and include various conditions, including size restrictions. Modeling approaches vary depending on the nature and complexity of the discharge and receiving water. Permittees must apply for a mixing zone each time a permit is issued or reissued and mixing zones are granted only if the applicant meets regulatory requirements. As a result, DEP permits often do not use mixing zones in the development of WQBELs.

Monitoring: Monitoring requirements are developed as described in Section 6.4.10 of the PWM. Minimum monitoring frequencies for domestic wastewater facilities are specified in Rule 62-601, F.A.C. (Figure 2). Industrial monitoring frequencies are developed on more of a case-by-case basis using the available guidelines. The resources used to establish monitoring requirements include the PWM, BPJ, the *Work Book for Determining Economic Achievability for NPDES Permits*,[3] the *Technical Support Document for Water Quality-Based Toxics Control*, Abstracts of Industrial NPDES Permits, ICIS retrieval information from facility inspections, and plant performance data.

Reporting: All parameters that are required to be monitored are specified in the permit and are required to be reported, typically on the Discharge Monitoring Report (DMR). If the permittee monitors a parameter more frequently than required by the permit, using approved test procedures, the results must also be reported and included in the data submitted in the DMR. DEP utilizes an electronic DMR reporting system. Monitoring requirements from WAFR are loaded into eDMR and monitoring data is loaded into ICIS.

Standard conditions: DEP permits include boilerplate standard conditions. Each standard permit condition references a rule or statutory basis. The standard conditions were most recently updated March 23, 2012.

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[3] http://www.epa.gov/npdes/pubs/workbook_econ_permits.pdf

Fact sheets: DEP drafts fact sheets for all NPDES permits. Fact sheets are drafted for facilities as described in Section 7.1 of the PWM. Permit Builder includes inputs for fact sheet information and produces a draft fact sheet. Typical fact sheet headings include: Permit/Facility Information, Permit Writer, Summary of Application, Summary of Surface Water Discharge, Basis for Permit Limitations and Monitoring Requirements, Changes from the Previous Permit, Sludge or Residuals Management, Groundwater Monitoring Requirements, Permit Schedules, Storm water Pollution Prevention Plan, Administrative Orders and Consent Orders, Requested Variances or Alternatives to Required Standards, Administrative Record, Proposed Schedule for Permit Issuance, DEP Contact, and Procedures for the Formulation of the Final Determinations.

Antidegradation: Rules 62-302.300(7) and 62-4.242, F.A.C., address antidegradation requirements. These rules require all new or expanded surface water discharges to meet antidegradation requirements. In addition, Rule 62-302.300(8), F.A.C., requires existing discharges that are not being expanded to meet antidegradation requirements if: 1) it has been demonstrated that degradation of water quality beyond that expected in the existing permit is occurring due to the discharge; or 2) an antidegradation analysis was not conducted for a new or expanded discharge that was initially permitted by DEP on or after October 4, 1989. Procedures for implementation of Florida's antidegradation rules are discussed in Section 13.5 of the PWM. In general, these procedures require maintenance of existing uses, balancing of benefits and impacts, and options review. All elements of the antidegradation analysis, including whether existing uses are being maintained and whether the degradation is necessary or desirable under federal standards and under circumstances which are clearly in the public interest, are documented in the fact sheet.

Anti-backsliding: Antibacksliding review is triggered when a permit is renewed, revised, or reissued. Anti-backsliding requirements are discussed in Section 6.4.11 of the PWM. If performed, the antibacksliding evaluation is documented in the fact sheet or statement of basis.

TMDLs: Wastewater permitting strategies for TMDL permitting program-related scenarios are outlined in Attachment 13.3 of the PWM (e.g., issue permit with final, relevant WLA). Pre-TMDL permitting strategies are specifically discussed in this attachment, as well as in Section 13.4.3 of the PWM. Post-TMDL permitting strategies are discussed in Attachment 13.3 as well as in Section 13.4.4 of the PWM. TMDL Tracker, a web-based application, at http://webapps.dep.state.fl.us/DearTmdl/welcomehz.do, is used to track TMDL implementation in permits. Generally, TMDLs entered into the system are TMDLs written by the state.

Sufficiently sensitive methods: Wastewater Permit Application Form 2A for Domestic Wastewater requires testing to be conducted in accordance with DEP rules and 40 CFR 136. It further states "[a]pplicants should use methods that enable pollutants to be detected at levels adequate to meet water quality standards. Where no approved method can detect a pollutant at the water quality-based standards level, the most sensitive approved method should be used. If the applicant believes that an alternative method should be used (e.g., due to matrix interference), the applicant should obtain prior approval from DEP. Additionally, standard conditions in both industrial and domestic wastewater permits require the use of sufficiently sensitive methods. Standard permit conditions for wastewater facilities state "[t]he sample collection, analytical test methods, and method detection limits (MDLs) applicable to this permit shall be conducted using a sufficiently sensitive method to ensure compliance with applicable water quality standards and

effluent limitations and shall be in accordance with Rule 62-4.246, Chapters 62-160 and 62-601, F.A.C., and 40 CFR 136, as appropriate."

Public notice: The administrative process for permit publication is outlined in PWM Attachment 1.1 and described in Chapters 8 and 9 of the PWM. Public notice requirements are described in Section 8.5 of the PWM. Notice is required for both select permit applications (subject to public interest or when an administrative hearing is expected) and draft permit development. The latter notifies interested persons of the draft permit and allows a 30-day comment period. All comments received during the public comment periods, are considered by DEP in the preparation of the final permit. The six districts address comments on permits issued within the respective districts. Complex issues are discussed with DEP headquarters. The administrative hearing process is described in Chapter 11 of the PWM.

Objections: Objections by EPA are handled as described in the Memorandum of Agreement (MOA) between EPA Region 4 and the state DEP. Petitions for administrative hearings are addressed in Section 120.57, F.S. The administrative hearing process is described in Chapter 11 of the PWM. Objections and petitions for hearing are rare. Formal hearings are heard by an Administrative Law Judge.

Administrative record: Contents of the final administrative record are listed in Section 10.1 of the PWM. In the past, the final administrative record has been a hard copy file located in the district office that issued the permit. However, DEP is currently in the process of scanning and entering documents into an electronic file system (OCULUS). After all documents are entered into OCULUS, the final administrative record will be located in OCULUS.

DEP permits cover other aspects of the DEP's programs such as deep well injection and reuse. This procedure makes it easier for the permittee and for DEP so that the other permitting programs (outside of NPDES) are fully integrated and covered. In addition, coordination with other programs (e.g., compliance and water quality) is excellent.

C. State-Specific Challenges

One significant area the state anticipates will be challenging in the NPDES program is finalizing and implementing new nutrient criteria for the state. The criteria involve a biological component and numeric nutrient thresholds which make permit issuances challenging as data must be collected for assessment prior to issuing NPDES permits.

D. Current State Initiatives

State initiatives that DEP is currently developing that will strengthen permitting include:

- Development and implementation of iNOI and eDMR capabilities.
- Full implementation of the OCULUS electronic file system.
- Ongoing use and enhancements of the Permit Builder system. DEP has an extensive list of possible improvements, including the addition of interim effluent limitations, the ability to fully address permit modifications, the inclusion of effluent limit guidelines (ELGs), etc.

III. Core Review Findings

A. Basic Facility Information and Permit Application

1. Facility Information

Basic facility information is necessary to properly establish permit conditions for a facility. For example, information regarding facility type, location, processes and other factors is required by NPDES permit application regulations (40 CFR 122.21) because such information is essential for developing technically sound, complete, clear and enforceable permits. Similarly, fact sheets must include a description of the type of facility or activity subject to a draft permit.
The twelve Florida DEP permits and their respective fact sheets reviewed during the core review were assessed to determine if the permits included basic information, such as: permit issuance and expiration dates (permits indicate that they were effective upon issuance), authorized signatures, and specific authorization to discharge information. These permits and fact sheets identified the location of the facility, the receiving water body by name, the water quality classification code, and the outfalls with their locations. Both permits and fact sheets provided detailed descriptions of the types of activities and treatment being conducted at the permitted facilities. The fact sheets discussed impairment status of the receiving water including the existence of relevant TMDLs, and the permits reflected final waste load allocations in applicable TMDLs.

2. Permit Application Requirements

Federal regulations at 40 CFR 122.21 and 122.22 specify application requirements for facilities seeking NPDES permits. Federal forms are available, but authorized states are also permitted to use their own forms provided they include all information required by the federal regulations. This portion of the review assesses whether appropriate, complete, and timely application information was received by the state and used in permit development.

The permit files that were reviewed were found to contain current, appropriate, and timely permit applications. In general, these applications were complete, including required sampling data. In a few cases not all required sampling data were found in the application. One application did not include complete data, and one marked maximum concentration “NA.” Another application included data for an internal outfall (but not the external outfall), and one was missing data for certain parameter categories. The state requires chronic whole effluent toxicity (WET) testing for major permits and, therefore, DMRs for existing facilities typically provide WET data. Overall the applications were complete with only very limited application data missing.

B. Technology-Based Effluent Limitations

NPDES regulations at section 125.3(a) require that permitting authorities develop technology-based treatment requirements. Permits, fact sheets and other supporting documentation for POTWs and non-POTWs were reviewed to assess whether these “technology based effluent limitations” (TBEL) represent the minimum level of control that must be imposed in a permit.

1. TBELs for POTWs

POTWs must meet secondary or equivalent to secondary standards (including limits for BOD, TSS, pH, and percent removal). Thus, permits issued to POTWs, must contain limits for all of these parameters (or authorized alternatives) in accordance with the Secondary Treatment Regulations at 40 CFR Part 133.

The four permits and fact sheets developed for municipal facilities that were part of the core review provided a good description of the wastewater treatment processes. The permits reviewed applied the secondary treatment standards that were in the state's regulations. These regulations provide that for Class III marine and fresh surface waters other than ocean outfalls "[n]ew facilities and modifications of existing facilities shall be designed to achieve an effluent after disinfection containing not more than 20 mg/L $CBOD_5$ and 20 mg/L TSS, or 90% removal of each of these pollutants from the wastewater influent, whichever is more stringent." In addition, "[a]ppropriate disinfection and pH control of effluents shall also be required." The federal regulations specify monthly and weekly average limitations for BOD_5 and TSS of 30 mg/l and 45 mg/l, respectively (25 mg/l and 40 mg/l for $CBOD_5$), as well as 85 % removal and pH of 6.0 – 9.0 s.u. One of the permits (Melbourne Grant St., FL0041122) includes daily maximum limits only for $CBOD_5$ and TSS (i.e., no monthly average limits). This particular permit allows a surface water discharge for only five days out of the five year term of the permit. The permit also did not include a percent removal requirement. The facility disposes of its effluent through deep well injection and surface water discharge will only occur during the mechanical integrity test of the deep well. Although the discharge is only for five days, federal regulations for secondary treatment require that a monthly average and a weekly average limit be included in the permit, along with a percent removal requirement.

The other three municipal permits (Lakeland Glendale, FL0039772; Orlando Iron Bridge Rd., FL0037966 and Hillsborough River Oaks, FL0027821) included average weekly and average monthly limits. These permits did not include the 85% removal requirement as is specified in 40 CFR 133.102. This appears to be based on the fact that the permits all require advanced treatment for $CBOD_5$ and TSS and the low level concentrations of $CBOD_5$ and TSS were much lower than could be achieved by an 85% removal requirement. The 85% removal rate is not equivalent to the state's advanced treatment requirements.

Additional information provided by DEP discussed how the State addressed the % removal requirement for CBOD5 and TSS. Rule 62-620.100(3)(g), Florida Administrative Code (F.A.C.), adopts 40 CFR Part 133.102(a)(4) and (b) which are the federal secondary treatment requirements for CBOD5 and TSS. This includes the 85% removal requirements for $CBOD_5$ and TSS. Generally, CBOD5 and TSS percent removal requirements are not included in Florida permits when permit limits are more stringent than 25 mg/L CBOD5 and 30 mg/L TSS since these effluent concentrations are significantly lower than would be achieved by the percent removal requirements. This has been done since DEP was delegated to implement the NPDES wastewater program in 1995 and has been reviewed by EPA.

Permit Builder is currently set up to include 85% removal requirements for CBOD5 when the CBOD5 effluent concentration limit is greater than or equal to 25 mg/L and for TSS when the TSS effluent concentration limit is greater than or equal to 30 mg/L.

2. TBELs for Non-Municipal Dischargers

Permits issued to non-municipal dischargers must require compliance with a level of treatment performance equivalent to "Best Available Technology Economically Achievable (BAT)" or "Best Conventional Pollutant Control Technology (BCT)" for existing sources, and consistent with "New Source Performance Standards (NSPS)" for new sources. Where effluent limitations guidelines (ELG) have been developed for a category of dischargers, the technology-based effluent limits in a permit must be based on the application of these guidelines. If ELGs are not available, a permit must include requirements at least as stringent as BAT/BCT developed on a case-by-case basis, best professional judgment basis, in accordance with the criteria outlined at 40 CFR 125.3(d).

The fact sheets for the eight non-municipal permits reviewed include a good description of each facility including processes, waste streams, pollutants, and treatment, as well as the applicable standards and any special considerations. Three of these facilities were subject to ELGs (Pilgrim's Pride, FL0001465; US Agrichemical Bartow, FL0001961; and Vero Beach Power Plant, FL0002984). One of these permits (US Agrichemical Bartow) includes limits required by the effluent guideline, but no discussion about the effluent guideline was presented. For the other two, the administrative record did not discuss the effluent guideline, including whether or not it is applicable. In one case (the Vero Beach Power Plant) some of the information in the fact sheet suggests the effluent guideline applies; however, discussion with DEP staff suggested it is not applicable. However, the permit actually prohibits the discharge of the parameters in the effluent guideline. Another permit (Pilgrim's Pride) did not assess the current ELG for poultry rendering and, thus, those effluent limitations were not assessed based on minimum ELGs.

The adminstrative record for the three industries with ELGs, which includes the fact sheet, did not provide documentation comparing TBELs and WQBELs to determine which limits would be more stringent. Although in most cases a WQBEL-based limit would be more stringent, the comparison still needs to be made.

C. Water Quality-Based Effluent Limitations

The NPDES regulations at 40 CFR 122.44(d) require permits to include any requirements in addition to, or more stringent than, technology-based requirements, where necessary, to achieve state water quality standards, including narrative criteria for water quality. To establish such WQBELs, the permitting authority must evaluate the proposed discharge and determine whether technology-based requirements are sufficiently stringent, and whether any pollutants or pollutant parameters could cause or contribute to an excursion above any applicable water quality standard.

The Florida PQR assessed the processes employed by permit writers and water quality modelers to implement these requirements. Specifically, the PQR reviewed permits, fact sheets, and other documents in the administrative record to evaluate how permit writers and water quality modelers determined the appropriate water quality standards applicable to receiving waters, evaluated and characterized the effluent and receiving water. Also, the PQR determined if permit writers set effluent limits for pollutants of concern based on critical conditions, ambient pollutant

concentrations and dilution considerations. For impaired waters, the PQR also assessed whether and how permit writers consulted and developed limits consistent with the assumptions of applicable EPA-approved TMDLs.

Florida DEP requires that permit applicants demonstrate Reasonable Assurance (RA) that each discharge will not cause or contribute to a violation of WQS in the receiving water after allowing for any mixing zone. Applicants submit sampling data and DEP uses available sources of data to assess whether a discharge will cause or contribute to a violation. DEP can use a Level I or Level II analysis to make this determination. A description of the Level I and Level II analyses was previously presented in Section II.B. of this document. On occasion the Reasonable Assurance Verification (RAV) worksheet is utilized for determining if an effluent limit is needed. However, there is no guidance or policy describing when to use the worksheet. The RA process takes the place of DEP evaluating reasonable potential (RP) for the discharge to cause or contribute to an exceedance of water quality standards. The main difference between the RP and the RA process is that the RA process requires that the permit applicant must provide the data demonstrating RA, whereas the RP process may use other data sources, as well. In addition to RA, DEP allows few mixing zones and almost always applies water quality standards at the point of discharge.

Generally, if there is a detection of a parameter of concern, permit writers will decide based on best professional judgment and experience whether there is a need for a limit and limits will be applied as criteria end-of-pipe. Overall, the permits reviewed include appropriate WQBELs, and, in fact, were protective of the state's water quality standards. However, the permit documentation supporting these limits did not discuss WQBEL development in detail.
The fact sheets typically identify and characterize in a table pollutants that are present in significant quantities or that are subject to permit limitations. A citation to a state regulation documenting the basis for each effluent limitation is presented in the table. The fact sheets and file documentation did not discuss what data (e.g., application data) and decision criteria are used to identify these pollutants. Generally, pollutants are selected for limitation based on application data, DMR data or due to the existence of an ELG. The fact sheets did not discuss this process. The PWM did indicate that various sources of available data were used, but this is not part of the permit file.

Each of the fact sheets for the core permits that were reviewed state that the permit applicant has provided RA that the discharge will not adversely affect the designated use of the receiving water. The fact sheets did not discuss the basis for this finding (i.e., data considered, analysis, decision criteria). The fact sheets indicate whether a Level I or II analysis was completed to support this determination and, where a Level I analysis was completed, state that fifth-year inspection data and all other available data have been evaluated in accordance with DEP's reasonable assurance procedures. However, separate permit file documentation of a Level I analysis identified for one permit included information that is typically included in the fact sheets (i.e., description of effluent discharges for a list of parameters, a table and discussion addressing the basis for effluent limits, and a finding of reasonable assurance). Thus, the Level I analysis that was reviewed did not further explain the basis for the RA finding. In addition, the fact sheets did not routinely indicate whether a RAV worksheet had been completed as part of permit development (or when such worksheets were typically used). In discussing one permit DEP staff indicated that a RAV worksheet had been completed but it was not part of the permit file because it did not indicate any instances where the effluent levels exceeded the WQS. There was one

permit where a RAV worksheet had been completed. The general lack of WQBEL documentation is due to the fact that DEP routinely applies criteria end-of-pipe limitations for parameters of concern, and uses best professional judgment in selecting parameters of concern based on application data.

Level II analyses are typically WQBELs or TMDLs that are performed in the Tallahassee office. References to TMDLs were made in the fact sheet, but no Level II analyses were reviewed as part of the PQR.

Most permit files did not include limit calculations or calculation worksheets. This is due to the fact that DEP predominantly applies water quality criteria at the point of discharge. Only one of the permits reviewed used a mixing zone and the fact sheet for that permit discussed the mixing zone. Numerous permits included only a maximum daily limit and not an average monthly limit. The fact sheets discussed the existence of relevant TMDLs, and the permits reflected final waste load allocations in applicable TMDLs.

In one permit the fact sheet referenced an EPA 1975 memo as the basis for reasonable assurance that the facility was meeting water quality standards. This memo was not identified in the file, and the fact sheet did not include a discussion addressing why the assessment that was conducted years earlier reflected current conditions at the facility and is still relevant. Fact sheets need to stand on their own and not rely on discussions contained in previous administrative records.

D. Monitoring and Reporting

The NPDES regulations require permittees to periodically evaluate compliance with the effluent limitations established in their permits and provide the results to the permitting authority. Monitoring and reporting conditions require the permittee to conduct routine or episodic self-monitoring of permitted discharges and where applicable, internal processes, and report the analytical results to the permitting authority with information necessary to evaluate discharge characteristics and compliance status.

Specifically, the regulations at 40 CFR 122.44(i) require NPDES permits to contain monitoring requirements sufficient to assure compliance with permit limitations, including specific requirements for the types of information to be provided and the methods for the collection and analysis of such samples. The regulations at 40 CFR 122.48, also require that permits specify the type, intervals, and frequency of monitoring sufficient to yield data which are representative of the monitored activity. The regulations at 40 CFR 122.44(i) also require reporting of monitoring results with a frequency dependent on the nature and effect of the discharge.

The permits reviewed include appropriate discharge monitoring and reporting requirements based on the facility type, type of discharge, and corresponding limit basis. Influent monitoring is not required for BOD_5 and TSS for POTWs because the municipal permits that were reviewed did not include a requirement for 85% removal of these parameters.

Monitoring frequency, type and location (i.e., site number) are specified in the limits tables. The permits contain a general requirement that monitoring must be conducted according to test procedures approved under Part 136 and specified state regulations. In addition, the permits

routinely require that the methods and MDLs use sufficiently sensitive methods to ensure compliance with water quality standards and effluent limitations. State rules require limits for whole effluent toxicity (WET). DMRs are generated from the Permit Builder system. The majority of permits reviewed include a special condition to conduct in-stream monitoring which is a strength of Florida's permitting program.

E. Special and Standard Conditions

The regulations at 40 CFR 122.41 require that all NPDES permits, including NPDES general permits, contain an enumerated list of "standard" permit conditions. Further, the regulations at 40 CFR 122.42 require that NPDES permits for certain categories of dischargers must contain certain additional standard conditions. Permitting authorities must include these conditions in NPDES permits and may not alter or omit any standard condition, unless such alteration or omission results in a requirement more stringent than required by the Federal regulations.

In addition to these required narrative permit conditions, permits may also contain additional narrative requirements that are unique to a particular permittee. These case-specific narrative requirements are generally referred to as "special conditions." Special conditions might include requirements such as: additional monitoring or special studies; best management practices [see 40 CFR 122.44(k)], and/or; permit compliance schedules [see 40 CFR 122.47]. Where a permit contains special conditions, such conditions must be consistent with applicable regulations. Common special conditions in the permits reviewed include: residuals management conditions (municipals), reuse and land application provisions, operation and maintenance requirements, and industrial pretreatment requirements (municipal). DEP also includes conditions that address water reuse and groundwater requirements in the permits reviewed. In addition, state regulations (62-620.620(3)) provide that WET testing is required for major wastewater facilities; minor domestic wastewater facilities with an approved pretreatment program are required to develop a pretreatment program; minor industrial wastewater facilities with a discharge that has the potential to result in aquatic toxicity; and any wastewater facility, regardless of size, which has a prior history of effluent toxicity. Chronic WET testing is required and acute testing may be required based on the outcome of the chronic tests. These requirements are consistent with federal and state requirements, as applicable.

Standard conditions established at 40 CFR 122.41 and 122.42 are incorporated in the permits reviewed under Section IX: Conditions. In general, these conditions were found to be consistent with federal requirements. For a few requirements, it was difficult to identify comparable language. For example, the monitoring record information specified in federal rules was not identified nor was the provision indicating that falsifying or tampering with monitoring is subject to penalties (40 CFR 122.41(j)(3) and (5)). The permits include significant monitoring requirements and cross-reference many state regulatory provisions.

DEP provided additional information regarding the language in their NPDES permit standard language. The EPA/Florida state law crosswalk developed by DEP and approved by EPA at the time of NPDES delegation lists the state equivalent of the federal requirements contained in 40 CFR 122. As specified in the crosswalk, the state equivalent of the requirements included in 40 CFR 122.41(j)(3) are contained in Rules 62-620.350 and 62-620.610(18), F.A.C. The state equivalent of the requirements included in 40 CFR 122.41(j)(5) are contained in Section

403.161(1), Florida Statute, and Rule 62-620.610(1), F.A.C. The requirements in these regulations are contained in domestic wastewater standard permit conditions V.9., IX.1, and IX.18. and industrial wastewater standard permit conditions V.2., IX.1., and IX.18.

F. Administrative Process

The administrative process includes documenting all permit decisions, coordinating EPA and state review of the draft (or proposed) permit, providing public notice, conducting hearings (if appropriate), and responding to all public comments, and defending the permit and modifying it (if necessary) after issuance. The PQR team discussed each element of the administrative process with the DEP permitting staff, and reviewed materials from the administrative process as they related to permits reviewed for the core permit review.

The supporting records for the permits reviewed include documentation that demonstrated that public notice procedures were implemented and, in certain cases, that comments had been received and addressed. DEP staff indicated that responses were typically amendments to the fact sheet and attached to the notice of intent to issue (significant comments only).

G. Documentation

The administrative record is the foundation that supports the NPDES permit. If EPA issues the permit, the contents of the administrative record are prescribed by regulation, with 40 CFR 124.9 identifying the required content of the administrative record for a draft permit and 40 CFR 124.18 describing the requirements for final permits. Authorized states should have equally strong documentation. The record allows personnel from the permitting agency to reconstruct the justification for a given permit and defend the permit during any legal proceedings regarding the permit. The administrative record for a draft permit consists, at a minimum, of the permit application and supporting data, draft permit, fact sheet or statement of basis, all items cited in the statement of basis or fact sheet, including calculations used to derive the permit limitations, meeting reports, correspondence with the applicant and regulatory personnel, and all other items supporting the file.

The available permit records generally include the permit, fact sheet, application (including data), correspondence, public notice, and numerous additional supporting documents. DEP is in the process of transitioning from a hard copy file system located in the district offices to an electronic file system (i.e., OCULUS) and, thus, both hard copy and electronic files were available for review and both administrative record systems were utilized in the on-site review. The OCULUS system includes all permit administrative records for permits that have been entered into the system. After all documents are entered into OCULUS, the final administrative record will be located in OCULUS. Water quality spreadsheets, RAV worksheets, and limits calculations (including BPJ documentation) and comparisons were not always identified in these materials. It appears that this is in part a function of how DEP applies WQBELs (i.e., parameters present in significant quantities are addressed by WQBELs; in many instances water quality standards are applied to the discharge point; and Level I analysis information is included in the fact sheet). Nevertheless, the record documents did not make the process particularly clear. In several files, a comment or response to comment document was not identified and it was not clear whether any comments had been received.

1. Fact Sheet or Statement of Basis

Under 40 CFR 124.8 and 124.56 fact sheets are required for major NPDES permits, general permits, permits that incorporate a variance or warrant an explanation of certain conditions, and permits subject to widespread public interest. Current regulations require that fact sheets include:

- General facility information
    - Description of the facility or activity
    - Sketches or a detailed description of the discharge location
    - Type and quantity of wastes/pollutants discharged
- Summary rationale of permit conditions
    - Summary of the basis for draft permit conditions
    - References to the applicable statutory or regulatory provisions
    - References to the administrative record
- Detailed rationale of permit conditions
    - Explanation and calculations of effluent limitations and conditions
    - Specific explanations of:
        - Toxic pollutant limitations
        - Limitations on internal waste streams
        - Limitations on indicator pollutants
        - Case-by-case requirements
        - Decisions to regulate non-publicly owned treatment works under a separate permit
    - For EPA-issued permits, the requirements for any state certification
    - For permits with a sewage sludge land application plan, a description of how all required elements of the land application plan are addressed in the permit
    - Reasons why any requested variances do not appear justified, if applicable
- Administrative requirements
    - A description of the procedures for reaching a final decision on the draft permit, including:
        - Public comment period beginning and ending dates
        - Procedures for requesting a hearing
        - Other procedures for public participation
    - Name and telephone number of the person to contact for additional information.

The fact sheet and supporting documentation were reviewed with the administrative record of the permit file as part of the PQR to assess whether the basis or rationale for limitations and other permit decisions were documented in the development of the final permit. DEP developed fact sheets for all of the permits reviewed. Overall, the fact sheet quality is good and the fact sheets for the permit reviewed were quite consistent across the DEP districts. However, in some areas, the fact sheets could provide a clearer and more complete discussion of the basis for aspects of the respective permits.

The fact sheets reviewed provide a good description of general facility information, including information depicting the type of facility, facility capacity, treatment capacity and process, and a description of the effluent and land application disposal location including the name and class of the receiving water and location of the outfalls. The fact sheets also consistently include a table

that lists pollutants that were present in significant quantities (including reported values) or that were subject to permit limitations. Additionally, the fact sheets include a table that lists the regulatory citation that serves as the basis for each limit followed by a discussion of the basis for permit limits and monitoring requirements. The fact sheets tend to reference state regulations rather than reference elements of the administrative record. In some instances, specific state regulatory requirements were referenced, but it may not be clear to the general public what is required. For instance, Grizzle-Figg legislation should be discussed in the fact sheet, when referenced.

Of the twelve core permits, three were industries with ELGs. For these three permits, the fact sheets did not discuss effluent guidelines that appear applicable or potentially applicable. Such a discussion documents consideration of the guidelines, and its application, as appropriate.

With regard to WQBELs, the fact sheets did not specifically describe or clearly reference a description of how pollutants of concern were identified, or the process followed to determine whether water quality-based effluent limits were needed and to develop such limits. The fact sheets document that reasonable assurance was assessed, but did not describe that process. Fact sheets identify whether a Level I or II WQBEL assessment was conducted for each permit, but again did not describe or reference a description of how these assessments were done. RAV worksheets were not consistently identified as part of the permit files and it is not clear when this tool is used. In many instances DEP applies WQS at the point of discharge; nevertheless, it is helpful to understand how this is done and to document any relevant limit calculations. The fact sheets discuss how relevant TMDLs were addressed in each permit; however, there were instances where the name/date of the TMDL was not clearly identified.

Other requirements were also included in the fact sheets. They include a discussion of toxicity testing requirements. Also, although Florida does not have CWA section 503 delegation, the state regulates sludge/residuals and the fact sheets include, as relevant, a heading for discussion of industrial sludge or residuals management. To the extent applicable, the fact sheets describe how requested variances or alternatives to required standards were addressed in each permit. Additionally, the fact sheets reviewed include a good discussion of the administrative record, proposed schedule for permit issuance, DEP contact, and procedures for the formulation of the final determinations.

H. Core Topic Areas

Core topic areas are aspects of the NPDES permit program that warrant review based on the specific requirements applicable to the selected topic areas. These topic areas have been determined to be important on a national level**.** Core topic areas are reviewed for all state PQRs.

1. Nutrients

For more than a decade, both nitrogen and phosphorus pollution has consistently ranked as one of the top causes of degradation of surface waters in the U.S. Since 1998, the EPA has worked at reducing the levels and impacts of nutrient pollution and, as a key part in this effort, has provided support to states to encourage the development, adoption and implementation of numeric nutrient criteria as part of their water quality standards (see the EPA's *National Strategy for the*

Development of Regional Nutrient Criteria). In a 2011 memo to the EPA regions titled *Working in Partnerships with States to Address Nitrogen and Phosphorus Pollution through Use of a Framework for State Nutrient Reductions*, the Agency announced a framework for managing nitrogen and phosphorus pollution that in part relies on the use of NPDES permits to reduce nutrient loading in targeted or priority watersheds. To assess how nutrients were addressed in the NPDES permitting program in Florida and implementation of this framework, the EPA reviewed four permits as part of the core topic review.

Background:

The state uses two mechanisms to develop nutrient limits for NPDES permits, legislated nutrient limits and water quality-based limits.

Legislated limits: Section 403.086(1), Florida Statutes, was passed in the 1980s to require Advanced Wastewater Treatment (AWT) (5/5/3/1; CBOD5/TSS/TN/TP in mg/l) for domestic facilities discharging to Old Tampa Bay, Tampa Bay, Hillsborough Bay, Boca Ciega Bay, St. Joseph Sound, Clearwater Bay, Sarasota Bay, Lower Sarasota Bay, Roberts Bay, Lemon Bay and Charlotte Harbor and most of its tributaries. Later, in 1990 Chapter 90-262 was passed to protect the Indian River Lagoon (IRL) by prohibiting new discharges or increased loadings from domestic wastewater treatment facilities and reducing or eliminating nutrient loadings discharging to the IRL system. Another requirement of this legislation was that reuse or land application must be assessed as an option for all dischargers and surface water discharges can only be allowed as a last resort. Similar legislation for the protection of the Florida Keys, and the Wekiva Study Area was passed in 1999 and 2005, respectively.

Another legislated mechanism is that NPDES domestic permittees must assess reuse and land application as an alternative to discharge to surface waters. Based on implementation of this program, reuse capacity of Florida's domestic wastewater treatment facilities has increased from 362 MGD in 1986 to 1,599 MGD in 2009. Also, 62 percent of the total permitted domestic wastewater capacity now employs reuse. On a similar note, the ocean outfall elimination legislation mandated the elimination of a significant volume of discharge through reuse and for the remaining wet weather discharge an equivalent AWT load is permitted.

Water quality-based effluent limits: The state has a number of watershed-based approaches that result in restoration plans covering both point and non-point sources. These watershed plans include Basin Management Action Plans (BMAPs), Surface Water Improvement Management (SWIM) plans, and legislatively-mandated restoration efforts directed at a number of specific watersheds such as the Everglades and Lake Okeechobee. As of April 2011 there were 135 adopted nutrient TMDLs and 47 SWIM plans (many with pollutant load reduction goals (PLRGs)) for major water bodies such as Lake Okeechobee, the Caloosahatchee Estuary, the Lower St Johns River, the Suwannee River, the Winter Haven Chain of Lakes, Tampa Bay, and others.

When an NPDES permit comes up for renewal, the discharge is assessed to determine if it will cause or contribute to nutrient water quality impairment. If the receiving water is impaired for nutrients, then generally it will be listed on the Florida 303(d) list. If a nutrient TMDL has been approved, those limits identified in one of the 135 TMDLs will be applied to the permit. Where

there is only an aggregate load for several dischargers, the disaggregation of the load will be determined by stakeholders through the locally derived BMAP. In instances where the TMDL is not yet drafted but the water body is listed and a permit is up for renewal, the State of Florida will hold the line by not allowing additional nutrient loads to be discharged or will determine limits through a WQBEL. Targeted loads or concentrations were sometimes included in permits. Subsequent to the issuance of these permits that were reviewed by the PQR, the state passed a rule enacting numeric nutrient criteria (NNC), along with biological measures which will be used in future permitting actions to evaluate the health of surface waters. Since the permits reviewed were issued prior to the date of the nutrient rule-making, the NNC could not be applied to any of these permits.

For the PQR review of nutrients, four permits were reviewed using a standard checklist. The permits reviewed included one POTW and three industrial facilities.

To reduce nutrient pollution to advanced treatment levels or require reduced volumes of effluent through reuse, Florida uses several mechanisms. For permits with legislated nutrient limits, limits were properly implemented as nutrient effluent limits were included in the permits, such as required by the Grizzle-Figg legislation. Permits that had TMDLs were also written so that the nutrient effluent limits matched the nutrient limits assigned by the TMDL or by a BMAP to the discharger. There were examples of reuse through application of effluent to golf courses or to other land application systems. Although there is no over-arching policy regarding nutrients, the legislated nutrient limits, the requirement to evaluate reuse and implementation of nutrient TMDLs were examples of nutrient reduction concepts implemented by the state that come together with the end result of point source nutrient reductions.

The EPA's 2011 memo to the regions sets guidance for states regarding targeting and prioritizing of watersheds for nutrient reductions. The Florida NPDES program has not set a policy for targeting priority watersheds. Generally, TMDLs and WQBELs have been issued based on the schedule from a consent decree (Florida Wildlife Federation, et al. v. Carol Browner, et al., Case No. 98-356-CIV-Stafford) or specific state priorities. For permits assessed as part of the PQR core focus area, where nutrient impairments exist and TMDLs have been developed, permits included effluent limits consistent with the effluent limits from the nutrient TMDLs. Where TMDLs have yet to be developed, permits generally limited the nutrient discharge to existing discharge loads or set a target. Targets are not enforceable requirements and may not always result in maintaining current nutrient loads. Overall, nutrients were addressed, but there were a few areas recommended for improvement. A limited number of fact sheets did not identify downstream nutrient impairments. On occasion the source of the nutrient limits, such as the name of the TMDL, is not clearly identified. Fact sheets sometimes only give a basis for one of the two nutrients. For instance, if a Total Nitrogen (TN) limit is given in the permit, a statement is needed in the fact sheet discussing why there is no Total Phosphorus (TP) limit.

Another consideration involves Florida's nutrient rule making. These adopted rules serve to interpret Florida's nutrient narrative criteria by setting numeric default values for TN and TP and biological criteria. This rule is a major step towards addressing nutrient issues within the state.

2. Pesticide General Permit

On January 7, 2009, the Sixth Circuit vacated the EPA's 2006 NPDES Pesticides Rule under a plain language reading of the CWA. National Cotton Council of America v. EPA, 553 F.3d 927 (6th Cir., 2009). The Court held that the CWA unambiguously includes "biological pesticides" and "chemical pesticides" with residuals within its definition of "pollutant." In response to this decision, on April 9, 2009, the EPA requested a two-year stay of the mandate to provide the Agency time to develop general permits, to assist NPDES-authorized states to develop their NPDES permits, and to provide outreach and education to the regulated community. On June 8, 2009, the Sixth Circuit granted the EPA the two-year stay of the mandate. On March 28, 2011, the U.S. Court of Appeals for the Sixth Circuit granted the EPA's request for an extension to allow more time for pesticide operators to obtain permits for pesticide discharges into U.S. waters. The court's decision extended the deadline for when permits would be required from April 9, 2011 to October 31, 2011.

On October 31, 2011, the EPA issued a final NPDES *Pesticide General Permit (PGP) for Discharges from the Application of Pesticides*. This action was in response to a 2009 decision by the U.S. Sixth Circuit Court of Appeals (National Cotton Council of America v. EPA, 553 F.3d 927 (6th Cir., 2009)) in which the court vacated EPA's 2006 Final Rule on Aquatic Pesticides (71 Fed. Reg. 68483, November 27, 2006) and found that point source discharges of biological pesticides and chemical pesticides that leave a residue, into waters of the U.S. were pollutants under the CWA. The federal PGP applies where the EPA is the permitting authority. Approximately 40 delegated state NPDES authorities have issued state pesticide general permits as of November 2011.

As a result of the Court's decision to vacate the 2006 NPDES Pesticides Rule, NPDES permits are required for discharges of biological pesticides and of chemical pesticides that leave a residue to waters of the United States. EPA proposed a draft pesticide general permit on June 4, 2010, to cover certain discharges resulting from pesticide applications. The EPA regional offices and state NPDES authorities may issue additional general permits or individual permits, if needed.
For this PQR, Region 4 reviewed Florida's pesticide general permit, *Generic Permit for Pollutant Discharges to Surface Waters of the State from the Application of Pesticides***,** with a focus on verifying its consistency with NPDES program requirements. Existing state law provides the authority to issue NPDES permits for discharges from the application of pesticides. There are no obstacles in state law preventing the state NPDES permitting authority from fully implementing the NPDES requirements. State regulations provide for permitting of all discharges from the application of pesticides, including all pesticide use patterns described in the EPA pesticide permit, all operators of discharges, including decision-makers and applicators, and all waters within the state. This permit was issued and effective on April 11, 2011. The review found that the permit was consistent with CWA requirements.

3. Pretreatment

The pretreatment program review assessed the status of the Florida pretreatment program and assessed specific language in POTW permits. During the same time frame as the conduct of the PQR, Region 4 conducted a separate pretreatment audit which is an in-depth review of Florida's pretreatment program. With respect to NPDES permits, the audit placed focus on regulatory requirements for pretreatment activities and pretreatment programs (40 CFR Parts 122.42(b), 122.44(j), 403, and 403.12(i)). As part of the pretreatment audit, EPA reviewed:

- Streamlining Rule implementation status of regulatory requirements from the 2005 revisions to the pretreatment regulation (40 CFR 403);
- Database entry consistency for pretreatment categories;
- Adherence to the Compliance Monitoring Strategy (CMS) program policy for frequency of regional and state reviews of POTW pretreatment programs; and
- Special programs conducted in Florida.

For an in-depth review of the state's pretreatment audit, please refer to the pretreatment audit report which will become available separately.

The PQR also assessed permit language for three selected permits to determine if boilerplate language for the selected permits was included in the permits having pretreatment programs. The review concluded that boilerplate language was included for permits requiring pretreatment programs. However, the appropriateness and completeness of the boilerplate language will be reviewed as part of the previously mentioned pretreatment audit. For POTW permittees without a pretreatment program, one permit (Ridaught Landing, FL0039721) was reviewed to determine if appropriate language was included in the event a pretreatment program was needed at a later date. The review concluded that three notification requirements regarding: 1) introduction of pollutants to a POTW (40 CFR 122.42(b)), 2) any substantial change in volume or character of pollutants (40 CFR 122.42(b)(2)), and 3) quantity and quality of effluent to POTW and anticipated impact of the change in effluent (40 CFR 122.42(b)(3)) were included in the permit language. However, other specific pretreatment language was not included in the permit. The permit did not contain the requirements of 40 CFR 122.44(j)(2)(i) to develop and submit a local program if in the case pretreatment becomes necessary at a later date or, alternatively, a reopener clause specifically for pretreatment.

4. Stormwater

The NPDES program requires storm water discharges from certain municipal separate storm sewer systems (MS4s), industrial activities, and construction sites to be permitted. Generally, EPA and NPDES-authorized states issue individual permits for medium and large MS4s and general permits for smaller MS4s, industrial activities, and construction activities.
The status of the Florida storm water permits at the time of the Florida PQR was as follows:

- Phase I MS4: 27 permits
- Phase II MS4 Generic permit
- Construction Generic Permit for Discharge of Storm water
- Industrial Storm water Permits

However, for the PQR, only four MS4 permits were reviewed, plus the construction generic permit for the discharge of storm water.

Phase I MS4s
Florida's storm water program is exemplary. This is reflected in its permit requirements that were consistent with applicable requirements established in the CWA and NPDES regulations. Florida's storm water permits also tend to keep pace with developments in the NPDES program. In the third cycle or iteration of its Phase I MS4 permits, Florida increased the level of specificity

in its permitting requirements. This included more rigorous requirements, such as TMDL and post-construction requirements and conditions for green infrastructure (e.g., code ordinance review). This was the result of a collaborative effort for well over a year between the state, the EPA Region 4 office, and the MS4 community to add clearer, more specific, measureable and enforceable permitting performance standards in accordance with regional policy.

Florida has a "standard" permit for all of its Phase I MS4s across the state (27 in total). Therefore, all Phase I MS4 permits are equivalent and meet this standard level of practice in accordance with the permit requirements. Because of the standardized permit, all four Phase I MS4 permits reviewed (Seminole County, FLS000038; Jacksonville Beach, FLS000013; Lee County, FLS000035 and City of Miami, FLS000002) contained identical requirements and conditions. Some noteworthy requirements include conditions requiring proper procedures for the public to register or report an incident (e.g., illicit discharge), inadequate erosion and sediment controls, post-control retrofit BMPs, as appropriate, watershed, regional or inter-jurisdictional planning to address impairments, and proper training for municipal staff regarding post-construction requirements. In all cases, inclusion of these requirements was found in the permit conditions.

Construction General Permit (CGP)

Florida's CGP is issued by rule and was last issued in February 2009. As of this writing, it is in the process of being revised and is expected to be reissued sometime in 2013. Florida's new CGP is expected to reflect the National CGP, which is also in the process of being reissued. The substantial conditions of the permit were found to be consistent with applicable requirements established in the CWA and NPDES regulations.

IV. Special Focus Area Findings

A. Reasonable Potential/Reasonable Assurance

The CWA requires that NPDES permitted facilities not cause or contribute to water quality violations. Generally this requirement is met by performing a reasonable potential analysis of the pollutants discharging from a wastewater treatment plant. Florida uses a slightly different process which is referred to as a reasonable assurance process. Both processes assess whether the pollutants discharged will cause or contribute to water quality violations.

For this special focus area five permits were reviewed. NPDES permit applications were examined for pollutants of concern and the fact sheets and administrative record were also assessed. Specifically, the adequacy of test methods was reviewed, along with the RAV worksheets that may be utilized in the RA process. Additionally, part of the review process was to fully assess mixing zones.

Review of the related administrative record revealed the following:

1. Permits were written to protect water quality by setting effluent limits equal to criteria end-of-pipe. Limits set at this level would be protective during any discharge circumstance.

2. A review of application data showed that Part 136 test methods were utilized. There was one case where the approved test method selected for mercury was not sensitive enough as the test method had a detection level above the water quality standard.
3. The RAV worksheets were not utilized since effluent limits were generally set to criteria end-of-pipe whenever there was a detection of a pollutant of concern in the application above or near the water quality standard. This is a protective practice because the criteria are chronic–based which would protect all water quality criteria for both chronic and acute conditions.
4. Whole Effluent Toxicity (WET) was applied according to state regulations and this requirement is protective of water quality. A WET limit is generally required for all major permits.
5. The procedures reviewed did not address protocol when application data showed a detection of a parameter of concern but no limit was given in the permit

6. While part of the review was to assess mixing zones none of the permits was allowed mixing zones.

The DEP provided additional information regarding the RA process for the state of Florida. Section 6.4.4.2 of DEP's Wastewater Permit Writer's Manual includes a lengthy discussion on methods that are available for permit writers to use to establish RA. These methods rely on the permit writer's best professional judgment because there are no state rules which specifically establish which methods must be used.

B. Implementing TMDLs in a Priority Watershed

Water quality analyses of impaired water bodies establish TMDLs that set waste load allocations for point source dischargers and load allocations for non-point sources. For the PQR, nine permits were reviewed to determine if NPDES permits were properly implementing previously approved TMDLs. Two TMDLs were selected which include the TMDL Report, "*Nutrient and DO TMDLs for the Indian River and Banana River Lagoon – March 2009"* and the Tampa Bay Reasonable Assurance document and Water Quality Effluent Based Limits rule which update a previous TMDL completed by DEP and approved by EPA. Both the Indian River Lagoon area and the Tampa Bay area are priority watersheds as identified by Region 4. By deeming these watersheds as a priority they require special attention to determine if the language of the permits sufficiently implements the permit waste load allocations.

Four permits from the Indian River/Banana River TMDL were assessed to determine if the nutrient limits were appropriately written to implement the TMDL. The four permits were:

Vero Beach Power Plant	FL0002984
Lake Washington water plant	FL0043443
Indian River County West	FL0041637
Rockledge	FL0021571

A review of each permit showed that the permits were limiting the TN and TP loads correctly. The power plant did not have a nutrient load assigned to it from the TMDL as it only has non-contact cooling water and, thus, no additional nutrient loads could be contributing to the

discharge. The remaining three permits included the TN and TP loads limited on an annual basis, as specified by the TMDL.

For Tampa Bay, five permits were reviewed to determine if effluent limits were implementing the waste load allocations from the Tampa Bay Nitrogen TMDL correctly. The five permits assessed were:

Lakeland – Glendale	FL0039772
Kinder Morgan – Port Sutton	FL0122904
Tampa Bay Water	FL0187691
Hillsborough River Oaks	FL0027821
Tampa Electric (Big Bend)	FL0000817

TN loads were included in the permits based on a five year rolling annual average. A one year maximum load was also included to avoid having a significant load discharge during a single year. A review of the Lakeland - Glendale, Tampa Bay Water, and Tampa Electric (Big Bend) permits indicated that permits were appropriately written. The Hillsborough – River Oaks permit and the Kinder Morgan – Port Sutton were slightly different as both involve permits with aggregate nitrogen loads. The Hillsborough River Oaks permit shares its permit load with other Hillsborough County permits that discharge to Old Tampa Bay. The River Oaks plant along with the Hillsborough Northwest, FL0041670 and the Hillsborough Dale Mabry, FL0036820 plant share the total load assigned to these Hillsborough County plants discharging to Old Tampa Bay. The permits were written to share the entire TN load of 33.60 tons per year as a five year rolling annual average. These permits also share a total nitrogen annual load on a one year annual basis. The annual average limit is 50.4 tons per year of TN. Two of the plants (River Oaks and Dale Mabry) report their TN loads on an annual basis and five year rolling average annual basis to the Northwest permit. The Northwest permit has the TN load limits. Additionally, all of the plants must report the monthly TN load. Compliance was checked to determine if the River Oaks and Dale Mabry plants were reporting to the Northwest plant and if the sum total of all three plants was reported as the load being discharged for the year. Most of the DMRs reported the TN load for the aggregate permit (Northwest Permit), but one month did not report the monthly total, annual total or 5 year average annual load.

The Kinder Morgan -- Port Sutton (Port Sutton) discharge is also a TN aggregate permit which sums the load of discharge from four of Kinder Morgan's facilities discharging to Hillsborough Bay. The four permits include Port Sutton, Kinder Morgan Tampaplex, (FL0321486 and FL0000264), and Kinder Morgan Hartford Terminal (FL0001643). This aggregate permit has an annual average TN load limit of 112.5 tons per year along with the five year annual average load of 75 tons per year. The two components of the TN load include calculating the direct discharge load and calculating materials losses based on the tons per months shipped. All four permits should have both components (direct discharge load and materials losses loads) reported to the Port Sutton facility. A review of the three other permits did not show that the materials losses components were required to be reported in the permit language. The permits without the materials load component should have the load included either as a permit modification or as part of a permit renewal. Additionally, Port Sutton DMRs were checked to determine if TN loads were being reported. Since a year has not transpired from the time of permit issuance, the annual load has yet to be reported. However, the permit also requires monthly reporting of TN load and

the DMRs showed that no TN loads had been reported on a monthly basis. This lack of monthly TN load reporting would make it difficult to ensure that the TMDL will be enforced.

C. Enforceability of General/Generic Permits

The enforceability of general permits was selected as an area of special focus. In Florida, NPDES general permits are referred to as generic permits. DEP issues generic permits to regulate a category of wastewater facilities or activities only if they all involve the same or substantially similar types of operations; discharge the same types of wastes or engage in the same types of residuals or industrial sludge use or disposal practices; require the same effluent limitations, operating conditions, or standards for residuals or industrial sludge use or disposal; or require the same or similar monitoring. Three permits were selected for review as follows:

1. Generic permit for discharges from concrete batch plants
2. Generic permit for discharges from petroleum contaminated sites
3. Generic permit for the discharge of storm water from phase II MS4

This area was selected because these generic permits cover a large number of discharges and the permits are issued as standard permits. Applicants who are eligible to discharge under a generic permit file a notice of intent to discharge. Applicants must follow the permit requirements under the generic permit.

Additionally, this area was selected because it is important that permit conditions are clear so that permittees know what to report and that the enforcement of the permit provisions is also easily understood. Furthermore, the permits need to be written so that permit applicants can be covered by the permit while at the same time protecting the environment with its individual water quality specific needs.

For the concrete batch generic permit there were no limits and no monitoring or reporting requirements written directly in the permit. The lack of requirements is somewhat confusing as to what monitoring or reporting might be required at the time of discharge. Also, the application seeking coverage for this type of discharge requires no discharge data. Accordingly, the lack of data makes it difficult to determine if the discharge will cause or contribute to a water quality impairment. Enforcement of the permit is also challenging if the generic permit requires only development and implementation of a Wastewater and Storm Water Management Plan. The permit limits discharge volume to runoff flows in excess of the 10-year, 24 hour storm event, but there is no mechanism to enforce that requirement. Since the facilities only discharge intermittently, the current generic permit has no reporting of discharge events including flow volumes, monitoring, or effluent limits. Furthermore, the current permit requires that discharge shall not cause or contribute to a water quality violation and it is not clear how that requirement will be enforced. A reassessment of the possible need for monitoring and/or limits should be done at the time of the next permit update.

The generic permit for discharges from petroleum-contaminated sites also needs to be updated to clarify the frequency and circumstances of when to monitor for WET. Follow up WET testing should also be considered, when needed. The exact timing for WET monitoring should be reassessed so that in the event of a WET permit violation, timely enforcement action can be initiated.

A review of the generic permit for Phase II MS4 storm water permits concluded that the permit needs to be updated. There were several areas that need to be addressed including an annual fiscal analysis, identification of minimum requirements for a Storm Water Management Plan, upgrading the public education program and development of a municipal facilities and storm water control inventory. Other areas also need to be improved which can be accomplished when the permit is updated. We understand that DEP self initiated the update process prior to this review.

One area that the generic permits did not address is the term of the generic permits. Federal requirements stipulate that all NPDES permits have a five year permit term. Florida rules, however, stipulate permit coverage is limited to a five year term.

D. Fertilizer Production Facilities and Phosphate Mines

Fertilizer production facilities and phosphate mines were reviewed to determine if applications were complete, if permit effluent limits will protect water quality and if effluent guidelines were properly assessed. A total of five facilities were assessed, including three fertilizer plants and two phosphate mines. Permit applications were generally complete with the exception of one.

Many of the mining facilities are located in headwaters and there are many stream segments that are identified as being impaired for parameters to which the mines and/or chemical fertilizer plants discharge. In some instances there may be a downstream TMDL (e.g. the Tampa Bay WQBEL) that provides a waste load allocation for the facility, but in-between impaired waters between the discharge location and the water body with the TMDL are not always assessed. The downstream TMDL sets a TN load, and additional reductions may be needed as nutrient reductions are contemplated in order to restore the in-between impaired waters.

Fertilizer facilities and phosphate mines have effluent guidelines established and these requirements set a minimum treatment level. In the case of fertilizer facilities, requirements can be found in 40 CFR Part 422. For existing facilities, the best practicable control technology currently available requires no discharge of process wastewater pollutants from a cooling water recirculation system. Discharge may only be allowed when chronic rainfall causes water in the pond to enter the surge capacity. Ponds must be designed to have a surge capacity equal to runoff from a 10 year 24 hour rainfall event. When critical rainfall events occur and discharge is needed, limits for TSS, total phosphorus, fluoride and pH apply. For best available technology economically achievable the requirements are similar as discharge of process wastewater is not allowed from a cooling water recirculation system. However, the pond must be sized to have a surge capacity equal to the runoff from a 25 year 24 hour rainfall event. When chronic rainfall causes the process wastewater to enter the surge capacity, discharge may be allowed and limits for TP and fluoride would apply.

Phosphate mines also have effluent guidelines provided in 40 CFR Part 422. Limits for total suspended solids, fluoride and pH are required by these guidelines.

Fact sheets should document a full evaluation of effluent guidelines for either fertilizer facilities or phosphate mines. While Florida's water quality based limits were almost always more

stringent than the effluent guidelines, the fact sheet should address the guidelines. One case where water quality based limits cannot be more stringent is the no discharge requirement, as discussed above for cooling water recirculation ponds.

One practice that DEP has approved in some permits is the transfer of wastewater from one facility to another mine or fertilizer plant for treatment. With this practice there could be two industries discharging and both industries would have to meet their respective effluent guidelines. Fact sheets should indicate that effluent guidelines were assessed for each industry. Furthermore the fact sheets should address whether the transfer of wastewater would cause or contribute to a water quality violation and include a narrative discussion of water quality assessment.

V. Action Items

This section provides a summary of the main findings of the review and provides proposed Action Items to improve Florida's NPDES permit programs. This list of proposed Action Items will serve as the basis for ongoing discussions between Region 4 and Florida DEP, as well as between Region 4 and EPA HQ. These discussions should focus on eliminating program deficiencies to improve performance by enabling good quality, defensible permits issued in a timely fashion.

The proposed Action Items are divided into three categories to identify the priority that should be placed on each Item and facilitate discussions between regions and states.

- **Critical Findings** (Category 1) **-** Most Significant: Proposed action items will address a current deficiency or noncompliance with a federal regulation.
- **Recommended Actions** (Category 2) **-** Recommended: Proposed Action Items will address a current deficiency with EPA guidance or policy.
- **Suggested Practices** (Category 3) **-** Suggested: Proposed Action Items are listed as recommendations to increase the effectiveness of the states or region's NPDES permit program.

Proposed Action Items identified under categories 1 and 2 should be used to augment the existing list of "follow up actions" currently established as an indicator performance measure and tracked under EPA's Strategic Plan Water Quality Goals and/or may serve as a roadmap for modifications to the region's program management.

DEP has been cooperative in the PQR process. They have committed to make some changes to the permits and fact sheets which will address many of the PQR findings. These changes are summarized below:

- DEP's Tallahassee Office will discuss the appropriate critical findings and suggested practices with each of the six District Offices to ensure each District Office is aware of the needed changes and implements them as soon as possible.

- Many of the comments are associated with providing additional documentation in the fact sheet. Updating the fact sheet language to include these items and incorporating theses changes into Permit Builder will take some time.
- As revisions are made to the standard permit documents, Permit Builder, and the Permit Writer's Manual, each District Office will be notified of the revised documents and reminded of the need to implement the changes

A. Basic Facility Information and Permit Application

The DEP fact sheets and permit files reviewed provide an appropriate level of facility information. In general, permit applications were appropriate, timely, and generally complete. No follow up action is needed.

B. Technology-Based Effluent Limitations

In general, the DEP permits reviewed properly implement TBELs for municipal and non-municipal facilities. Proposed Action Items to help the Florida DEP strengthen their NPDES permit program include the following:

- Include 85% removal requirements for $CBOD_5$ and TSS or document in some form how state requirements are as stringent as federal secondary treatment requirements. (Category 1).
- The fact sheet or permit file should include a comparison of TBELs to the WQBELs for each parameter. Since WQBELs usually are more stringent than the effluent guideline, discussion in the fact sheet could simply be a brief comparison. (Category 2).
- Include discussion of ELGs that apply or ELGs that were considered and do not apply in the fact sheets for non-municipal permits. (Category 2).

C. Water Quality-Based Effluent Limitations

The permits reviewed include WQBELs and the fact sheets and permit files did not clearly document the basis for these limits. Proposed action items to help the Florida DEP strengthen their WQBEL documentation:

- Clarify in fact sheets (or documents that can be referenced in fact sheets) how each pollutant of concern was selected for permit limit development. Was the pollutant selected from application data due to reasonable potential/assurance or for other reasons? (Category 2).
- Clarify in fact sheets (or documents that can be referenced in fact sheets) how the need for a WQBEL is determined (i.e., how is RA determined – what data are considered, what analysis is conducted, what criteria are applied). Include or reference relevant documentation of the process in the permit file. Show how permit application data translate to permit limits. (Category 2).
- Clarify in fact sheets (or documents that can be referenced in fact sheets) how limits are derived (criteria end-of-pipe versus calculations). Include or reference relevant documentation of the process in the permit file. (Category 2).

- Consider developing or enhancing some form of guidance for the RA process. This could entail developing a chart that determines when the RAV worksheet will be utilized (e.g., when application data show concentrations above a threshold). For instance, if application data report detection at half of the water quality standard for that particular parameter, the RAV worksheet would then be utilized to determine reasonable assurance for that pollutant. The exact policy however would be determined by the state. (Category 3).

D. Monitoring and Reporting

Monitoring and reporting requirements in the permits reviewed generally appeared to be consistent with program requirements. Proposed Action Items to help the Florida DEP strengthen their NPDES permit program include the following:

- Consider documenting in the fact sheet some of the technical and scientific work that is done when assessing monitoring data as part of permit development. (Category 2)

E. Special and Standard Conditions

The standard conditions reviewed were consistent with federal requirements and the special conditions appeared to be appropriate and reasonably documented. Proposed Action Items to help the Florida DEP strengthen their NPDES permit program include the following:

- Coordinate with Region 4 to confirm and ensure that standard conditions are consistent with requirements at 40 CFR 122.41. (Category 1).

F. Administrative Process (including public notice)

The permits reviewed appeared to be compliant with the administrative process requirements. A proposed Action Item to help the Florida DEP strengthen their NPDES permit program includes the following:

- Identify whether significant comments on a draft permit were received and where the response to those comments is addressed. If no comments are received, document in the administrative record. (Category 3).

G. Documentation (including fact sheet)

The fact sheets reviewed were of very good quality and the permit files were generally found to be complete. Proposed Action Items to help the Florida DEP strengthen their NPDES permit program include the following:

- Make sure TMDLs are clearly identified when discussed in fact sheets. (Category 2).
- Fact sheets need to stand on their own independently and not rely on previous fact sheets. Reference the document, guidance or policy, used in previous fact sheets and provide a copy of the reference in the administrative record, a link to it, or instructions on how to find the document. (Category 2).

- Ensure that permit documentation includes calculations of TBELs and WQBELs. (Category 2).
- See Section V.B., Technology-Based Effluent Limitations. Although the fact sheets explain that TBELs and WQBELs were compared and the most stringent limit is placed in the permit, include in the permit file (or alternatively, identify or reference) documentation of the comparison of TBELs and WQBELs. (Category 2).
- Ensure that fact sheets can be understood by the general public. The fact sheet should use language so that if the reader is not familiar with the Florida permitting process and laws, they should be able to understand how the limits are derived. For example, provide a brief description of the Grizzle-Figg legislation, where applicable. (Category 3).

H. Core Topic Areas

Proposed Actions Items for core topic areas are provided below.

1. Nutrients

Nutrients are addressed through many different programs that are protective of the state's waters. The State of Florida has recently passed legislation that will establish nutrient numeric criteria and related biological criteria. A proposed Action Item to help Florida strengthen their NPDES permit program includes the following:

- Clearly describe in the fact sheet the source of the nutrient limits such as the name of the TMDL and discuss in the fact sheet why one nutrient might be limited and the other is not. (Category 3).

2. Pesticide General Permit

There were no specific recommendations or action items.

3. Pretreatment

Action items for the pretreatment program were contained in the pretreatment audit conducted by Region 4 which will be provided separately. These recommendations will report findings related to the permits that implement pretreatment programs. For permits that do not have pretreatment programs, specific permit conditions should be included in the permits. An action item for the permits without pretreatment programs follows:

- Inclusion of the permit requirements at 40 CFR 122.44(j)(2)(i) to develop and submit a local program if in the case pretreatment becomes necessary or include in the permit a specific reopener clause to require development of a local pretreatment program. (Category 1).

4. Storm water

The Florida storm water permits are quite exemplary. There were no recommendations for the MS4 permits. Permits were reviewed and determined to meet the requirements of the CWA. In

regard to the Construction General Permit (CGP) it is currently being rewritten for reissuance and will incorporate the latest CWA requirements.

- Continue drafting the updated CGP incorporating all of the CWA requirements. (Category 1).

I. Special Focus Areas

Proposed Actions Items for special focus areas are provided below.

1. Reasonable Potential/Reasonable Assurance

Review of the reasonable potential/reasonable assurance process utilized during permit development showed that most limits were written as criteria end of pipe. This is generally protective. An action item which will strengthen the program is the following:

- See items under Section V.C. Specifically, clearly show in the fact sheet how parameters of concern were selected and develop a policy or guidance document on when to use the RAV worksheet. (Category 3).

2. Implementing TMDLs in a Priority Watershed

Overall, TMDLs were properly being implemented. One action item which will strengthen the program is discussed below:

- For permits that share a nutrient load from a TMDL, ensure that all components of the TMDL are written into the permit conditions so as to require sampling and reporting from the permits collecting the data so that the entire nutrient load is totaled in the aggregate permit. Permit modifications may be needed to accomplish this. (Category 2).

3. Enforceability of General/Generic Permits

Action items for the state to follow include the following:

- The generic permits need to address the federal permit requirement of a five year permit term. (Category 1).
- The concrete batch permit needs updating and the addition of monitoring and reporting to the permit itself needs to be considered. Additional application data may be needed because the application requires no specific discharge data. Also, since the generic permit states that the discharge may not cause a violation of water quality standards, it is difficult to enforce without specific reporting requirements. More specific limitations may need to be required. (Category 2).
- The generic permit for discharges from petroleum contaminated sites needs updating. The reporting time frame should be reconsidered as significant time could elapse between the time a sample is taken and actually reported. An enforcement action taken against violations of permit conditions would not be timely. (Category 2).

- The generic permits for storm water discharges need to be updated to include the latest storm water permitting policies. (Category 2).

4. Fertilizer Production Facilities and Phosphate Mines

Action items proposed for the fertilizer production facilities and phosphate mines are as follows:

- Fact sheets should include narrative discussing relevant effluent guidelines for each industry and compare TBELs with WQBELs. (Category 2).
- When a transfer of wastewater occurs from one facility to another, documentation should be provided that both industries (if they are not the same) will meet their respective effluent guidelines. Additionally, where there is a transfer, the fact sheet should document that the discharge will not cause or contribute to a water quality violation. (Category 2).
- Address in the fact sheet downstream water quality impairments not covered by a TMDL. (Category 3).

State Review Framework

I. Background on the State Review Framework

The State Review Framework (SRF) is designed to ensure that EPA conducts nationally consistent oversight. It reviews the following local, state, and EPA compliance and enforcement programs:

- Clean Air Act Stationary Source
- Clean Water Act National Pollutant Discharge Elimination System
- Resource Conservation and Recovery Act Subtitle C

Reviews cover these program areas:

- Data — completeness, timeliness, and quality
- Compliance monitoring — inspection coverage, inspection quality, identification of violations, meeting commitments
- Enforcement actions — appropriateness and timeliness, returning facilities to compliance
- Penalties — calculation, assessment, and collection

Reviews were conducted in three phases:

- Analyzing information from the national data systems
- Reviewing a limited set of state files
- Development of findings and recommendations

Consultation is also built into the process. This ensures that EPA and the state understand the causes of issues and seek agreement on actions needed to address them.

SRF reports are designed to capture the information and agreements developed during the review process in order to facilitate program improvements. EPA also uses the information in the reports to develop a better understanding of enforcement and compliance nationwide, and to identify any issues that require a national response.

Reports provide factual information. They do not include determinations of overall program adequacy, nor are they used to compare or rank state programs.

Each state's programs are reviewed during a four year cycle. The first round of SRF reviews began in FY 2004. The third round of reviews began in FY 2012 and will continue through FY 2016; however, this is Florida's second round of reviews.

II. SRF Review Process

Review period: FY 2011

Key dates:

- Kickoff letter sent to state: May 23, 2012
- Data metric analysis and file selection list sent to state: June 6, 2012
- On-site file reviews:
  - The CAA on-site file review was conducted by Mark Fite, EPA Region 4 CAA Technical Authority and Lornette Harvey and Sydnee Adams from the Air Enforcement program during the week of June 25, 2012
  - The RCRA on-site file review was conducted by Shannon Maher, EPA Region 4 RCRA Technical Authority and Laurie DiGaetano, the Region 4 RCRA and OPA Enforcement and Compliance Branch Florida coordinator, during the week of July 9, 2012.
  - The CWA on-site file review was conducted by Ronald Mikulak, Region 4 CWA Technical Authority and Alenda Johnson from the Region 4 Clean Water Enforcement Branch, and Darryl Williams from the Region 4 NPDES Permitting Branch during the week of July 9, 2012.
- Draft report sent to state: January 30, 2013
- Report finalized: April 26, 2013

Communication with the state: During a meeting of EPA Region 4 management with Region 4 state commissioners on May 2-3, 2012, Mary Wilkes, Region 4 Director of the Office of Environmental Accountability, and Jim Giattina, Director of the Region 4 Water Protection Division, discussed with Herschel T. Vinyard, Florida DEP Secretary, the plan for conducting the SRF/PQR review of Florida's Department of Environmental Protection. The official kick-off letter to Mr. Vinyard was sent on May 23, 2012. A copy of this letter along with other communication with the state can be found in Appendix F. SRF on-site file reviews were conducted in June and July 2012. SRF staff maintained telephone and email contact with DEP staff to discuss file selections, the data metrics and logistics for the on-site reviews. Region 4 management discussed the SRF process and timeline with DEP management on several occasions, including a November 6, 2012 meeting at DEP offices in Tallahassee. A briefing for Florida DEP management on the draft report and findings was conducted via videoconference on April 3, 2013.

State and EPA regional lead contacts for SRF:

	DEP	EPA Region 4
SRF Coordinator	Jeff Littlejohn, Deputy Secretary for Regulatory Programs	Becky Hendrix, SRF Coordinator Steve Hitte, OEA Section Chief
CAA	Jeff Koerner, Program Administrator Office of Permitting and Compliance, Division of Air Resource Management	Mark Fite, OEA Technical Authority Lornette Harvey and Sydnee Adams, Air Enforcement Branch

CWA	Edward C. Smith Environmental Manager Wastewater Compliance Evaluation Section	Ronald Mikulak, OEA Technical Authority Alenda Johnson, Clean Water Enforcement Branch
RCRA	Tim Bahr, Administrator, Hazardous Waste Regulation Section Glen Perrigan and John Griffin, Compliance and Enforcement Program	Shannon Maher, OEA Technical Authority Laurie Benton DiGaetano, RCRA and OPA Enforcement and Compliance Branch

III. SRF Findings

Findings represent EPA's conclusions regarding state performance, and may be based on:

- Initial findings made during the data and/or file reviews
- Follow-up conversations with state agency personnel
- Additional information collected to determine an issue's severity and root causes
- Review of previous SRF reports, MOAs, and other data sources

There are four types of findings:

Good Practice: Activities, processes, or policies that the SRF metrics show are being implemented at the level of Meets Expectations, **and** are innovative and noteworthy, **and** can serve as models for other states. The explanation must discuss these innovative and noteworthy activities in detail. Furthermore, the state should be able to maintain high performance.

Meets Expectations: Describes a situation where either: a) no performance deficiencies are identified, or b) single or infrequent deficiencies are identified that do not constitute a pattern **or** problem. Generally, states are meeting expectations when falling between 91 to 100 percent of a national goal. The state is expected to maintain high performance.

Area for State Attention: The state has single or infrequent deficiencies that constitute a minor pattern or problem that does not pose a risk to human health or the environment. Generally, performance requires state attention when the state falls between 85 to 90 percent of a national goal. The state should correct these issues without additional EPA oversight. The state is expected to improve and achieve high performance. EPA may make recommendations to improve performance but they will not be monitored for completion.

Area for State Improvement: Activities, processes, or policies that SRF data and/or file metrics show as major problems requiring EPA oversight. These will generally be significant recurrent issues. However, there may be instances where single or infrequent cases reflect a major problem, particularly in instances where the total number of facilities under consideration is small. Generally, performance requires state improvement when the state falls below 85 percent of a national goal. Recommendations are required to address the root causes of these problems, and they must have well-defined timelines and milestones for completion. Recommendations will be monitored in the SRF Tracker.

Clean Water Act Findings

Element 1 — Data Completeness: Completeness of Minimum Data Requirements.	
Finding 1-1	**Area for State Attention**
Description	The majority of DEP's Minimum Data Requirements (MDRs) for compliance monitoring and enforcement activities were completely entered into the Integrated Compliance Information System (ICIS).
Explanation	Element 1 is supported by SRF Data Metrics 1a through 1g and measures the completeness of data in the national data system. EPA provided the FY 2011 data metric analysis (DMA) to DEP in May 2012. The DMA noted that the State had verified that the universe of active NPDES non-majors with General Permits (GPs) was 36,011, which was a significantly greater number than in previous years. In their response to questions related to this issue and their inspection coverage of non-major GPs, DEP clarified that this number includes construction GPs (CGPs) and industrial storm water GPs; active and expired. The bulk of these represent CGPs where the facilities did not submit a Notice of Termination (NOT). DEP's NPDES Storm Water Section has made it a priority to close out all of their expired permits where the project is complete. Because the State is taking steps to correct this data completeness issue, this is an Area for State Attention.
Relevant metrics	Data Metrics 1a – 1g
State response	In previous years, storm water GPs were not included in the NPDES non-major GPs universe. In early 2012, this issue was submitted to EPA during the annual 2011 SRF Data Verification review. The Storm Water Section has currently terminated more than 19,000 expired permits and continues to review and cleanup the database.
Recommendation	

Element 2 — Data Accuracy: Accuracy of Minimum Data Requirements.	
Finding 2-1	**Area for State Improvement**
Description	The accuracy of MDR data reported by DEP into ICIS needs improvement. Discrepancies between information found in the State's files and ICIS were identified in 33% of the files reviewed.
Explanation	File Review Metric 2b addresses files reviewed where data was accurately reflected in the national data system. Of the 42 files reviewed, 67% (28 of 42) of the files documented MDRs being reported accurately into ICIS. Fourteen files had single or multiple discrepancies identified. There were eight instances of a discrepancy between ICIS and the State's electronic file system (OCULUS) regarding Inspection Reports that were reported or incorrectly coded into ICIS; six instances of a discrepancy between violations or data reported in ICIS and OCULUS; and two instances of discrepancies in a facility's address between ICIS and OCULUS. Data accuracy was an issue that was raised during the Round 1 SRF review. Steps taken by the State in response to the Round 1 recommendation have not fully addressed the issue. Data accuracy remains as an Area for State Improvement.
Relevant metrics	2b: Files reviewed where data was accurately reflected in the national data system: 28/42 = 67% • National Goal: 95%
State response	2b: DEP will continue to work with staff to ensure that compliance and enforcement activities are accurately entered into DEP's database and coded correctly in ICIS.
Recommendation	By June 30, 2013, DEP should submit and implement revised procedures to EPA which ensure the accurate reporting of enforcement and compliance MDRs into ICIS. The procedures should be designed to address the causes of the inaccurate reporting. EPA's Clean Water Enforcement Branch (CWEB) will monitor the improvement of the accuracy of DEP's MDR data entry through the existing oversight calls and other periodic data reviews conducted by EPA. If by December 31, 2013, these periodic reviews indicate that the revised procedures appear to be adequate to meet the national goal, the recommendation will be considered completed.

Element 3 — Timeliness of Data Entry: Timely entry of Minimum Data Requirements.	
Finding Choose an item.	Unable to evaluate and make a finding
Description	Element 3 is designed to measure the timeliness of mandatory data entered into the national data system. Sufficient information to verify the timeliness of data entry, however, does not currently exist.
Explanation	The Office of Enforcement and Compliance Assistance (OECA) is currently reviewing this Element and the inability to make a finding based on the current design of ICIS. Modifications of this Element may be reflected in future SRF reviews.
Relevant metrics	
State response	DEP makes it a priority to ensure all data is timely entered into the national data system and will work with EPA to increase EPA's understanding of DEP's upload process.
Recommendation	

Element 4 — Completion of Commitments: Meeting all enforcement and compliance commitments made in state/EPA agreements.

Finding 4-1 **Area for State Attention**

Description

DEP met most of their inspection commitments outlined in their FY11 Compliance Monitoring Strategy (CMS) Plan, their FY 2011 CWA §106 Work plan, and other non-inspection compliance/enforcement (C/E) commitments in their FY 2011 CWA §106 Work plan.

Explanation

Element 4 measures planned inspections completed (Metric 4a) and other planned C/E activities completed (Metric 4b). The National Goal for this Element is for 100% of commitments to be met.

Under Metric 4a, two areas of deficiency were related to Sanitary Sewer Overflow (SSO) inspections. The FY 2011 CWA §106 Work plan required Major SSO inspections once every three years which is an annual commitment of 37. DEP only conducted 25 Major SSO inspections in FY 2011. Additionally, the Work plan required Minor SSO inspections once every 5 years - or 17 inspections per year. DEP only conducted 13 Minor SSO inspections in FY 2011.

Under Metric 4b, the State met or exceeded its planned C/E activities related to data management requirements; reporting/enforcement requirements; pretreatment facilities requirements; and policy, strategy and management requirements.

Because the expectation is that all CMS and Work plan commitments will be met, this is an Area for State Attention.

Relevant metrics

Metric # and Description	# Committed	# Completed
4a1: Pretreatment compliance inspections/audits	63	63
4a2: Significant industrial users (SIU) inspections for SIUs discharging to non-authorized POTWs	NA	NA
4a3: EPA/State oversights of SIU insp. by approved POTWs	24	24
4a4: Major CSO inspections	NA	NA
4a5: SSO inspections (including Majors & Minors)	54	38
4a6: Phase I MS4 audits/inspections	6	22
4a7: Phase II MS4 audits/inspections	20	30
4a8: Industrial storm water (SW) inspections	300	407
4a9: Phase I/II construction SW inspections	220	356
4a10: Inspections of large/medium NPDES permitted CAFOs	11	38
4a11: Inspections of non-permitted CAFOs	NA	NA
4b: Other planned commitments completed	6	6

- National Goal: 100%

State response	4a: DEP will generate monthly reports and work with staff to ensure the committed SSO inspections are conducted as required. The use of inspection plans and strategies has been helpful in the past and will be discussed regarding the instant matter.
Recommendation	

Element 5 — Inspection Coverage: Completion of planned inspections.

Finding 5-1	**Meets Expectations**
Description	Inspection goals for major and non-major traditional dischargers were met in FY 2011.
Explanation	Element 5 addresses inspection coverage as reflected in the Compliance Monitoring Strategy (CMS). In the FY 2011 CMS, DEP negotiated an inspection coverage goal of 102 major facilities, 48 non-majors with individual permits, and 63 non-majors with general permits. DEP exceeded these goals.
Relevant metrics	Metric: Universe — Completed/Universe 5a1: Inspection coverage of NPDES majors…..……..157/219 (72%) 5b1: Inspection coverage of NPDES non-majors with individual permits…..……..…200/309 (65%) 5b2: Inspection coverage of NPDES non-majors with general permits…..…….……305/36,011(.8%) (Note: For Metric 5b2, the State's universe of 36,011 in the DMA reflects all of the NPDES general permits (GPs) in Florida. This includes the construction GPs (CGPs) and the industrial storm water GPs; both active and expired. The bulk of these represent CGPs where the facilities did not submit the Notice of Termination (NOT). DEP has made it a priority to close out all of their expired permits where the project is complete which should significantly reduce this universe. • National Goal: 100% of CMS Plan commitments
State response	5b2: As noted in DEP's FY11 106 Work plan, the universe of GPs was 420; therefore, the inspection coverage of NPDES non-majors with GPs was 305/420 = 72%; the inspection commitment was only 15% of the GP universe. It should be noted that the Storm water inspection commitments are separate from the wastewater inspection commitments.
Recommendation	

Element 6 — Quality of Inspection Reports: Proper and accurate documentation of observations and timely report completion.

Finding 6-1	**Area for State Improvement**
Description	Inspection reports need to consistently provide information necessary to support an accurate compliance determination and need to be consistently completed in a timely manner.
Explanation	Metric 6a addresses inspection reports reviewed that provide sufficient documentation to determine compliance at the facility. Of the 65 inspection reports for the facilities reviewed, 39 (60%) were found to have sufficient information to support a compliance determination and 26 were found to lack complete information to support a compliance determination. Many of the 26 reports that were found to lack complete information to support a compliance determination did not make a clear connection between observations noted in the inspection checklist/inspection report and the relevant regulatory requirements (see pages 2-34 and 2-35 of EPA's July 2004 NPDES Compliance Inspection Manual). Without these regulatory citations, the reviewer cannot ascertain whether the listed item is a deficiency needing correction versus a recommendation for improved performance. Additionally, numerous inspection reports were unsigned, undated or did not include the names and/or phone numbers of the facility's representatives. Metric 6b addresses inspection reports completed within prescribed timeframes. DEP's Wastewater Enforcement Response Guide establishes a goal of 30 days from discovery of noncompliance to the issuance of a Noncompliance Letter. Sixty-five reports were evaluated under this metric, 25 (39%) of which were completed within 30 days of the inspection. The average number of days from inspection to report completion was found to be 58 days; with the reports that were not timely ranging from 32 days to 541 days. The degree to which the State's inspection reports were complete and timely was an issue that was raised during the Round 1 SRF review. Steps taken by the State in response to the Round 1 recommendation have not fully addressed this issue. Because the values for Metrics 6a and 6b deviate notably from the 100% goal, this Element remains as an Area for State Improvement.
Relevant metrics	6a: Inspection reports reviewed that provide sufficient documentation to determine compliance at the facility: 39/65 = 60%. 6b: Inspection reports completed within prescribed

	timeframes: 25/65 = 39%
State response	6a: DEP will continue to work with staff to ensure their inspection reports contain regulatory citations when deficiencies are noted. 6b: While the Wastewater Enforcement Response Guide has an internal goal of sending inspection reports within 30 days, the 106 Work plan allows 45 days for entry of inspection data into ICIS. It should be noted that DEP sent at least 40 inspection reports within 45 days of discovery, which would be 40/65 = 62%. DEP will continue to work with staff to ensure inspection reports are completed in a timely manner.
Recommendation	By June 30, 2013, DEP should submit and implement revised procedures to EPA which ensure that Inspection Reports include all required elements and that Inspection Reports are completed in a timely manner. These revisions could include the State's Wastewater Enforcement Response Guide reflecting additional time needed to issue a Noncompliance Letter when sampling has been conducted as part of an inspection. EPA will conduct a remote file review (using DEP's OCULUS data system and OTIS) to assess progress in implementation of the improvements. If by December 31, 2013, sufficient improvement in preparing and maintaining Inspection Reports is observed, this recommendation will be considered complete.

Element 7 — Identification of Alleged Violations: Compliance determinations accurately made and promptly reported in national database based on inspection reports and other compliance monitoring information.

Finding 7-1	**Meets Expectations**
Description	The Inspection Reports reviewed were found to lead to an accurate compliance determination.
Explanation	Metric 7e: Inspection reports reviewed that led to an accurate compliance determination. Of the 65 Inspection Reports reviewed, 61 (94%) led to an accurate compliance determination. As noted in the CWA SRF Plain Language Guide, if a report is not generally complete, it may still contain sufficient documentation to determine compliance. Numerous DEP inspection reports did not contain "complete" information (i.e., lack of a regulatory citation in the inspection report, unsigned or undated reports, or lack of the facility representatives' name or phone number), but did contain "sufficient" documentation to determine compliance. The goal for this Metric is 100%.
Relevant metrics	7e: Inspection reports reviewed that led to an accurate compliance determination: 61/65 = 94% • National Goal: 100%
State response	Florida appreciates EPA's recognition that DEP inspection reports led to accurate compliance determinations. DEP will work with state staff to ensure all necessary information is provided on inspection reports.
Recommendation	

Element 8 — Identification of SNC and HPV: Accurate identification of significant noncompliance and high-priority violations, and timely entry into the national database.

Finding 8-1	**Meets Expectations**
Description	DEP's identification, reporting and tracking of major facilities in SNC and single-event violations (SEVs) that were determined as a result of an inspection meets expectations.
Explanation	Data Metric 8a2 is a Review Indicator Metric that addresses the percent of major facilities in SNC. DEP identified that 22% of their major facilities were in SNC – the National Average is 22%. Metric 8b addresses the percentage of single-event violations (SEVs) that were accurately identified as SNC or Reportable Noncompliance (RNC). The file review identified 14 instances of SEVs that resulted from the State's inspections. Of these 14 instances, 13 (93%) were accurately reflected as SNC or RNC. Metric 8c addresses the percentage of SEVs identified as SNC that were reported timely at major facilities. There were no major facility SNCs that were identified as SEVs, therefore, a finding for this metric is not applicable.
Relevant metrics	8a2: Percent of Major Facilities in SNC: 22% National Average: 22% 8b: Percentage of Single-Event Violations that were accurately identified as SNC or RNC: 13/14 = 93%. • National Goal: 100% 8c: Percentage of SEVs identified as SNC that were reported timely at major facilities: 2/2 = 100% • National Goal: 100%
State response	Florida appreciates EPA's recognition that DEP properly identified SNC and SEV.
Recommendation	

Element 9 — Enforcement Actions Promote Return to Compliance: Enforcement actions include required corrective action that will return facilities to compliance in specified timeframe.

Finding 9-1	**Area for State Attention**
Description	Enforcement actions did not consistently result in violators returning to compliance in a timely manner.
Explanation	File Review Metric 9a shows the percentage of enforcement responses that have returned or will return a major facility in SNC or RNC to compliance. From a review of the files, 83% (14 of 17) of the major facilities had documentation in the files showing that the facility had returned to compliance, or that the enforcement action required the facility to return to compliance within a certain timeframe. Of the three files that did not have the needed documentation, enforcement responses for two cases were delayed roughly one year until another inspection had occurred, and one was delayed pending the resolution of potential technical issues that may be interfering with testing methods. The State's 83% rate of returning major sources to compliance leads to a finding of Area for State Attention.
Relevant metrics	9a: Percentage of enforcement responses that returned or will return a source in violation to compliance: 14/17 = 83% • National Goal: 100%
State response	9a: DEP will verify that enforcement actions contain compliance schedules and/or final compliance dates and also ensure that the district staff are monitoring milestones accordingly.
Recommendation	

Element 10 — Timely and Appropriate Action: Timely and appropriate enforcement action in accordance with policy relating to specific media.

Finding 10-1	**Area for State Improvement**
Description	SNCs were not being consistently addressed in a timely and appropriate manner.
Explanation	Data Metric 10a1 indicates that DEP completed 54% (7/13) of the enforcement actions that address SNC violations for major facilities in a timely manner (i.e., within 180 days of discovery of the underlying violations which is the benchmark for timely action according to DEP's Wastewater Enforcement Response Guide) during FY 2011. The goal for this metric is 98%. File Metric 10b focuses on the State's enforcement responses that address SNC that were appropriate to the violations. Seven of the nine (78%) facilities with SNC reviewed had appropriate action taken (i.e., formal enforcement action). One of the facilities without an appropriate enforcement response issued an amended consent order for violations but did not address non-reporting which continued into FY 2012; the other case involves the issuance of an informal warning letter for "significant out of compliance" following an inspection without a justification explaining why a formal action was not taken. The degree to which the State takes timely and appropriate enforcement actions was an issue raised during the Round 1 SRF review. Steps taken by the State in response to the Round 1 recommendation have not fully addressed the issue and this Element remains as an Area for State Improvement.
Relevant metrics	10a1: Major NPDES facilities with timely action, as appropriate: 7/13 = 54% • National Goal: 98% 10b: Enforcement responses reviewed that address SNC that were appropriate to the violations: 7/9 = 78% • National Goal: 100%
State response	10a1: DEP will continue to work with staff to ensure that appropriate enforcement actions are initiated timely, as outlined in the Wastewater Enforcement Response Guide. 10b: One of the facilities noted above, returned to compliance following receipt of a Warning Letter. The explanation for why formal enforcement

	action was not taken can be found in the Construction section of OCULUS. In order to reflect this, the percentage should be changed to 8/9 = 89%.
Recommendation	By June 30, 2013, DEP should submit and implement revised procedures to improve the timeliness and appropriateness of SNC addressing actions. These procedures should identify and address the causes that contribute to actions that are not timely or appropriate, and should include notification to EPA when the complexity of a case may warrant additional time, and identify other enforcement mechanisms available when negotiations become protracted. The timeliness of SNC addressing actions will be monitored by the CWEB through the existing oversight calls between DEP and EPA. If by December 31, 2013, these periodic reviews indicate progress toward meeting the national goal, the recommendation will be considered completed.

Element 11 — Penalty Calculation Method: Documentation of gravity and economic benefit in initial penalty calculations using BEN model or other method to produce results consistent with national policy and guidance.

Finding 11-1	**Area for State Improvement**
Description	In the enforcement cases reviewed, DEP's documentation of penalties did not include the rationale for the economic benefit (EB) component of the penalty. Additionally, documentation of the rationale for the gravity component of DEP's penalties could be improved.
Explanation	Element 11 examines the State's documentation of their penalty calculations, including if the State's penalty considers both gravity and economic benefit. Eleven penalty calculations were reviewed, and all eleven (100%) documented the rationale for the gravity component in the penalty calculation. In several cases, the State provided well developed documentation of the gravity portion of the penalty that included a discussion of how the State's Environmental Litigation Reform Act (ELRA) and/or Florida Statute Chapter 403 components were incorporated in the penalty calculation. However, in the remaining cases where the rationale for the gravity portion of the penalty calculation was documented, the penalty worksheet simply referenced the State's ELRA and/or Florida Statute Chapter 403 with no further explanation or rationale provided for the penalty amount and no discussion of how the calculated penalty amount relates to the ELRA's Penalty Assessment Matrix (i.e., potential for harm or extent of deviation). For this reason, this portion of Element 11 is considered an Area for State Attention. To assist in fostering a clear understanding of the rationale for the calculated penalty amount, the State should provide additional information in penalty calculation worksheets that relate to the factors in the Penalty Assessment Matrix. One of the eleven penalties (9%) had adequate justification and documentation for how EB was included in the penalty calculation. Most of the penalty calculations did not document EB, but instead noted in the calculation worksheet that EB was $0 or Not Applicable (NA) with no justification for this conclusion. It is expected that calculations supporting the EB component of the penalty or the reasons documenting why there is no EB should be included in the files. The degree to which the State documents EB was an issue raised during the Round 1 SRF review. Steps taken by the State in response to the Round 1 recommendation have not fully addressed the issue and this Element remains as an Area for State Improvement.

Relevant metrics	11a: Penalty calculations reviewed that consider and include gravity and economic benefit: 1/11 (9%) • National Goal: 100%
State response	For clarification, ELRA has a specific schedule of penalties by program area for different kinds of violations. If the adjusted penalty is more than $10,000, ELRA does not apply and instead, DEP considers program-specific guidelines for characterizing violations and assessing penalties. These guidelines reflect two fundamental factors: the violation's actual or potential environmental harm; and the extent of deviation, magnitude or duration, from a statutory or regulatory requirement. 11a: DEP will continue to work with staff to ensure economic benefit is considered and documented if appropriate on the penalty computation worksheets.
Recommendation	By June 30, 2013, DEP should ensure that all CWA enforcement cases are evaluated for gravity and economic benefit (using the BEN model or a state method that is equivalent to and consistent with national policy), and that the evaluation is documented in the State's penalty calculations. EPA will conduct a remote file review (using DEP's OCULUS data system) to assess progress in implementation of the improvements. If by December 31, 2013, sufficient improvement is observed for the consideration and documentation of gravity and economic benefit in penalty calculations, this recommendation will be considered complete.

Element 12 — Final Penalty Assessment and Collection: Differences between initial and final penalty and collection of final penalty documented in file.

Finding 12-1	**Meets Expectations**
Description	DEP's enforcement actions did provide the rationale between the initial and final assessed penalty and provided information documenting the collection of all final penalties.
Explanation	Metric 12a provides the percentage of enforcement actions that documented the difference and rationale between the initial and final assessed penalty. Of the 11 enforcement actions reviewed, there was no difference between the initial and final penalties in 7 cases and these cases were not considered in this analysis. In the remaining 4 cases where there was a difference, the rationale between the initial and final assessed penalties was documented in all 4 cases (100%). Metric 12b provides the percentage of enforcement files reviewed that document the collection of a penalty. Of the 11 cases evaluated, all 11 (100%) of the cases documented the collection of the penalty or the payment of an in-kind or pollution prevention (P2) project to offset the amount of the penalty as provided for by the State's 2007 Administrative Directive on Settlement Guidelines for Civil and Administrative Penalties. P2 projects would consist of process improvements involving either source reduction, waste minimization, or on-site recycling and can be used to offset penalties on a dollar for dollar basis. An in-kind project may also be considered in lieu of a cash penalty and should be 1.5 times the amount of the penalty if paid in cash. Four of the 11 penalties were offset by in-kind projects.
Relevant metrics	12a: Documentation of the difference between the initial and final penalty and rationale: 4/4 (100%) • National Goal: 100% 12b: Penalties collected: 11/11 (100%) • National Goal: 100%
State response	Florida appreciates EPA's acknowledgement that DEP properly documented initial and final penalty differences and that penalties collected were appropriate.
Recommendation	

Clean Air Act Findings

Element 1 — Data Completeness: Completeness of Minimum Data Requirements.	
Finding 1-1	**Meets Expectations**
Description	DEP has ensured that minimum data requirements (MDRs) were entered into the AFS.
Explanation	Element 1 of the SRF is designed to evaluate the extent to which the State enters MDRs into the national data system. No issues were identified for Element 1 in the Data Metrics Analysis (DMA).
Relevant metrics	Element 1 includes 33 data verification metrics which the State has the opportunity to verify annually. For the sake of brevity, these metrics were not listed here, but can be found in the DMA in Appendix A.
State response	DEP acknowledges the importance of keeping accurate data. Data is one of the methods by which information is relayed to the public and is a significant part of how DEP evaluates its performance under the CAA. DEP appreciates EPA's recognition that the data corresponding to the data verification metrics in Element 1 was properly entered and reflected in AFS.
Recommendation	

Element 2 — Data Accuracy: Accuracy of Minimum Data Requirements.

Finding 2-1	**Area for State Improvement**
Description	The accuracy of MDR data reported by DEP into AFS needs improvement. Discrepancies between the files and AFS were identified in over 50% of the files reviewed.
Explanation	File Review Metric 2b indicates that 20 of the 48 (41.7%) files reviewed documented all MDRs being reported accurately into AFS. The remaining 28 files had one or more discrepancies identified. A number of files had inaccurate or missing air program codes (e.g. MACT, NSPS) or subparts in AFS. Others had discrepancies related to key activities (e.g. FCE's, NOVs, or stack tests) versus what was reported in AFS. A handful of files indicated there were violations, but the compliance status in AFS did not reflect this. Finally, several files had minor discrepancies such as an incorrect facility name, zip, SIC, or CMS code (also noted in Element 5 discussion). This incorrect data in AFS could result in inaccurate information being released to the public, and it could potentially hinder EPA's oversight and targeting efforts, among other things. Data accuracy was also identified as an issue in the Round 1 SRF review. This element is designated as an Area for State Improvement. EPA acknowledges that States are prevented from altering the historical compliance status of a facility in AFS. This is to ensure that EPA and the public have an accurate depiction of a facility's compliance history. In addition to their obligation to code any violations into AFS for Federally reportable sources, States are also required to change a source's compliance status back to "In Compliance" once the source demonstrates that they have returned to compliance, which includes conducting any required injunctive relief, and the payment of any outstanding penalties. However, the period of non-compliance is maintained in AFS for purposes of reflecting the source's level of compliance over time.
Relevant metrics	2b – Accurate MDR Data in AFS: 19/48 = 41.7% • National Goal: 100%
State response	DEP concedes that some discrepancies exist in AFS. DEP plans to address these issues by providing further data-specific training to statewide staff. DEP also plans to perform regular audits of air staff to ensure compliance, enforcement, and data practices are in place to meet state and federal obligations. Florida does have concerns, however, with DEP's ability to properly update compliance statuses in AFS, specifically how this affects the state's

	ability to maintain an accurate compliance status for sources. As EPA acknowledges above, DEP cannot change a facility's historical compliance status. This presents a problem when DEP does not flag a facility as out of compliance during the time that DEP is actively investigating and confirming allegations of noncompliance. If DEP were to immediately flag the facility as out of compliance, and subsequent evaluation determined the facility was actually operating in compliance, DEP would have to request that EPA change the facility's historical compliance status. Based on past practice, such requests are time consuming; often several months will pass before EPA corrects the status in AFS. While DEP agrees with EPA's stated concern that incorrect data in AFS could result in inaccurate information being released to the public, DEP urges EPA to consider that this concern is also valid when a facility is incorrectly identified as noncompliant.
Recommendation	By June 30, 2013, DEP should submit and implement revised procedures to EPA which ensure the accurate reporting of enforcement and compliance MDRs into AFS. The procedures should be designed to address the causes of the inaccurate reporting. In addition, DEP should make any remaining corrections needed to existing data. EPA's Air and EPCRA Enforcement Branch (AEEB) will monitor the improvement of the accuracy of DEP's MDR data entry through the existing oversight calls and other periodic data reviews conducted by EPA. If by December 31, 2013 these periodic reviews indicate that the revised procedures appear to be adequate to meet the national goal, the recommendation will be considered completed.

Element 3 — Timeliness of Data Entry: Timely entry of Minimum Data Requirements.

Finding 3-1	**Area for State Improvement**
Description	High priority violation (HPV) determinations and enforcement related MDRs were not always being entered into AFS within 60 days.
Explanation	Data Metric 3a2 indicates that 3 of 14 HPV determinations were entered late (greater than 60 days) into AFS, which did not meet the national goal of 0 late entries; the three late actions took between 75 and 99 days to enter into AFS. In addition, Data Metric 3b3 indicates that 79.1% of enforcement related MDRs were entered into AFS within 60 days, which did not meet the national goal of 100%. Based on Data Metrics 3a2 and 3b3, this element is considered to be an Area for State Improvement. Data Metric 3b2 shows that 86.8% (1254 of 1445) of stack tests and their results were entered into AFS within 120 days. Fifty-seven of these late entries were less than 30 days late, which could easily relate to the lag time associated with the State's batch uploads to AFS. Because of the large number of data points, and since there is no significant pattern of deficiencies, this is considered an Area for State Attention.
Relevant metrics	3a2 – Untimely Entry of HPV Determinations: 3 • National Goal: 0 3b3 – Timely Reporting of Enforcement MDRs: 68/86 = 79.1% • National Goal: 100% 3b2 – Timely Reporting of Stack Test MDRs: 1254/1445 = 86.8% • National Goal: 100%
State response	DEP recognizes certain HPVs and related MDRs were uploaded to AFS in an untimely manner. DEP notes, however, that none of these instances resulted in the noncompliance matter actually being resolved in an untimely manner. In addition, DEP notes that all HPVs were timely identified in FY 2012. To remedy any potential remaining timeliness issues, however, DEP intends to provide further data-specific training to statewide staff. DEP also plans to perform regular audits of air staff to ensure compliance, enforcement, and data practices are in place to meet state and federal obligations. Further, HPVs are now being monitored and managed by the Administrator of the Office of Permitting and Compliance's Compliance and Enforcement Section. All noncompliance events are reviewed by DEP staff on a weekly basis to ensure HPVs are accurately and timely reported. In addition, reports are run weekly from DEP's Air Resource Management database (ARMS) to identify new violations flagged as HPVs by District

	and Local Program staff. These violations are then tracked to ensure they are timely entered into AFS and resolved within 270 days. DEP has also redesigned its intranet site to ensure DEP's HPV training presentation and HPV detector application are widely available to staff across the state. DEP is currently working with its technical staff to receive email alerts whenever a new HPV is entered into ARMS by a District or Local Program, in an effort to avoid any lag time in data upload to AFS. Finally, all MDRs for HPV are carefully reviewed for quality assurance by DEP staff during the AFS upload process.
Recommendation	By June 30, 2013, DEP should submit and implement revised procedures to EPA which ensure the timely reporting of enforcement and compliance MDRs into AFS. The procedures should be designed to address the causes of the untimely reporting. AEEB will monitor the improvement of the accuracy of DEP's MDR data entry through the existing oversight calls and other periodic data reviews conducted by EPA. If by December 31, 2013 these periodic reviews indicate that the revised procedures appear to be adequate to meet the national goal, the recommendation will be considered completed.

Element 4 — Completion of Commitments: Meeting all enforcement and compliance commitments made in state/EPA agreements.

Finding 4-1	**Meets Expectations**
Description	DEP and its Local agencies met their enforcement and compliance commitments outlined in their FY 2010/2011 Compliance Monitoring Strategy (CMS) Plan and their FY 2011 Air Planning Agreement.
Explanation	Element 4 evaluates whether the State met its obligations under the CMS plan and the Air Planning Agreement (APA) with EPA. DEP follows a traditional CMS plan, which requires them to conduct a full compliance evaluation (FCE) every 2 years at Major sources and every 5 years at Synthetic Minor 80% (SM80) sources. DEP met these obligations by completing 97.6% of planned FCEs at Major sources and over 100% of planned evaluations at SM80 sources. In addition, DEP and seven Local agencies met all of their enforcement and compliance commitments (100%) under their FY 2011 Air Planning Agreements with EPA Region 4. Therefore, this element Meets Expectations.
Relevant metrics	4a1 – Planned Evaluations Completed: Title V Major FCEs: 404/414 = 97.6% • National Goal: 100% 4a2 – Planned Evaluations Completed: SM80 FCEs: 583/403 = 144.7% • National Goal: 100% 4b – Planned Commitments Completed: CAA compliance and enforcement commitments other than CMS commitments: 12/12 = 100% • National Goal: 100%
State response	Florida appreciates EPA's recognition that DEP has met its enforcement and compliance commitments outlined in its FY 2010/2011 Compliance Monitoring Strategy (CMS) Plan and their FY 2011 Air Planning Agreement.
Recommendation	

Element 5 — Inspection Coverage: Completion of planned inspections.

Finding 5-1	**Meets Expectations**
Description	DEP met the negotiated frequency for compliance evaluations of CMS sources and reviewed most Title V Annual Compliance Certifications.
Explanation	Element 5 assesses whether the negotiated frequency for compliance evaluations is being met for each CMS source (Major sources should be inspected every 2 years and SM80 sources every 5 years). It also evaluates whether the State completes the required review of Title V Annual Compliance Certifications. Although Data Metric 5a indicates that 47 Major sources did not receive an FCE, the majority of these sources (45) are permanently closed, but AFS was not updated to remove the CMS code. The revised metric without closed sources is 99.2% (254/256). Similarly, Data Metric 5b indicates that 59 SM80 sources did not receive an FCE. All of these sources are permanently closed, but again, AFS was not updated to remove the CMS code. The revised metric without closed sources is 100% (215/215). Since the CMS code is used to identify those sources that the State plans to inspect during the current CMS cycle, it has been EPA's standard operating procedure to remove the CMS code from a source when it is permanently shut down in AFS. The fact that the data in AFS was not accurate will be addressed under the recommendation for Element 2. Data Metric 5e indicates that 90.7% of the required Title V Annual Compliance Certification (ACC) reviews were completed. EPA guidance indicates that in general, state performance is acceptable when it is within 90% or greater of the national goal. Therefore, DEP met the national goal for all of the relevant metrics, and this element Meets Expectations.
Relevant metrics	5a – FCE Coverage Major: 254/301 = 84.4% • National Goal: 100% 5b – FCE Coverage SM-80: 215/274 = 78.5% • National Goal: 100% 5e – Review of Title V Annual Compliance Certifications Completed: 371/409 = 90.7% • National Goal: 100%
State response	DEP acknowledges the importance of having CMS codes and operation status of all air sources properly updated, and will focus additional attention to this effort. DEP appreciates EPA's recognition that DEP inspected 99.2% of CMS Major sources and 100% of CMS SM80 sources that were not closed.

Recommendation

Element 6 — Quality of Inspection Reports: Proper and accurate documentation of observations and timely report completion.

Finding 6-1	**Area for State Improvement**
Description	Compliance monitoring reports (CMRs) did not always include applicable requirements and an accurate description of observations.
Explanation	Seven of 35 files reviewed were missing one or more of the following CMR elements required by the CMS guidance: key facility information (contact name and phone number), an inventory of regulated emission units, applicable requirements, or a description of compliance monitoring activities conducted by the inspector. In two instances, the inspection report could not be located by the State. Both of these issues (missing elements and missing inspection reports) were also identified as problems in the Round 1 review, so this element is designated as an Area for State Improvement.
Relevant metrics	6b – Compliance Monitoring Reports (CMRs) that provide sufficient documentation to determine compliance of the facility: 28/35 = 80% • National Goal: 100%
State response	DEP recognizes certain CMR data was not properly entered into AFS. As stated previously, DEP intends to perform regular audits of field staff and to provide spot checks of inspection data and reports. DEP will also run reports using ARMS to identify missing CMR data and to make sure the proper information is uploaded to AFS. DEP is also updating a post-inspection checklist for field staff to use after performing an inspection. The checklist will ensure all MDRs are properly identified and entered into ARMS. DEP has continued to promote the use of EASIIR, a mobile inspection report application for inspectors to use. The application downloads relevant permit data to a portable computer and allows for direct upload of inspection data to ARMS. While DEP appreciates the importance of inspection reports, DEP hopes that as it moves to a more paperless model, EPA's review of state performance adapts to the use of more electronic means to manage inspection information.
Recommendation	By June 30, 2013, DEP should submit and implement revised procedures to EPA which ensure that CMRs include all required elements, and that inspection reports are properly maintained in the State's filing system. DEP should review the example CMRs provided on the OTIS website for assistance in formulating their procedures. Through December 31, 2013, DEP should submit sample CMRs from each of the district and local

	offices for EPA review. If based on this review EPA determines that the revised procedures are adequate to meet the national goal, the recommendation will be considered completed.

Element 7 — Identification of Alleged Violations: Compliance determinations accurately made and promptly reported in national database based on inspection reports and other compliance monitoring information.

Finding 7-1	**Area for State Attention**
Description	In a few instances compliance determinations were not accurate or could not be evaluated based on inspection reports and other compliance monitoring information.
Explanation	For 5 of the 35 sources reviewed (14%) during the file review, EPA identified concerns with DEP's compliance determination. One of the files was missing an FCE checklist and CMR, so EPA could not fully evaluate the State's compliance determination. Another source was not operating when DEP's inspector conducted the on-site inspection, so the State's determination that the source was in compliance appeared to be based on incomplete information. For the remaining sources, DEP identified one or more violations at the source, but the compliance status in AFS was not changed to reflect this. This situation did not constitute a significant pattern of deficiencies. Therefore, this is designated as an Area for State Attention.
Relevant metrics	7a – Accuracy of Compliance Determinations: 30/35 = 85.7% • National Goal: 100%
State response	DEP understands the importance of maintaining relevant compliance and enforcement documentation. As stated previously, DEP plans to conduct regular audits of field staff to ensure proper procedures are in place to maintain required documentation. Regarding DEP's alleged failure to update a source's compliance status, one of the sources identified had returned to compliance prior to inspection data being entered into AFS and compliance status could not be properly updated. DEP will work to increase date entry time to avoid any such event in the future.
Recommendation	

Element 8 — Identification of SNC and HPV: Accurate identification of significant noncompliance and high-priority violations, and timely entry into the national database.

Finding 8-1	**Area for State Improvement**
Description	In several instances, DEP did not accurately identify HPVs. DEP did not always discuss potentially serious violations with EPA, resulting in some HPVs not being characterized in the manner EPA likely would have characterized those violations.
Explanation	Two primary concerns related to HPV identification emerged during the review: first, DEP identified violations which were potential HPVs, but these were never discussed with EPA during the monthly HPV calls; second, several of these HPV-caliber violations were resolved without a formal enforcement action. Further analysis is provided below. EPA identified three sources with documented excess emissions and other violations which should have been classified as HPVs. The first source had a failed PM stack test, which would be classified as an HPV under General Criterion (GC) 8. DEP advises that this was a "false positive" due to "insufficient cleaning of the entire system" prior to the test. However, the circumstances were not discussed with EPA, and the stack test and result were not entered into AFS. A second violation, noted by the source in their 2010 Annual Compliance Statement, involved at least 21 separate instances of excess CO emissions from a boiler, some of which lasted for multiple days. This could potentially be an HPV under Matrix Criterion (MC) 3, but DEP did not discuss the circumstances with EPA. A second source reported excess emissions of CO and NOx based on continuous emissions monitoring system (CEMS) data, which should be classified as an HPV under MC3. In addition, the source self-disclosed their failure to submit semi-annual data assessment reports (DARs) for a period of about 2 years, which could be classified as an HPV under GC7. Neither of these violations was discussed with EPA. Finally, a third source had a release of non-condensable gas (NCG), including 41 lbs of hydrogen sulfide and 26 lbs of methyl mercaptan, which DEP determined to be a violation of 40 CFR 63 Subpart S. Violation of an air toxics requirement that results in excess emissions is an HPV under GC2. DEP resolved this case with a formal enforcement action and penalty, but the issue was never discussed with EPA. EPA is designating this Element as an Area for State Improvement for the following reasons:

- excess emissions have the potential to pose a risk to human health or the environment and should be addressed with an appropriate formal response;
- there may be a pattern of deficiencies as evidenced by potentially inaccurate HPV determinations; and
- DEP did not discuss these matters with EPA, and key compliance data (stack test & result, compliance status) related to the violations was not entered into AFS.

In response to EPA's concerns, DEP has agreed that future HPV determinations will be made in conjunction with EPA.

The timely entry of HPV determinations into AFS was identified and addressed as an Area for Improvement under Element 3.

Relevant metrics

8c – Accuracy of HPV Determinations: 17/20 = 85%

- National Goal: 100%

State response

DEP has a thorough knowledge of EPA's HPV policy and is aware of the importance EPA places on the policy. To ensure adequate identification of HPVs, DEP performs weekly review of all noncompliance events to determine if any events should be classified as an HPV. Monthly teleconferences are also held between EPA and DEP to discuss potential new HPVs.

DEP understands that EPA likely would have characterized the alleged violations above as HPVs. DEP notes, however, that the characterization of a violation as an HPV can involve the application of judgment. General Criterion 7, for example, requires states to determine whether a reporting violation *substantially* interferes with enforcement or determining the source's compliance with applicable emission limits.

Nonetheless, violation records were created for all but one of the cited violations. DEP's characterization did not interfere with the state's ability to return the facility to compliance, nor interfere with the state's ability to resolve the matter in a timely fashion.

Recommendation

By June 30, 2013, DEP should submit and implement revised procedures to EPA which ensure the accurate identification of HPVs by district and local programs. AEEB will monitor the improvement of the accuracy of DEP's HPV identification through the existing oversight calls and other periodic data reviews conducted by EPA. If by December 31, 2013 these periodic reviews indicate that the revised procedures appear to be adequate to meet the national goal, the recommendation will be considered

completed.

Element 9 — Enforcement Actions Promote Return to Compliance: Enforcement actions include required corrective action that will return facilities to compliance in specified timeframe.

Finding 9-1	**Meets Expectations**
Description	Enforcement actions include required corrective action that will return facilities to compliance in a specified timeframe.
Explanation	All enforcement action files reviewed (25 of 25) returned the source to compliance. For enforcement actions that were penalty only actions, the files documented the actions taken by the facility to return to compliance prior to issuance of the order.
Relevant metrics	9c – Formal enforcement returns facilities to compliance: 25/25 = 100% • National Goal: 100%
State response	DEP recognizes the most important enforcement goal is returning a facility to compliance. Thank you for recognizing DEP's efforts to effectively return facilities to compliance.
Recommendation	

Element 10 — Timely and Appropriate Action: Timely and appropriate enforcement action in accordance with policy relating to specific media.

Finding 10-1	**Area for State Improvement**
Description	HPVs are not always addressed in a timely and appropriate manner.
Explanation	Data Metric 10a indicates that just over half of the HPV actions concluded during FY 2011 were addressed within 270 days, as required by EPA's Policy on Timely and Appropriate Enforcement Response to High Priority Violations. Timeframes for the late addressing actions ranged from 298 to 1316 days. This was also identified as an issue during the Round 1 SRF review. This is designated as an Area for State Improvement. In addition, during the file review, several instances were identified in which an appropriate formal response was not taken to address potential HPV violations. In one case, although DEP identified HPV violations which involved the failure to conduct required monitoring over a period of four years, the formal enforcement action did not include a penalty. In two other cases (mentioned under Element 8), the State or Local program identified a violation which met the HPV criteria, but it was not designated as an HPV, and the violation was resolved without formal enforcement.
Relevant metrics	10a – Timely action taken to address HPVs: 20/38 = 52.6% • National Average: 63.7%
State response	DEP recognizes that certain HPVs were not addressed in a timely manner during FY 2011. Indeed, many of those violations were outstanding prior to FY 2011. Accordingly, DEP has undertaken measures to demonstrate that timely resolution of enforcement actions is a priority for DEP. For example, DEP reviews all noncompliance matters on a weekly basis to ensure they are resolved in a timely manner. DEP has also included timely resolution of enforcement matters as a metric in its performance dashboard. DEP is pleased to report that, in FY 2012, DEP did not have any HPVs that were not addressed within 270 days and DEP expects that trend to continue. Regarding EPA's expectation that each HPV will be resolved with the imposition of a monetary penalty, DEP has concerns. After an instance of noncompliance is identified, DEP believes it must select an enforcement approach that focuses on fixing the problem and maximizing positive environmental results. DEP stands by its classification of the identified violations and DEP's resolution thereof.

Recommendation	By June 30, 2013, DEP should submit and implement revised procedures to improve the timeliness of HPV addressing actions. These procedures should identify and address the causes of the untimely actions, include notification to EPA when the complexity of a case may warrant additional time, and identify other enforcement mechanisms available when negotiations become protracted. The timeliness of HPV addressing actions will be monitored by AEEB through the existing monthly oversight calls between DEP and EPA and through a formal consultation on or around day 150. If by December 31, 2013, these periodic reviews indicate progress toward meeting the national goal, the recommendation will be considered completed.

Element 11 — Penalty Calculation Method: Documentation of gravity and economic benefit in initial penalty calculations using BEN model or other method to produce results consistent with national policy and guidance.

Finding 11-1	**Area for State Improvement**
Description	Initial penalty calculations did not always document the consideration of economic benefit using the BEN model or other method to produce results consistent with national policy and guidance.
Explanation	File Review Metric 11a indicates that two-thirds of the penalty actions evaluated during the file review did not document the consideration of economic benefit. Where economic benefit was considered, there was no evidence that the BEN model or similar was used to calculate it. The failure to document consideration of economic benefit was also identified as a concern during the Round 1 SRF review. This element is designated as an Area for State Improvement. DEP's Settlement Guidelines for Civil and Administrative Penalties, July 17, 2007, and their Guidelines for Characterizing Air Violations, April 15, 2011, contemplate and encourage recovery of economic benefit. In addition, the State's Air Violations Penalty Calculation Worksheet provides a column for inclusion of violation-specific economic benefit, and a separate row for inclusion of any economic benefit that is not violation-specific. However, these were generally left blank in the penalty calculations reviewed by EPA. When an economic benefit value was included, supporting documentation was generally not in the files to indicate how it was calculated.
Relevant metrics	11a – Penalty calculations reviewed that consider and include gravity and economic benefit: 8/24 = 33.3% • National Goal: 100%
State response	DEP understands that in certain files documentation was lacking regarding consideration of economic benefit when calculating penalties. Understand that economic benefit is considered when calculating penalties and that DEP will ensure such considerations are properly documented going forward. For example, all District enforcement actions are peer-reviewed by DEP and economic benefit considerations must be included in those peer reviews.
Recommendation	DEP should immediately implement existing State procedures to ensure that economic benefit is considered, assessed (where appropriate), and documented for every penalty action. Economic benefit calculations should use the BEN model or other method that produces results consistent with

national policy. For verification purposes, all final penalty worksheets for federally reportable violations should be submitted to AEEB for review for the six months following issuance of the final SRF report. If, by December 31, 2013, appropriate penalty calculation documentation is being observed, this recommendation will be considered completed.

Element 12 — Final Penalty Assessment and Collection: Differences between initial and final penalty and collection of final penalty documented in file.

Finding 12-1	**Area for State Attention**
Description	In a few instances, DEP did not document the rationale for any difference in the initial and final penalty.
Explanation	File Review Metric 12a indicates that 3 of the 23 files reviewed with penalty actions did not document the rationale for the difference between the initial and final penalty. EPA observed various means of providing such documentation presently in use by many of the district and Local programs, so this situation did not constitute a significant pattern of deficiencies. Therefore, this is designated as an Area for State Attention.
Relevant metrics	12a – Documentation on difference between initial and final penalty and rationale: 20/23 = 87% • National Goal: 100%
State response	DEP recognizes that the rationale for the difference between initial and final penalties was not documented in certain files. DEP has directed field staff to ensure such rationales are properly documented in case files. In addition, DEP has instituted a peer review process of district enforcement actions to ensure initial penalty calculations are appropriate. DEP then reviews closed enforcement actions on a weekly basis to ensure final penalties collected are appropriate.
Recommendation	

Resource Conservation and Recovery Act Findings

Element 1 — Data Completeness: Completeness of Minimum Data Requirements.	
Finding 1-1	**Area for State Attention**
Description	The majority of DEP's Minimum Data Requirements for compliance monitoring and enforcement activities were completely entered into RCRAInfo. RCRA Element 1 is supported by SRF Data Metrics 1a through 1g, and measures the completeness of the data in RCRAInfo, which is the national database for the RCRA Program.
Explanation	EPA provided the FY 2011 data metric analysis (DMA) to DEP in May 2012. In their response to the DMA, DEP clarified that the number of inspections included 'site visits' that should not have been part of the inspection count. These site visits were not inspections, but field verifications to determine if a facility is still in operation as part of a state data cleanup effort. DEP has corrected coding in RCRAInfo, and as a result the number of inspections has dropped from 4,545 in the DMA to 2,302 inspections in the national database. Where this change in the inspection count had an effect on other metrics in the report, the revised metric will be provided. The finding is an area for state attention, and the steps to correct the problem have already been implemented by DEP and verified by EPA.
Relevant metrics	Metric 1b1 – Number of sites inspected: 4,545 (2,302 corrected)
State response	DEP acknowledges that the inspection count was corrected via a change in the coding and subsequently verified by EPA, and appreciates EPA's recognition that the majority of the minimum data requirements were completely entered by the RCRA program into RCRAInfo.
Recommendation	

Element 2 — Data Accuracy: Accuracy of Minimum Data Requirements.

Finding 2-1	**Area for State Improvement**
Description	During the SRF review, there were data accuracy issues identified related to facility status, compliance and enforcement data in RCRAInfo.
Explanation	In the RCRA Enforcement Response Policy (ERP), secondary violators (SVs) should be resolved within 240 days or elevated to a SNC status. In the RCRA Data Metric Analysis for DEP, data metric 2a indicated that there were 32 SV facilities that had violations open for longer than 240 days. DEP evaluated the list of SV facilities, and established possible root causes for the longstanding SVs: • Facilities that should have been elevated to SNC status; • Facilities that were EPA-lead enforcement; • Facilities that did not have return to compliance dates entered. In a few instances, the facilities had returned to compliance within 240 days, but the data may have been entered after the SRF data was frozen, so they appeared as longstanding SVs. At the time of the file review, DEP was in the process of addressing these issues. The matter of longstanding SVs is a continuing problem from Round 1 of the SRF. As a practice, DEP should ensure that SVs are resolved within the ERP timeframes and RCRAInfo is updated to accurately reflect facility compliance status. File Review Metric 2b verifies that data in the file is accurately reflected in RCRAInfo. A file is considered inaccurate if the information about the facility regulatory status, the inspection reports, enforcement actions, or compliance documentation is missing or reported inaccurately in RCRAInfo. For File Review Metric 2b, 40 files were reviewed and 29 files (or 72.5%) had accurate data input into RCRAInfo. Examples of inaccurate data in the remaining 11 files include incorrect dates for compliance/enforcement activities, missing follow-up compliance evaluations, warning letters, SNC designations, and civil enforcement actions. There was also one issue identified in RCRAInfo where Notice of Noncompliance letters were entered into RCRAInfo, but these informal enforcement actions were not linked with the inspections where the violations were found. DEP determined that this problem was likely the result of the translation of information from the state's database into RCRAInfo. The state began working on a solution to this issue during the SRF file review. The DMA and file review analysis both reflect problems with data accuracy, which warrant state improvement. DEP should ensure that

	compliance and enforcement information in the file and RCRAInfo is accurately maintained.	
Relevant metrics	2a – Longstanding Secondary Violators	32
	2b – Accurate Entry of mandatory data (29/40 files)	72.5%
State response	DEP acknowledges that some of the identified determinations for Long Standing Secondary Violators were not resolved in the ERP required 240 days, and appreciates EPA's recognition that some of the identified cases were not the fault of DEP (either EPA cases or cases that the frozen data set did not show appropriate resolution). In addition, upon review of the identified cases, it was discovered that more than half of the cases were the result of secondary violations that should have been shown as resolved in the data systems, so DEP has created an add on report to our enforcement tracking report that shows the age of un-resolved secondary violations. Tracking both the cases and the violations should ensure that an un-resolved violation does not get missed when a case is otherwise resolved. Since the 240 day ERP requirement is tracked in DEP's Secondary Violator report that is shared with EPA, compliance with the timeframe has been made a focus for district RCRA managers and bi-monthly calls with EPA. As verification that the Long Standing Secondary violator metric has been adequately addressed, EPA can look to the FY 2012 and 2013 data sets to see that Florida does not have any outstanding cases. With regard to the majority of the identified file/data inaccuracies, DEP informed EPA on August 20, 2012 that a linking procedure had been built into our translation and that corrected data had been translated to RCRAInfo.	
Recommendation	By June 30, 2013, DEP should develop and implement procedures for timely and accurate entry of data into RCRAInfo. The procedures should be submitted to EPA. If needed, EPA is available to assist DEP in the development of these procedures. After the end of FY 2013, EPA will conduct a remote file review (using DEP's OCULUS data system), as well as a SRF data metric analysis, to assess progress in implementation of the improvements. If by March 31, 2014, sufficient improvement is observed, this recommendation will be considered complete.	

Element 3 — Timeliness of Data Entry: Timely entry of Minimum Data Requirements.	
Finding 3-1	Unable to evaluate and make a finding
Description	Sufficient evidence to establish a finding for this Element does not currently exist.
Explanation	Element 3 measures the timely entry of data into RCRAInfo. The RCRA ERP requires all violation data to be entered by Day 150 from the first day of inspection, and other types of data entered by timelines established in state policies, MOAs, PPA/PPGs, etc. In reviewing files, there is no method of determining *when* data was entered into RCRAInfo, only if the data was accurate (covered under Element 2). RCRAInfo does not have a date stamp to show when data is entered, therefore a determination of timely data entry could not be made. OECA is reviewing this Element and the inability to make a finding based on the current design of RCRAInfo. Modifications or elimination of this Element may be reflected in future SRF reviews.
Relevant metrics	
State response	DEP makes it a priority to ensure all data is timely entered into RCRAInfo and will work with EPA to increase EPA's understanding of DEP's upload process by July 1, 2013.
Recommendation	

Element 4 — Completion of Commitments: Meeting all enforcement and compliance commitments made in state/EPA agreements.

Finding 4-1	**Meets Expectations**
Description	Florida exceeded the FY 2011 grant commitments for non-inspection commitments.
Explanation	Metric 4a measures the percentage of non-inspection commitments completed in the fiscal year of the SRF review, such as compliance assistance and enforcement actions. In their FY 2011 grant work plan, DEP committed to 100 compliance assistance visits and 20 consent orders. In DEP's FY 2011 End-of-Year report, the state exceeded both of these commitments.
Relevant metrics	File Metric: 4a - Percentage of non-inspection commitments completed (2/2) — State: 100% — National Goal: 100%
State response	DEP appreciates EPA's acknowledgement that the FY 2011 grant commitments were exceeded by the RCRA program.
Recommendation	

Element 5 — Inspection Coverage: Completion of planned inspections.

Finding 5-1	**Meets Expectations**
Description	DEP met the inspection coverage for operating TSDs and LQGs.
Explanation	Element 5 measures three types of inspections coverage that are outlined in the RCRA Compliance Strategy: (1) 100% coverage of operating TSDs over a two-year period, (2) 20% coverage of LQGs every year, and (3) 100% coverage of LQGs every five years. As indicated in the Data Metric Analysis, DEP met the TSD and one-year LQG inspection coverage. The five-year LQG inspection coverage was 91%, which is adequate coverage considering that RCRA LQG universe is dynamic, and facilities can move in and out of LQG status over the five-year period.

Relevant metrics

Data Metric	State	National Goal
5a – Two-year inspection coverage for operating TSDFs (24/24)	100%	100%
5b – Annual inspection coverage for LQGs (95/278)	34.2%	20%
5c – Five-year inspection coverage For LQGs (253/278)	91%	100%

State response	DEP appreciates EPA's acknowledgement that the LQG universe is dynamic, and would like to remind EPA that the less than 100% five-year inspection coverage for LQGs is mostly due to the universe of foreign flagged cruise ships that have notified as LQGs and are using one of Florida's ports as their so called home port. DEP has previously informed EPA that we are relying on the US Coast Guard to perform routine cruise ship inspections.
Recommendation	

Element 6 — Quality of Inspection Reports: Proper and accurate documentation of observations and timely report completion.

Finding 6-1	**Meets Expectations**
Description	DEP's inspection reports were completed in a timely manner, and provided sufficient documentation to determine compliance at the facility.
Explanation	File Review Metric 6a assesses the completeness of inspection reports and whether the reports provide sufficient documentation to determine compliance at the facility. Of the inspection reports reviewed, 97.5% (39 of 40) were complete and had sufficient documentation to determine compliance at the facility. The reports were consistently thorough in the inspection findings, and had supporting documentation and photographs included in the reports. File Review Metric 6b measures the timely completion of inspection reports. DEP did not have a state-specific timeline for the completion of inspection reports, so the RCRA ERP timeline of 150 days was used as a timeline. According to the ERP, violation determination should be made within 150 days of the first day of inspection. In the file review, it was found that 95% (38 of 40) of the reports were completed in this timeframe.
Relevant metrics	File Metric — State — National Goal 6a – Percentage of inspection reports that were complete and provide documentation to determine compliance (40/40) — 100% — 100% 6b – Percentage of inspection reports that were completed timely (38/40) — 95% — 100%
State response	DEP appreciates EPA acknowledgment that RCRA program inspection reports were completed in at timely manner, and that sufficient documentation was included in the reports.
Recommendation	

Element 7 — Identification of Alleged Violations: Compliance determinations accurately made and promptly reported in national database based on inspection reports and other compliance monitoring information.

Finding 7-1	**Meets Expectations**
Description	DEP makes accurate compliance determinations in the RCRA inspection reports reviewed during the SRF.
Explanation	File Review Metric 7a assesses whether accurate compliance determinations were made based on inspection reports. All 40 of the inspection reports reviewed during the file review had accurate compliance determinations. Data Metric 7b is a review indicator that evaluates the violation identification rate for inspections conducted during the year of review. In the data metric analysis, DEP's violation identification rate for FY 2011 was 27.6%, which was below the national average of 32.5%. In their response, DEP clarified that the number of inspections identified by EPA included 'site visits' that should not have been part of the inspection count. These site visits were not inspections, but field verifications to determine if a facility is still in operation as part of a state data cleanup effort. As a result the number of inspections should drop from 4545 to 2302 inspections. This resulted in a corrected violation identification rate of 54.6% versus the previous 27.6% in the DMA. Florida has an excellent violation identification rate, which is one of the components of a skilled compliance program.
Relevant metrics	File Metric — State — National Goal 7a – Percentage of inspection reports that led to accurate compliance determination (40/40) — 100% — 100% Data Metric 7b – Violations found during inspection — 27.6% (54.7% corrected) — N/A
State response	DEP appreciates EPA's acknowledgment that the RCRA program has an excellent violation identification rate.
Recommendation	

Element 8 — Identification of SNC and HPV: Accurate identification of significant noncompliance and high-priority violations, and timely entry into the national database.

Finding 8-1	**Area for State Improvement**
Description	Issues were identified concerning appropriate SNC identification by DEP and the timely entry of the SNC data into RCRAInfo.
Explanation	Data Metric 8a identifies the percent of facilities that received a SNC designation in FY 2011, the year of data reviewed for DEP's SRF evaluation. In the data metric analysis, DEP's SNC identification rate was 0.9% which was below one-half of the national average of 2.1%. As related earlier in this report, the low SNC rate was affected by site visits that were initially entered as inspections, but which have now been corrected in the data system. The low SNC rate was also found to be influenced by the low number of SNCs identified in metric 8c, discussed below. Data Metric 8b measures the number of SNC determinations that were made within 150 days of the first day of inspection. Timely SNC designation is important so that significant problems are addressed in a timely manner. In FY 2011, DEP reported 88.6% (39 out of 44) of their SNC designations by Day 150. The national goal is 100%. This situation did not constitute a significant pattern of deficiencies, and is designated as an Area for State Attention. DEP can monitor progress on timely SNC designations without further oversight by EPA. File Review Metric 8c measures the percentage of violations in the files that were accurately determined to be a SNC. Of the forty files reviewed, there were eight facility files reviewed where SNC violations existed, but the facility had not been designated as a SNC in RCRAInfo. The appropriate formal enforcement response had been taken by the state at all eight facilities. There were twelve other facilities that had the correct SNC designation. Thus, the percentage of files reviewed where the violation was accurately determined to a SNC was 60% (12 of 20 SNC facilities). Timely and accurate SNC identification is essential so that significant compliance problems are addressed in a prompt manner, and that correct data is available to the public concerning problem facilities in their community. This is a continuing problem from SRF Round 1, and is an area for state improvement. During the SRF file review, DEP was exploring steps to find the root cause for these issues.

Relevant metrics	State	National Goal
8a – SNC identification rate	0.7%	N/A
8b – Percentage of SNC determinations		

entered into RCRAInfo by Day 150	88.6%	100%
8c – Percentage of violations in files reviewed that were accurately determined to be SNCs	60.0%	100%

State response

DEP appreciates EPA's acknowledgment that the FY 2011 SNC rate was inadvertently affected by the initial inclusion of site visits, and requests that EPA report the adjusted SNC rate and utilize it for the evaluation. DEP appreciates EPA's acknowledgement that DEP can monitor progress on timely SNC designations without further oversight by EPA.

With regard to the identified cases where the SNC determination was not made within 150 days, DEP has added an alarm status to our open inspection report tracking system, so that managers are alerted when open inspection reports with an undetermined violation status are getting close to the 150 day threshold. With regard to the identified facilities that were handled as formal enforcement without a SNC designation, DEP has added a SNY/SNN indicator to our formal enforcement report (notified EPA on July 16, 2012) so this should not be a continuing problem. DEP would also like to note that significant in compliance facility rates reached approximately 98.4% in FY 2011 and 98.5% in FY 2012. An increase in significant in compliance rates will eventually lead to a proportional decrease of percentage of SNC determinations.

Recommendation

By June 30, 2013, DEP should develop and implement procedures to ensure that SNC determinations are made within 150 days and properly recorded in RCRAInfo. These procedures should also be submitted to EPA. DEP should also ensure these procedures include the accurate identification of SNCs. If needed, EPA is available to assist DEP in the development of these procedures.

During the following six-month period, EPA will conduct a remote file review (using DEP's OCULUS data system, RCRAInfo, and OTIS) to assess progress in implementation of the improvements. If by December 31, 2013, sufficient improvement in SNC determination and proper recording in RCRAInfo is observed, this recommendation will be considered complete.

Element 9 — Enforcement Actions Promote Return to Compliance: Enforcement actions include required corrective action that will return facilities to compliance in specified timeframe.

Finding 9-1	**Meets Expectations**
Description	DEP consistently issues enforcement responses that have returned or will return a facility in SNC or SV to compliance.
Explanation	File Review Metric 9a shows the percentage of SNC enforcement responses reviewed that have documentation that the facility has returned or will return to compliance. From a review of the files, 100% (20 of 20) of the facilities with SNC-caliber violations had documentation in the files showing that the facility had returned to compliance, or that the enforcement action required the facility to return to compliance within a certain timeframe. File Review Metric 9b gives the percentage of SV enforcement responses reviewed that have documentation that the facility has returned or will return to compliance. In the file review, 100% of the SVs had documentation showing that the facility had returned to compliance, or that the enforcement action required them to return to compliance within a certain timeframe. The two metrics evaluated for this element meet SRF program expectations.

Relevant metrics

File Metric	State	National Goal
9a - Percentage of enforcement responses that have or will return site in SNC to compliance (20/20)	100%	100%
9b - Percentage of enforcement responses that have or will return a SV to compliance (17/17)	100%	100%

State response	DEP appreciates EPA's acknowledgement that the RCRA program consistently issues enforcement responses.
Recommendation	

Element 10 — Timely and Appropriate Action: Timely and appropriate enforcement action in accordance with policy relating to specific media.

Finding 10-1	**Meets Expectations**
Description	DEP takes timely and appropriate enforcement actions.
Explanation	Data Metric 10a indicated that DEP completed 89.9% (44 out of 49) of the formal enforcement actions at SNC facilities within 360 days of the first day of inspection, the timeline outlined in the RCRA ERP. DEP exceeded the national goal of 80% of enforcement actions meeting this timeline. File Review Metric 10b assesses the appropriateness of enforcement actions for SVs and SNCs, as defined by the RCRA ERP. In the files reviewed 100% of the facilities with violations (37 of 37) had an appropriate enforcement response to addressing the identified violations. The two metrics evaluated for timely and appropriate enforcement actions meet the SRF program expectations.
Relevant metrics	Data Metric — State — National Goal 10a: Timely enforcement to address SNCs (44/49) — 89.9% — 80% File Metric 10b: Percentage of files with appropriate enforcement responses (37/37) — 100% — 100%
State response	DEP appreciates EPA's acknowledgement that the RCRA program takes timely and appropriate enforcement actions.
Recommendation	

Element 11 — Penalty Calculation Method: Documentation of gravity and economic benefit in initial penalty calculations using BEN model or other method to produce results consistent with national policy and guidance.

Finding 11-1	**Area for State Improvement**
Description	DEP's penalties included a gravity component in each enforcement case reviewed, but the majority of the enforcement cases did not include the consideration of economic benefit.
Explanation	Element 11a examines the state documentation of penalty calculations. Specifically, file review metric 11a determines if the state penalty includes *both* gravity and economic benefit considerations. Twenty penalty calculations were reviewed, and all included a gravity component in the penalty calculation. Ten of the twenty penalties did not have any consideration of economic benefit. Eight other penalty calculations included a statement to the effect that the economic benefit was *de minimus*, which is below the minimum threshold provided in the RCRA Civil Penalty policy. However there we no rationale provided for the *de minimus* determinations, or how the conclusion was reached. Therefore only 10% (2 of 20) of the enforcement cases reviewed had the complete documentation for any potential economic benefit of noncompliance. There were two enforcement cases where the economic benefit was thoroughly calculated, but not pursued since it was below the *de minimus* threshold. The recovery of economic benefit is essential in removing incentives for noncompliance. The lack of economic benefit calculations is a continuing problem from SRF Round 1 and is considered an area for state improvement.
Relevant metrics	11a – Penalty calculations consider and include a gravity and economic benefit (2 of 20) — State: 10% — National Goal: 100%
State response	DEP understands that, in certain files, documentation was lacking regarding consideration of economic benefit when calculating penalties. Understand that economic benefit is considered when evaluating and calculating appropriate penalties, and that DEP will ensure such considerations are properly documented going forward. The RCRA program has recently developed a revised penalty calculation worksheet template, to aid in statewide consistency, that includes a section on economic benefit calculations and considerations. In addition, all District enforcement actions are now peer-reviewed by DEP and economic benefit considerations must be included in those peer reviews.

Recommendation	By June 30, 2013, DEP should ensure that all RCRA enforcement cases are evaluated for economic benefit on noncompliance, using the BEN model or a state method that is equivalent to and consistent with national policy, and that the evaluation is documented in penalty calculations. As needed, EPA is available to assist DEP in training enforcement personnel on economic benefit calculations. During the following six-month period, EPA will conduct a remote file review (using DEP's OCULUS data system) to assess progress in implementation of the improvements. If by December 31, 2013, sufficient improvement is observed for the consideration of economic benefit in penalty calculations, this recommendation will be considered complete.

Element 12 — Final Penalty Assessment and Collection: Differences between initial and final penalty and collection of final penalty documented in file.

Finding 12-1	**Area for State Improvement**
Description	The majority of DEP enforcement actions did not provide the rationale between the initial and final assessed penalty. DEP did document collection of all final penalties.
Explanation	Metric 12a provides the percentage of formal enforcement actions that documented the difference and rationale between the initial and final assessed penalty. A total of 19 enforcement actions were reviewed where there was a difference between initial and final penalties, and eight of the cases, or 42%, included a rationale for the penalty adjustments. Rationale for penalty adjustments are essential in maintaining consistency and providing transparency; noting offsets for supplemental environmental projects or inability to pay issues; and ensuring that the final penalties recover any economic benefit due to noncompliance. The absence of final penalty rationale for the majority of the DEP RCRA cases is considered an area for state improvement. Metric 12b provides the percentage of enforcement files reviewed that document the collection of a penalty. In 100% of the files reviewed, there was evidence that DEP had collected penalties, or were in the process of seeking collection of penalties from enforcement actions.

Relevant metrics

	State	National Goal
12a – Formal enforcement actions that document the difference and rationale between the initial and final penalty (8/19)	42%	100%
12b – Final formal actions that documented the collection of a final penalty (20/20)	100%	100%

State response	DEP recognizes that the rationale for the difference between initial and final penalties was not documented in certain files. DEP has directed field staff to ensure such rationales are properly documented in case files. In addition, DEP has instituted a peer review process for district enforcement actions to ensure enforcement responses and initial penalty calculations are appropriate. To help ensure that the district offices are properly documenting penalty adjustments, a portion of penalty cases will be audited by headquarters on a routine basis. DEP appreciates EPA's acknowledgement that the RCRA program documents collection of all final penalties.

Recommendation	By June 30, 2013, DEP should ensure that all RCRA formal enforcement actions document the difference between initial and final assessed penalty. As needed, EPA is available to assist DEP in training enforcement personnel on economic benefit calculations. During the following six-month period, EPA will conduct a remote file review (using DEP's OCULUS data system) to assess progress in implementation of the improvements. If by December 31, 2013, sufficient improvement is observed the penalty documentation, this recommendation will be considered complete.

Appendix A: Data Metric Analysis

Attached below are the results of the SRF data metric analyses. All data metrics were analyzed prior to the on-site file review. This provides reviewers with essential advance knowledge of potential problems. It also guides the file selection process as these potential problems highlight areas for supplemental file review.

The initial findings are preliminary observations. They are used as a basis for further investigation during the file review and through dialogue with the state. Where applicable, this analysis evaluates state performance against the national goal and average. Final findings are developed only after evaluating the data alongside file review results and details from conversations with the state. Through this process, initial findings may be confirmed or modified. Final findings are presented in Section III of this report.

Clean Water Act

Metric	Metric Name	Metric Type	Agency	Natl Goal	Natl Avg	Florida	Count	Universe	Not Cntd	Initial Findings	Explanation
1a1	Number of Active NPDES Majors with Individual Permits	Data Verification	State			219				Appears acceptable	
1a2	Number of Active NPDES Majors with General Permits	Data Verification	State			0				Appears acceptable	
1a3	Number of Active NPDES Non-Majors with Individual Permits	Data Verification	State			309				Appears acceptable	
1a4	Number of Active NPDES Non-Majors with General Permits	Data Verification	State			36,011				Minor issue	FY 10 had 1,939 facilities. Why are there now 36,011 in FY 11?
1b1	Permit Limits Rate for Major Facilities	Goal	State	>=95%	98.6%	88.6%	194	219	25	Minor issue	The National Goal is ≥ 95%; the State's rate is 88.6%
1b2	DMR Entry Rate for Major Facilities	Goal	State	>=95%	96.5%	96.6%	8223	8514	291	Appears acceptable	
1b3	Number of Major Facilities with a Manual Override of RNC/SNC to a Compliant Status	Data Verification	State			21				Minor issue	FY 10 had 9 manual overrides; FY 11 has 21 - 233% higher than FY 10.
1c1	Permit Limits Rate for Non-Major Facilities	Informational only	State		66.1%	96.8%	299	309	10	Appears acceptable	
1c2	DMR Entry Rate for Non-Major Facilities	Informational only	State		72.6%	96%	6832	7115	283	Appears acceptable	
1e1	Facilities with Informal Actions	Data Verification	State			40				Appears acceptable	
1e2	Total Number of Informal Actions at CWA NPDES Facilities	Data Verification	State			45				Appears acceptable	
1f1	Facilities with Formal Actions	Data Verification	State			35				Minor issue	FY 11 represents only 54% of FY 10 (65 facilities).

Metric	Metric Name	Metric Type	Agency	Natl Goal	Natl Avg	Florida	Count	Universe	Not Cntd	Initial Findings	Explanation
1f2	Total Number of Formal Actions at CWA NPDES Facilities	Data Verification	State			35				Minor issue	FY 11 represents only 49% of FY 10 (71 actions).
1g1	Number of Enforcement Actions with Penalties	Data Verification	State			22				Appears acceptable	
1g2	Total Penalties Assessed	Data Verification	State			$338,714				Minor issue	FY 11 represents only 77% of FY 10 penalties ($436,000) and only 43% of FY 09 penalties ($789,000).
2a1	Number of formal enforcement actions, taken against major facilities, with enforcement violation type codes entered.	Data Verification	State			9				Minor issue	FY 11 represents 33% of FY 10.
5a1	Inspection Coverage - NPDES Majors	Goal metric	State		54.4%	71.7%	157	219	62	Minor issue	Although the FY 11 Work plan commitment was exceeded, the Work plan shows 169 majors inspected; 157 shown in the Frozen Data
5b1	Inspection Coverage - NPDES Non-Majors	Goal metric	State		23.7%	64.7%	200	309	109	Minor issue	Although the FY 11 Work plan commitment was exceeded, the Work plan shows 183 non-majors inspected; 200 shown in the Frozen Data

Metric	Metric Name	Metric Type	Agency	Natl Goal	Natl Avg	Florida	Count	Universe	Not Cntd	Initial Findings	Explanation
5b2	Inspection Coverage - NPDES Non-Majors with General Permits	Goal metric	State		19.2%	.8%	305	0	35706	Potential concern	The FY 11 Work plan shows 337 non-major General Permits inspected not 305; The State's rate is far below the National Average. This rate would not achieve the goal of 100% inspections within a 10 year period.
7a1	Number of Major Facilities with Single Event Violations	Data Verification	State			10				Appears acceptable	
7a2	Number of Non-Major Facilities with Single Event Violations	Informational only	State			37				Appears acceptable	
7b1	Compliance schedule violations	Data Verification	State			4				Appears acceptable	
7c1	Permit schedule violations	Data Verification	State			0				Appears acceptable	
7d1	Major Facilities in Noncompliance	Review Indicator	State		71.2%	61.6%	135	219	84	Appears acceptable	
7f1	Non-Major Facilities in Category 1 Noncompliance	Data Verification	State			117				Appears acceptable	
7g1	Non-Major Facilities in Category 2 Noncompliance	Data Verification	State			58				Appears acceptable	
7h1	Non-Major Facilities in Noncompliance	Informational only	State			62.5%	193	309	116	Appears acceptable	
8a1	Major Facilities in SNC	Review indicator	State			49				Appears acceptable	
8a2	Percent of Major Facilities in SNC	Review indicator	State		22.3%	21.9%	49	225	175	Appears acceptable	State rate is below natl. goal of 98%.

Clean Air Act

Metric	Metric Name	Metric Type	Agency	Natl Goal	Natl Avg	Florida	Count	Universe	Not Cntd	Initial Findings	Explanation
1a1	Number of Active Major Facilities (Tier I)	Data Verification	State			385				Appears acceptable	
1a2	Number of Active Synthetic Minors (Tier I)	Data Verification	State			528				Appears acceptable	
1a3	Number of Active NESHAP Part 61 Minors (Tier I)	Data Verification	State			1				Appears acceptable	Source listed was the only NESHAP Part 61 minor; other NESHAP sources were Major or SM sources, and included in CMS plan.
1a4	Number of Active CMS Minors and Facilities with Unknown Classification (Not counted in metric 1a3) that were Federally-Reportable (Tier I)	Data Verification	State			10				Appears acceptable	
1a5	Number of Active HPV Minors and Facilities with Unknown Classification (Not counted in metrics 1a3 or 1a4) that were Federally-Reportable (Tier I)	Data Verification	State			0				Appears acceptable	
1a6	Number of Active Minors and Facilities with Unknown Classification Subject to a Formal Enforcement Action (Not counted in metrics 1a3, 1a4 or 1a5) that were Federally-Reportable (Tier II)	Data Verification	State			18				Appears acceptable	
1b1	Number of Active Federally-Reportable NSPS (40 C.F.R. Part 60) Facilities	Data Verification	State			1				Appears acceptable	
1b2	Number of Active Federally-Reportable NESHAP (40 C.F.R. Part 61) Facilities	Data Verification	State			24				Appears acceptable	

Metric	Metric Name	Metric Type	Agency	Natl Goal	Natl Avg	Florida	Count	Universe	Not Cntd	Initial Findings	Explanation
1b3	Number of Active Federally-Reportable MACT (40 C.F.R. Part 63) Facilities	Data Verification	State			187				Appears acceptable	
1b4	Number of Active Federally-Reportable MACT (40 C.F.R. Part 63) Facilities	Data Verification	State			407				Appears acceptable	
1c1	Number of Tier I Facilities with an FCE (Facility Count)	Data Verification	State			488				Appears acceptable	
1c2	Number of FCEs at Tier I Facilities (Activity Count)	Data Verification	State			519				Appears acceptable	
1c3	Number of Tier II Facilities with FCE (Facility Count)	Data Verification	State			1				Appears acceptable	
1c4	Number of FCEs at Tier II Facilities (Activity Count)	Data Verification	State			1				Appears acceptable	
1d1	Number of Tier I Facilities with Noncompliance Identified (Facility Count)	Data Verification	State			89				Appears acceptable	
1d2	Number of Tier II Facilities with Noncompliance Identified (Facility Count)	Data Verification	State			7				Appears acceptable	
1e1	Number of Informal Enforcement Actions Issued to Tier I Facilities (Activity Count)	Data Verification	State			26				Appears acceptable	
1e2	Number of Tier I Facilities Subject to an Informal Enforcement Action (Facility Count)	Data Verification	State			26				Appears acceptable	
1f1	Number of HPVs Identified (Activity Count)	Data Verification	State			14				Appears acceptable	
1f2	Number of Facilities with an HPV Identified (Facility Count)	Data Verification	State			14				Appears acceptable	
1g1	Number of Formal Enforcement Actions Issued to Tier I Facilities (Activity Count)	Data Verification	State			51				Appears acceptable	
1g2	Number of Tier I Facilities Subject to a Formal Enforcement Action (Facility Count)	Data Verification	State			49				Appears acceptable	
1g3	Number of Tier I Facilities Subject to a Formal Enforcement Action (Facility Count)	Data Verification	State			6				Appears acceptable	

Metric	Metric Name	Metric Type	Agency	Natl Goal	Natl Avg	Florida	Count	Universe	Not Cntd	Initial Findings	Explanation
1g4	Number of Tier II Facilities Subject to a Formal Enforcement Action (Facility Count)	Data Verification	State			6				Appears acceptable	
1h1	Total Amount of Assessed Penalties	Data Verification	State			$1,029,260				Appears acceptable	
1h2	Number of Formal Enforcement Actions with an Assessed Penalty	Data Verification	State			54				Appears acceptable	
1i1	Number of Stack Tests with Passing Results	Data Verification	State			1439				Appears acceptable	
1i2	Number of Stack Tests with Failing Results	Data Verification	State			5				Appears acceptable	
1i3	Number of Stack Tests with Pending Results	Data Verification	State			0				Appears acceptable	
1i4	Number of Stack Tests with No Results Reported	Data Verification	State			0				Appears acceptable	
1i5	Number of Stack Tests Observed & Reviewed	Data Verification	State			698				Appears acceptable	
1i6	Number of Stack Tests Reviewed Only	Data Verification	State			747				Appears acceptable	
1j	Number of Title V Annual Compliance Certifications Reviewed	Data Verification	State			437				Appears acceptable	
2a	Major Sources Missing CMS Source Category Code	Review Indicator	State			3	3			Appears acceptable	Sources missing CMS source category code represents less than 1% of all Major sources.
3a1	Timely Entry of HPV Determinations	Review Indicator	State			11	11			Appears acceptable	
3a2	Untimely Entry of HPV Determinations	Goal	State	0		3	3			Potential concern	3 of 14 (21%) of HPV determinations entered late into AFS; all 3 late actions selected for file review; discuss data management process with DEP.

Metric	Metric Name	Metric Type	Agency	Natl Goal	Natl Avg	Florida	Count	Universe	Not Cntd	Initial Findings	Explanation
3b1	Timely Reporting of Compliance Monitoring Minimum Data Requirements	Goal	State	100%	78.6%	90.9%	870	957	87	Appears acceptable	Less than 10% of actions exceed 60 days.
3b2	Timely Reporting of Stack Test Minimum Data Requirements	Goal	State	100%	75.5%	86.8%	1254	1445	191	Minor issue	The most late tests were in Hillsborough County; discuss stack test review process with DEP; several representative & supplemental files will be reviewed.
3b3	Timely Reporting of Enforcement Minimum Data Requirements	Goal	State	100%	76.1%	79.1%	68	86	18	Potential concern	All but one late action were Consent Orders; 5 of 18 actions (28%) in Polk county. Several representative & supplemental files will be reviewed.
5a	FCE Coverage Major	Goal	State	100%	90%	84.4%	254	301	47	Potential concern	Majority of sources (45) are permanently closed, but state did not remove CMS flag when operational status changed to "permanently closed." Revised metric without closed sources is 99.2% (254/256).

Metric	Metric Name	Metric Type	Metric	Natl Goal	Natl Avg	Florida	Count	Universe	Not Cntd	Initial Findings	Explanation
5b	FCE Coverage SM-80	Goal	State	100%	90.6%	78.5%	215	274	59	Potential concern	All "not counted" sources (59) were permanently closed, but state did not remove CMS flag when operational status changed to "permanently closed." Revised metric without closed sources is 100% (215/215).
5c	FCE Coverage Synthetic Minors (non SM-80)	Goal	State	NA	NA	NA	NA	NA	NA		
5d	FCE Coverage Minors	Goal	State	NA	NA	NA	NA	NA	NA		
5e	Review of Title V Annual Compliance Certifications Completed	Goal	State	100%	72.5%	90.7%	371	409	38	Appears acceptable	Only four sources actually missing ACC review; three sources did have a state ACC review recorded in AFS; remaining sources were either SMs or had recently been issued a TV permit, so no ACC was required. Revised metric is 98.9% (374/378).

Metric	Metric Name	Metric Type	Agency	Natl Goal	Natl Avg	Florida	Count	Universe	Not Cntd	Initial Findings	Explanation
7b1	Alleged Violations Reported Per Informal Enforcement Actions (Tier I only)	Goal	State	100%	62.2%	92.3%	24	26	2	Appears acceptable	
7b2	Alleged Violations Reported Per Failed Stack Tests	Review Indicator	State		54%	100%	4	4	0	Appears acceptable	
7b3	Alleged Violations Reported Per HPV Identified	Goal	State	100%	69.6%	100%	13	13	0	Appears acceptable	
8a	HPV Discovery Rate Per Major Facility Universe	Review Indicator	State		3.9%	2.9%	11	385	374	Appears acceptable	
8b	HPV Reporting Indicator at Majors with Failed Stack Tests	Review Indicator	State		20.5%	0%	0	3	3	Appears acceptable	Metric value is incorrect and should be 100%; all three sources with a failed stack test were designated as HPVs in AFS. However, these files were slated for file review, and any potential problem can be evaluated.
10a	HPV cases which meet the timeliness goal of the HPV Policy	Review Indicator	State		63.7%	52.6%	20	38	18	Potential concern	Several of the HPVs that were not addressed within 270 days have been selected for file review.

Resource Conservation and Recovery Act

Metric ID	Metric Name	Metric Type	Agency	National Goal	National Average	Florida	Count	Universe	Not Counted	Initial Finding	Comments
1a1	Number of operating TSDFs	Data Verification	State			24				Appears Acceptable	
1a2	Number of active LQGs	Data Verification	State			331				Appears Acceptable	
1a3	Number of active SQGs	Data Verification	State			8242				Appears Acceptable	
1a4	All other active sites	Data Verification	State			19895				Appears Acceptable	
1a5	Number of BR LQGs	Data Verification	State			278				Appears Acceptable	
1b1	Number of sites inspected	Data Verification	State			4545				Potential Concern	DEP clarified that this number included 2,243 site visits that did not qualify as inspections, and have corrected the data in RCRAInfo.
1b2	Number of inspections	Data Verification	State			4606				Potential Concern	Same as above
1c1	Number of sites with new violations during review year	Data Verification	State			1263				Appears Acceptable	
1c2	Number of sites in violation at any time during the review year regardless of determination date	Data Verification	State			1508				Appears Acceptable	
1d1	Number of sites with informal enforcement actions	Data Verification	State			522				Appears Acceptable	
1d2	Number of informal enforcement actions	Data Verification	State			534				Appears Acceptable	

1e1	Number of sites with new SNC during year	Data Verification	State			44				Appears Acceptable	
1e2	Number of sites in SNC regardless of determination date	Data Verification	State			93				Appears Acceptable	
1f1	Number of sites with formal enforcement actions	Data Verification	State			166				Appears Acceptable	
1f2	Number of formal enforcement actions	Data Verification	State			181				Appears Acceptable	
1g	Total dollar amount of final penalties	Data Verification	State			$1,492,962				Appears Acceptable	
1h	Number of final formal actions with penalty in last 1 FY	Data Verification	State			113				Appears Acceptable	
2a	Long-standing secondary violators	Review Indicator	State			32				Potential Concern	32 secondary violators that did not meet RCRA ERP guidelines by RTC by day 240, or be reclassified as SNC.
5a	Two-year inspection coverage for operating TSDFs	Goal	State	100%	89.4%	100%	24	24	0	Appears Acceptable	
5b	Annual inspection coverage for LQGs	Goal	State	20%	22.6%	34.2%	95	278	183	Appears Acceptable	
5c	Five-year inspection coverage for LQGs	Goal	State	100%	62.9%	91%	253	278	25	Appears Acceptable	
5d	Five-year inspection coverage for active SQGs	Informational Only	State		11%	11.3%	934	8242	7308	Appears Acceptable	
5e1	Five-year inspection coverage at other sites (CESQGs)	Informational Only	State			3939				Appears Acceptable	

5e2	Five-year inspection coverage at other sites (Transporters)	Informational Only	State			67				Appears Acceptable	
5e3	Five-year inspection coverage at other sites (Non-notifiers)	Informational Only	State			1770				Appears Acceptable	
5e4	Five-year inspection coverage at other sites (not covered by metrics 5a-5e3)	Informational Only	State			5130				Potential Concern	This may include the site visit inspections referenced in metrics 1b1 and 1b2.
7b	Violations found during inspections	Review Indicator	State		32.5%	27.6%	1253	4539	3286	Potential Concern	Violation identification rate is below national average
8a	SNC identification rate	Review Indicator	State		2.1%	.9%	44	4682	4638	Potential Concern	SNC identification rate is below 1/2 of national average, and has steadily declined from previous years.
8b	Timeliness of SNC determinations	Goal	State	100%	81.7%	88.6%	39	44	5	Potential Concern	Five SNCs were entered between 153 to 219 days after day zero (ERP goal is 150 days).
10a	Timely enforcement taken to address SNC	Review Indicator	State	80%	81.8%	89.8%	44	49	5	Appears Acceptable	

Appendix B: File Metric Analysis

This section presents file metric values with EPA's initial observations on program performance. Initial findings were developed by EPA at the conclusion of the file review.

Initial findings are statements of fact about observed performance. They should indicate whether there is a potential issue and the nature of the issue. They are developed after comparing the data metrics to the file metrics and talking to the state.

Final findings are presented above in the Findings section.

Because of limited sample size, statistical comparisons among programs or across states cannot be made.

Clean Air File Metric Analysis

CAA Metric #	CAA File Review Metric Description	Numerator	Denominator	Percentage	Goal	Initial Findings	Details
2b	**Accurate MDR data in AFS:** Percentage of files reviewed where MDR data are accurately reflected in AFS	19	48	39.6%	100%	State Improvement	17 files had minor discrepancies (name, zip, SIC, CMS code); 16 files had inaccurate/missing air program codes or subparts; 16 files were missing key actions (FCE's, NOVs, Stack tests); 5 had an inaccurate compliance status in AFS.
4a1	**Planned evaluations completed:** Title V Major FCEs	404	414	97.6%	100%	Meets Requirements	
4a2	**Planned evaluations completed:** SM-80 FCEs	583	403	144.7%	100%	Meets Requirements	
4a3	**Planned evaluations completed:** Synthetic Minor FCEs	0	0	N/A	100%		
4a4	**Planned evaluations completed:** Other Minor FCEs	0	0	N/A	100%		
4a5	**Planned evaluations completed:** Title V Major PCEs	0	0	N/A	100%		
4a6	**Planned evaluations completed:** SM-80 PCEs	0	0	N/A	100%		
4a7	**Planned evaluations completed:** Synthetic Minor PCEs	0	0	N/A	100%		
4a8	**Planned evaluations completed:** Other Minor PCEs	0	0	N/A	100%		
4b	**Planned commitments completed:** CAA compliance and enforcement commitments other than CMS commitments	12	12	100.0%	100%	Meets Requirements	
6a	**Documentation of FCE elements:** Percentage of FCEs in the files reviewed that meet the definition of a FCE per the CMS policy	32	35	91.4%	100%	Meets Requirements	

6b	**Compliance Monitoring Reports (CMRs) or facility files reviewed that provide sufficient documentation to determine compliance of the facility:** Percentage of CMRs or facility files reviewed that provide sufficient documentation to determine facility compliance	28	35	80.0%	100%	State Improvement	7 files missing one or more CMR elements. In two instances, the inspection report could not be located by the State.
7a	**Accuracy of compliance determinations:** Percentage of CMRs or facility files reviewed that led to accurate compliance determinations	30	35	85.7%	100%	State Attention	EPA disagreed with DEP's compliance determination on 5 of the sources: 2 were missing an FCE checklist or CMR; one source was not operating during on-site inspection (DEP's determination based on incomplete information); 2 w/ emission violations DEP identified as FRVs, but should have been HPVs.
8c	**Accuracy of HPV determinations:** Percentage of violations in files reviewed that were accurately determined to be HPVs	17	20	85.0%	100%	State Improvement	3 sources with excess emissions should have been HPVs: 1) failed PM stack test, which would be an HPV under GC8 and 21 excess CO emissions events (MC3); 2) source had excess emissions of CO & NOx (MC3); 3) source had a release of NCG (41 lbs H2S, 26 lbs methyl mercaptan) in violation of MACT Subpart S, an HPV under GC2.
9a	**Formal enforcement responses that include required corrective action that will return the facility to compliance in a specified time frame:** Percentage of formal enforcement responses reviewed that include required corrective actions that will return the facility to compliance in a specified time frame	25	25	100.0%	100%	Meets Requirements	
10a	**Timely action taken to address HPVs:** Percentage of HPV addressing actions that meet the timeliness standard in the HPV Policy	11	15	73.3%	100%	State Improvement	4 of 15 FY11 HPV actions reviewed were not addressed within 270 days.

10b	**Appropriate Enforcement Responses for HPVs:** Percentage of enforcement responses for HPVs that appropriately address the violations	14	15	93.3%	100%	Meets Requirements	
11a	**Penalty calculations reviewed that consider and include gravity and economic benefit:** Percentage of penalty calculations reviewed that consider and include, where appropriate, gravity and economic benefit	8	24	33.3%	100%	State Improvement	Two-thirds of the penalty actions reviewed did not document consideration of economic benefit, and there was no evidence that the BEN model or similar was used where EB was shown.
12a	**Documentation on difference between initial and final penalty and rationale:** Percentage of penalties reviewed that document the difference between the initial and final assessed penalty, and the rationale for that difference	20	23	87.0%	100%	State Attention	3 of the 23 files with penalty actions did not document the rationale for the difference between the initial and final penalty.
12b	**Penalties collected:** Percentage of penalty files reviewed that document collection of penalty	22	22	100.0%	100%	Meets Requirements	

Finding Category Descriptions

Good Practice: Activities, processes, or policies that the SRF metrics show are being implemented at the level of Meets Expectations, and are innovative and noteworthy, and can serve as models for other states.

Meets Expectations: Describes a situation where either: a) no performance deficiencies are identified, or b) single or infrequent deficiencies are identified that do not constitute a pattern or problem. Generally, states are meeting expectations when falling between 91 to 100 percent of a national goal.

Area for State Attention: The state has single or infrequent deficiencies that constitute a minor pattern or problem that does not pose a risk to human health or the environment. Generally, performance requires state attention when the state falls between 85 to 90 percent of a national goal.

Area for State Improvement: Activities, processes, or policies that SRF data and/or file metrics show as major problems requiring EPA oversight. These will generally be significant recurrent issues. However, there may be instances where single or infrequent cases reflect a major problem, particularly in instances where the total number of facilities under consideration is small. Generally, performance requires state improvement when the state falls below 85 percent of a national goal.

Clean Water Act File Metric Analysis

CWA Metric #	Description	Numerator	Denominator	Metric Value	Goal	Initial Findings	Details
2b	**Files reviewed where data are accurately reflected in the national data system:** Percentage of files reviewed where data in the file are accurately reflected in the national data systems	28	42	66.7%	95%	State Improvement	
3a	**Timeliness of mandatory data entered in the national data system**	NA	NA	NA	100%		Unable to make a finding
4a1	**Pretreatment compliance inspections and audits**	63	63	100.0%	100%	Meets Requirements	
4a2	**Significant industrial user (SIU) inspections for SIUs discharging to non-authorized POTWs**	NA	NA	NA	NA		
4a3	**EPA and state oversight of SIU inspections by approved POTWs**	24	24	100.0%	100%	Meets Requirements	
4a4	**Major CSO inspections**	NA	NA	NA	NA		
4a5	**SSO inspections**	38	54	70.4%	100%	State Attention	
4a6	**Phase I MS4 audits or inspections**	22	6	366.7%	100%	Meets Requirements	

4a7	**Phase II MS4 audits or inspections**	30	20	150.0%	100%	Meets Requirements	
4a8	**Industrial storm water inspections**	407	300	135.7%	100%	Meets Requirements	
4a9	**Phase I and II storm water construction inspections**	356	220	161.8%	100%	Meets Requirements	
4a10	**Inspections of large and medium NPDES-permitted CAFOs**	38	11	345.5%	100%	Meets Requirements	
4a11	**Inspections of non-permitted CAFOs**	NA	NA	NA	100%		
4b	**Planned commitments completed:** CWA compliance and enforcement commitments other than CMS commitments, including work products/commitments in PPAs, PPGs, grant agreements, MOAs, MOUs or other relevant agreements	6	6	100.0%	100%	Meets Requirements	
6a	**Inspection reports reviewed that provide sufficient documentation to determine compliance at the facility**	39	65	60.0%	100%	State Improvement	
6b	**Inspection reports completed within prescribed timeframe:** Percentage of inspection reports reviewed that are timely	25	65	38.5%	100%	State Improvement	
7e	**Inspection reports reviewed that led to an accurate compliance determination**	61	65	93.8%	100%	Meets Requirements	
8b	**Single-event violation(s) accurately identified as SNC or RNC**	13	14	92.9%	100%	Meets Requirements	

8c	**Percentage of SEVs Identified as SNC Reported Timely:** Percentage of SEVs accurately identified as SNC that were reported timely	2	2	100%	100%	Meets Requirements	
9a	**Percentage of enforcement responses that return or will return source in SNC to compliance**	14	17	82.4%	100%	State Attention	
10b	**Enforcement responses reviewed that address SNC that appropriate to the violations**	7	9	77.8%	100%	State Improvement	
11a	**Penalty calculations that include gravity and economic benefit:** Percentage of penalty calculations reviewed that consider and include, where appropriate, gravity and economic benefit	1	10	10.0%	100%	State Improvement	
12a	**Documentation on difference between initial and final penalty:** Percentage of penalties reviewed that document the difference between the initial and final assessed penalty, and the rationale for that difference	4	4	100.0%	100%	Meets Requirements	
12b	**Penalties collected:** Percentage of penalty files reviewed that document collection of penalty	11	11	100.0%	100%	Meets Requirements	

Finding Categories

Good Practice: Activities, processes, or policies that the SRF metrics show are being implemented at the level of Meets Expectations, and are innovative and noteworthy, and can serve as models for other states.

Meets Expectations: Describes a situation where either: a) no performance deficiencies are identified, or b) single or infrequent deficiencies are identified that do not constitute a pattern or problem. Generally, states are meeting expectations when falling between 91 to 100 percent of a national goal.

Area for State Attention: The state has single or infrequent deficiencies that constitute a minor pattern or problem that does not pose a risk to human health or the environment. Generally, performance requires state attention when the state falls between 85 to 90 percent of a national goal.

Area for State Improvement: Activities, processes, or policies that SRF data and/or file metrics show as major problems requiring EPA oversight. These will generally be significant recurrent issues. However, there may be instances where single or infrequent cases reflect a major problem, particularly in instances where the total number of facilities under consideration is small. Generally, performance requires state improvement when the state falls below 85 percent of a national goal.

RCRA File Metric Analysis

State: Florida							Year Reviewed: FY 2011
RCRA Metric #	Name and Description	Numerator	Denominator	Metric %	Goal	Initial Findings	Details
2b	**Accurate entry of mandatory data:** Percentage of files reviewed where mandatory data are accurately reflected in the national data system	29	40	72.5%	100%	**Area for Improvement**	
3a	**Timely entry of mandatory data:** Percentage of files reviewed where mandatory data are entered in the national data system in a timely manner	0	0	#DIV/0!	100%	Unable to make a finding	Cannot make a finding as no method to determine timeliness of data entry in file review.
4a	**Planned non-inspection commitments completed:** Percentage of non-inspection commitments completed in the review year	2	2	100.0%	100%	Meets Requirements	
6a	**Inspection reports complete and sufficient to determine compliance:** Percentage of inspection reports reviewed that are complete and provide sufficient documentation to determine compliance	40	40	100.0%	N/A	Meets Requirements	
6b	**Timeliness of inspection report completion:** Percentage of inspection reports reviewed that are completed in a timely manner	38	40	95.0%	100%	Meets Requirements	
7a	**Accurate compliance determinations:** Percentage of inspection reports reviewed that led to accurate compliance determinations	40	40	100.0%	100%	Meets Requirements	

8c	**Appropriate SNC determinations:** Percentage of files reviewed in which significant noncompliance (SNC) status was appropriately determined during the review year	12	20	60.0%	100%	**Area for Improvement**	
9a	**Enforcement that returns SNC sites to compliance:** Percentage of enforcement responses that have returned or will return a site in SNC to compliance	20	20	100.0%	100%	Meets Requirements	
9b	**Enforcement that returns SV sites to compliance:** Percentage of enforcement responses that have returned or will return a secondary violator to compliance	17	17	100.0%	100%	Meets Requirements	
10b	**Appropriate enforcement taken to address violations:** Percentage of files with enforcement responses that are appropriate to the violations	37	37	100.0%	100%	Meets Requirements	
11a	**Penalty calculations include gravity and economic benefit:** Percentage of reviewed penalty calculations that consider and include, where appropriate, gravity and economic benefit	2	20	10.0%	100%	**Area for Improvement**	
12a	**Documentation on difference between initial and final penalty:** Percentage of penalties reviewed that document the difference between the initial and final assessed penalty, and the rationale for that difference	8	19	42.1%	100%	**Area for Improvement**	
12b	**Penalties collected:** Percentage of files that document collection of penalty	20	20	100.0%	100%	Meets Requirements	

Finding Categories

Good Practice: Activities, processes, or policies that the SRF metrics show are being implemented at the level of Meets Expectations, and are innovative and noteworthy, and can serve as models for other states.

Meets Expectations: Describes a situation where either: a) no performance deficiencies are identified, or b) single or infrequent deficiencies are identified that do not constitute a pattern or problem. Generally, states are meeting expectations when falling between 91 to 100 percent of a national goal.

Area for State Attention: The state has single or infrequent deficiencies that constitute a minor pattern or problem that does not pose a risk to human health or the environment. Generally, performance requires state attention when the state falls between 85 to 90 percent of a national goal.
Area for State Improvement: Activities, processes, or policies that SRF data and/or file metrics show as major problems requiring EPA oversight. These will generally be significant recurrent issues. However, there may be instances where single or infrequent cases reflect a major problem, particularly in instances where the total number of facilities under consideration is small. Generally, performance requires state improvement when the state falls below 85 percent of a national goal.

Appendix C: File Selection

Files were selected according to a standard protocol using a web-based file selection tool. These were designed to provide consistency and transparency to the process. Based on the description of the file selection process below, states should be able to recreate the results in the table.

Clean Water Act

File Selection Process

Using the OTIS File Selection Tool, 45 Representative Files were selected for review as part of Round 3 of the Florida State Review Framework (SRF) review to be conducted from June 25th through 29th, 2012. As specified in the SRF File Selection Protocol, between 35 and 40 files were to be selected for a state with a universe greater than 1,000 facilities. Since Florida's universe is greater than 1,000; 40 files were selected for the SRF review alone. The Permit Quality Review (PQR)/SRF Integrated File Selection Process calls for additional files to be selected and reviewed as part of the integrated review. Common files that will be reviewed by permits and enforcement staff include files selected for the PQR core review and all files randomly selected from the Regional Special Focus Areas. In order to accommodate the PQR/SRF File Selection Process, a total of 45 files will be selected for the SRF portion of the review.

There were 219 major individual permits, 309 non-major individual permits and 36,011 non-major general permits in the Florida universe of facilities. The targeted number of files to review is 45 as follows: 67 percent (or 30) of the files selected were majors, and 33 percent (or 15) of the files were minors.

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

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

Of the 45 files selected for the SRF review, 12 of the files were those selected for the PQR core review. Additionally, 5 files not already selected for PQR were selected from the Region's Special Focus Areas (i.e., Reasonable Assurance, Phosphate Mining/Fertilizer Plants, Implementing TMDLs in a Priority Watershed).

Additionally, the Florida Department of Environmental Protection has six regulatory District Offices. All six District Offices were represented in the SRF File Selection as follows:
Northwest (Pensacola) – 8; Northeast (Jacksonville) – 14; Central (Orlando) – 8; Southwest (Temple Terrace) – 13; Southeast (West Palm Beach) – 1; South (Fort Myers) – 1.

Note: The number of files selected using the File Selection Tool (45), were in excess of the number of files needed to fulfill SRF file review protocols. A total of 42 files were reviewed during the on-site file review, although 45 files were selected using the File Selection Tool.

File Selection Table

NPDES ID	City	Zip	Permit	Inspection	Violation	SEV	SNC	Informal Enforcement	Formal Enforcement	Penalty	Universe	Selection
FL0038831	ST AUGUSTINE	32084	POT PRE	2	6	0	1	2	0	0	Major	R
FL0002488	CANTONMENT	32533		4	4	0	0	0	0	0	Major	R
FL0021466	AUBURNDALE	33823	BIO POT PRE	3	2	1	0	1	1	6,400	Minor (TMDL)	R
FL0031801	PENSACOLA	32501	POT PRE	0	15	0	0	1	0	0	Major	R
FL0039756	BEVERLY BEACH	32136		1	8	0	1	0	1	200	Minor	R
FL0027731	BONIFAY	32425	POT	0	3	0	1	1	0	0	Major	R
FL0021369	BRADENTON	34206	POT PRE	2	18	0	1	1	0		Major	R
FL0033294	BARTOW	33830		3	2	0	1	0	0	0	Major (Fertilizer)	R
FL0000761	RIVERVIEW			1	YES	0	0	0	0	0	Major (Fertilizer/Phosphate Mining)	R
FL0035921	TAMPA	33316		2	3	3	0	0	0	0	Minor	R
FL0021938	ST. AUGUSTINE	32084	BIO POT PRE	3	4	0	0	2	1	2,000	Major	R
FL0021857	CLEARWATER	33755	BIO POT PRE	4	2	0	0	0	1	41,940	Major	R
FL0034789	DUNEDIN	34698		1	3	0	0	0	1	4,800	Minor	R
FL0040274	MAXVILLE	32091		1	3	0	0	0	1	8,000	Major	R

FL0032166	EAST PALATKA	32131		3	4	0	1	1	1	5,000	Major	R
FL0026611	FLAGLER BEACH	32136	POT	1	15	0	0	1	0	0	Major	R
FL0043834	ORANGE BEACH	32065	POT PRE	1	5	0		1	0	0	Major	R
FL0021270	FORT MYERS	33907	BIO POT PRE	4	5	0	0	0	0	0	Major	R
FL0027278	FORT PIERCE	34948	BIO POT PRE	4	0	0	0	1	0	0	Major	R
FL0001465	LIVE OAK	32060		3	16	0	3	0	1	36,100	Major	R
FL0041637	VERO BEACH	32960		3	1	0	0	0	0	0	Major (TMDL)	R
FL0023663	JACKSONVILLE	32217	POT	1	4	0	0	0	1	16,000	Major	R
FL0026450	JACKSONVILLE	32218	BIO POT PRE	1	8	0	2	1	1	16,800	Major (TMDL)	R
FL0043443	MELBOURNE	32901		1	14	0	4	0	0	0	Minor	R
FL0122904	TAMPA	33619		1	4	3	0	0	0	0	Minor	R
FL0039772	LAKELAND	33803	BIO POT PRE	2	7	0	1	0	0	0	Major	R
FL0186651	TAMPA	33604		4	11	2	0	0	1	0	Minor	R
FL0021440	PENSACOLA	32501	POT PRE	3	2	0	0	1	0	0	Major	R
FL0041122	MELBOURNE	32901		2	0	0	0	0	0	0	Minor	R
FL0113743	MIDDLEBURG	32068		3	5	0	1	0	1	0	Minor	R
FLA183326	ZOLFO SPRINGS	33890	CAF	1	0	0	0	0	0	0	Minor	R
FL0040207	NOMA	32452	POT	4	4	0	0	1	0	0	Minor	R
FL0037966	OVIEDO	32765	BIO POT PRE	4	1	0	1	0	0	0	Major	R
FL0024007	PENSACOLA BEACH	32561	POT PRE	2	2	0	0	1	0	0	Major	R
FL0020206	PORT ST. JOE	32456	BIO POT PRE	2	5	0	1	0	1	0	Major	R
FL0027821	TAMPA	33602	POT PRE	2	6	0	0	0	0	0	Major	R

FL0173371	ORANGE PARK	32073	POT PRE	2	2	0	1	1	1	7,000	Major	R
FL0040495	MACCLENNY	32063	POT	1	1	1	0	1	0	0	Major	R
FL0039951	TELOGIA	32063		1	11	0	0	0	1	0	Minor	R
FL0103268	TITUSVILLE	32796	POT PRE	1	2	2	0	1	1	4,000	Minor	R
FL0042315	HASTINGS	32145	POT	1	1	0	0	1	0	0	Minor	R
FL0001961	BARTOW	33830		2	1	0	0	0	0	0	Major	R
FL0002984	VERO BEACH	32961		1	1	0	0	0	0	0	Major	R
FL0036251	LONGWOOD	32779		1	0	0	0	0	0	0	Major	R

Clean Air Act

File Selection Process

Using the OTIS File Selection Tool, 48 files were selected for review during the June 2012 file review visit. As specified in the SRF File Selection Protocol, since the Florida universe includes over 1000 sources, 35 to 40 files must be reviewed. However, in an effort to ensure a comprehensive review of all state and local programs in Florida, more files were selected than the minimum required. The general process used to identify the files to be reviewed follows:

Representative Files

The file review will focus on Major and Synthetic Minor 80% (SM80) sources with compliance and enforcement activities occurring during the review period (FY11). The initial number of files targeted for review was determined to be 40. Since some supplemental files will be needed, the initial breakdown for representative files will be about 15 files each for both enforcement and compliance monitoring, leaving the remaining files available for supplemental review.

Enforcement files: In order to identify files with enforcement related activity, the facility list was sorted to identify those facilities which had a formal enforcement action during the review period. There were about 54 sources with a formal enforcement action in FY11. To randomly select files, one of every four facilities was selected, yielding 14 "representative" files.

Compliance files: Approximately 490 sources had full compliance evaluations (FCEs) during FY11. In order to identify approximately 15 files, one of every 32 sources with an FCE were selected, yielding 16 files.

Supplemental Files

District & Local Offices: Florida has six district offices that have primary responsibility for conducting compliance and enforcement activities. However, the central office in Tallahassee has agreed to gather selected files from the districts so that the file review can be done in one place. Therefore, the draft Round 3 guidance "Reviewing States with District Offices" will not apply to this review. In addition, there were seven local CAA programs in Florida which conduct compliance and enforcement activities in their jurisdictions. These local programs receive and were accountable for CAA §105 grant funds from EPA. However, DEP maintains a close relationship with and a high degree of

oversight over each of these local programs. Therefore, Region 4 elected to conduct a single statewide review, ensuring that a sufficient number of files were selected from each of the district and local offices. A breakdown of the number of files selected for each district and local office is provided below:

District	Local	Representative	Supplemental	Total
Central	Orange County	1	2	3
	-	2	1	3
Northeast	Duval County	2	1	3
	-	3	0	3
Northwest	-	1	3	4
South	-	3	2	5
Southeast	Broward County	1	2	3
	Dade County	1	2	3
	Palm Beach County	1	2	3
	-	2	1	3
Southwest	Hillsborough County	4	0	4
	Pinellas County	3	0	3
	-	7	1	8
Total		31	17	48

Metrics 3a2: The Data Metrics Analysis (DMA) indicated that 3 of 14 HPV determinations (21%) were entered late into AFS. All three of the late entries were selected either as a representative or supplemental file for review (1200500031, 1202500232, & 1203100072).

Metrics 3b2: The DMA identified 191 stack test results that were entered into AFS more than 120 days after the test. Eight of the sources with late stack test results were identified as either representative or supplemental files for review (1200500014, 1200500031, 1200900069, 1201500028, 1205300021, 1206300014, 1209900234, & 1212300001).

Metrics 3b3: The DMA identified 18 sources with an enforcement-related activity (i.e. a notice of violation (NOV) or administrative order) reported late into AFS. Seven of these sources had already been selected as either representative or supplemental files for review (1203300042, 1204900340, 1205300021, 1209500046, 1210300117, 1210500014, & 1210500113).

Metric 10a: The DMA identified 18 HPVs that were not addressed within 270 days. Six of these sources had already been selected as either representative or supplemental files for review (1200900069, 1204900340, 1205300021, 1205700442, 1210300117, & 1210500432).

File Selection Table

Program ID	City	Zip	FCE	PCE	Violation	Stack Test Failure	Title V Deviation	HPV	Informal Action	Formal Action	Penalty	Universe	Select	Local
1200900069	COCOA	32926	1	1	4	0	1	1	0	1	$0	MAJR	Supplemental	
1200900219	CAPE CANAVERAL	32920	1	3	8	0	0	1	1	1	$1,000	MAJR	Representative	
1200900029	CAPE CANAVERAL	32920	1	1	0	0	1	0	0	0	$0	MAJR	Representative	
1212700164	NEW SMYRNA BEACH	32168	1	1	0	0	0	0	0	0	$0	SM80	Supplemental	
1209500046	ORLANDO	32819	1	5	0	0	0	0	0	1	$3,000	SM80	Representative	Orange
1209500203	ORLANDO	32809	1	0	0	0	0	0	0	0	$0	MAJR	Supplemental	Orange
1209501282	ORLANDO	32808	1	2	2	0	0	0	1	1	$3,500	SM80	Supplemental	Orange
1212300001	PERRY	32348	1	3	0	0	0	0	0	0	$0	MAJR	Representative	
1203100358	BALDWIN	32234	0	2	0	0	0	0	0	1	$28,250	MAJR	Representative	
1200100120	ALACHUA	32615	1	1	0	0	0	0	0	0	$0	SM80	Representative	
1208900003	FERNANDINA BEACH	32034	0	2	1	1	0	2	1	1	$4,250	MAJR	Representative	

1203100533	JACKSONVILLE	32221	1	0	0	0	0	0	0	0	$0	SM80	Supplemental	Duval
1203100004	JACKSONVILLE	32202	0	2	2	0	0	1	1	1	$3,680	MAJR	Supplemental	Duval
1203100072	JACKSONVILLE	32208	0	1	1	0	0	1	1	1	$3,072	MAJR	Representative	Duval
1203300006	PENSACOLA	32505	1	1	1	1	0	1	1	1	$250	MAJR	Supplemental	
1200500031	PANAMA CITY	32404	1	1	4	2	1	1	1	1	$4,000	MAJR	Supplemental	
1206300014	SNEADS	32460	2	1	0	0	0	0	0	0	$0	MAJR	Representative	
1203300042	CANTONMENT	32533	1	3	1	0	0	0	1	1	$3,500	MAJR	Supplemental	
1201500028	PUNTA GORDA	33950	1	1	0	0	0	0	0	0	$0	SM80	Representative	
1202100031	COLLIER COUNTY	34101	1	3	0	0	0	0	0	0	$0	MAJR	Supplemental	
1205500006	SEBRING	33870	1	1	0	0	0	0	0	0	$0	MAJR	Representative	
1205100003	CLEWISTON	33440	1	6	0	0	0	0	0	0	$0	MAJR	Representative	
1201100058	FORT LAUDERDALE	33316	1	1	0	0	0	0	0	0	$0	SM80	Supplemental	Broward
1201102633	POMPANO BEACH	33064	1	2	0	0	0	0	0	0	$0	SM80	Supplemental	Broward
1201102410	FORT LAUDERDALE	33332	1	2	0	0	0	0	0	0	$0	MAJR	Representative	Broward
1208500102	INDIANTOWN	34956	1	7	0	0	0	0	0	0	$0	MAJR	Representative	
1202500232	MIAMI	33136	0	1	2	0	0	1	1	1	$1,250	SM80	Supplemental	
1209900234	WEST PALM BEACH	33412	1	7	5	0	0	1	0	1	$35,710	MAJR	Representative	

1211100081	FT. PIERCE	34981	1	1	1	0	0	1	1	1	$2,000	MAJR	Representative	
1202501152	MIAMI	33054	1	1	0	0	0	0	0	0	$0	MAJR	Supplemental	Dade
1202501133	MIAMI	33142	0	1	0	0	0	0	0	0	$0	SM80	Supplemental	Dade
1202500679	MIAMI	33150	1	1	0	0	0	0	0	0	$0	SM80	Representative	Dade
1209900646	LOXAHATCHEE	33470	0	4	0	0	0	0	0	0	$0	MAJR	Supplemental	Palm Beach
1209900328	SOUTH OF DELRAY BEACH	33445	1	1	0	0	0	0	0	0	$0	SM80	Supplemental	Palm Beach
1209900349	LOXAHATCHEE	33470	1	0	0	0	0	0	0	0	$0	MAJR	Supplemental	Palm Beach
1208100203	PALMETTO	34221	1	2	0	0	0	0	0	0	$0	MAJR	Representative	
1205300021	BROOKSVILLE	34601	0	9	8	1	0	0	1	2	$526,250	MAJR	Supplemental	
1210500432	LAKE WALES	33859	0	1	4	0	0	0	0	1	$17,181	MAJR	Representative	
1210300117	ST. PETERSBURG	33716	0	0	4	0	0	0	0	1	$49,600	MAJR	Representative	
1204900340	BOWLING GREEN	33834	1	5	5	0	0	1	1	2	$35,500	MAJR	Representative	
1211500166	NORTH VENICE	34275	0	2	1	0	0	0	1	1	$4,100	FRMI	Supplemental	Sarasota
1205701240	TAMPA	33605	1	1	0	0	0	0	0	0	$0	SM80	Representative	Hillsborough
1205700442	TAMPA	33605	0	0	2	0	0	0	0	1	$3,341	MAJR	Representative	Hillsborough
1205701287	TAMPA	33607	1	0	0	0	0	0	0	0	$0	SM80	Representative	Hillsborough

1205700089	TAMPA	33607	1	1	1	0	1	0	1	1	$5,308	MAJR	Representative	Hillsborough
1210300060	CLEARWATER	33760	2	1	0	0	0	0	0	0	$0	SM80	Representative	Pinellas
1210300380	CLEARWATER	33762	1	1	0	0	0	0	0	0	$0	SM80	Representative	Pinellas
1210300132	CLEARWATER	33760	0	2	0	0	0	0	1	1	$2,949	SM80	Supplemental	Pinellas

Resource Conservation and Recovery Act

File Selection Process

Using the OTIS File Selection Tool, 40 files were selected for review during the July 2012 file review visit. As outlined in the SRF File Selection Protocol, between 35 and 40 files must be reviewed for states with more than 1000 compliance and enforcement activities during the review period. Florida had 4,679 RCRA activities during FY 2011, and a total of 40 files were selected for review. The general process used to identify the files to be reviewed follows:

A random, representative selection of facilities was completed using the OTIS File Selection Tool. As outlined in the SRF File Selection Protocol, at least half of the facilities selected should have compliance monitoring activity, and if possible, half should have enforcement activity.

Enforcement files: In order to identify files with enforcement related activity, the Florida RCRA FY 2011 facility list was sorted to identify those facilities which had a formal enforcement action during the review period. There were 166 facilities with a formal enforcement action in FY 2011 in Florida. To randomly select files, formal enforcement actions from each Florida District office was selected, yielding 20 "representative" formal enforcement files. A mix of RCRA facility types were also selected (TSD, LQG, SQG, etc.) across the state

Compliance Monitoring files: For the remaining 20 files, the OTIS File Selection Tool was then sorted on the "Informal Action" column and 12 facilities that received informal enforcement action were selected across the six District offices. The remaining eight files were then selected from facilities that had inspections during FY 2011, but did not have any informal or formal enforcement action during that period. In both instances, a mix of RCRA facility types was included in the selection.

There were no supplemental files selected as part of the file review.

File Selection Table

	Facility Name	Program ID	City	State District	Evalu-ation	Viol-ation	SNC	Informal Action	Formal Action	Penalty	Universe
1	AMERICAN ELECTRONICS RECYCLING LLC	FLR000144006	SARASOTA	FLSW	1	5	0	1	1	0	SQG
2	CHEMICAL POLLUTION CONTROL OF FL LLC	FL0000001735	LAKELAND	FLSW	0	0	0	1	1	12,290	CES
3	INSULATOR SEAL INC	FLR000003087	SARASOTA	FLSW	1	2	0	1	1	0	SQG
4	PACE ANALYTICAL SERVICES	FLR000019810	BOCA RATON	FLSE	0	0	0	1	1	8,850	OTH
5	WALTZ INC	FLR000082305	CRESTVIEW	FLNW	1	2	0	1	1	2,800	CES
6	YELLOWFIN YACHTS INC	FLR000119156	SARASOTA	FLSW	0	0	1	1	1	14,338	LQG
7	A A A A BOATS & TIRES	FLR000148205	KEY LARGO	FLSD	0	0	0	0	1	0	NON
8	ABC JUNKYARD INC	FLR000064493	JACKSONVILLE	FLNE	0	0	1	0	1	4,150	CES
9	ASCEND PERFORMANCE MATERIALS	FLD071951966	CANTONMENT	FLNW	2	0	0	0	1	4,210	TSD(LDF)
10	BREVARD ROBOTICS INC	FLR000077693	COCOA	FLCD	1	0	0	0	1	29,364	SQG
11	E-STONE USA CORP	FLR000131607	SEBRING	FLSD	0	0	0	0	1	1,000	SQG
12	EASTERN SHIPBUILDING GROUP INC	FLR000041921	PANAMA CITY	FLNW	0	0	0	0	1	20,136	SQG
13	ECONOMY AUTOMOTIVE	FLR000008029	WEST PALM BEACH	FLSE	0	0	0	0	1	23,600	CES
14	LEWIS ENVIRONMENTAL	FLR000048561	JACKSONVILLE	FLNE	0	0	0	0	1	25,180	CES
15	PAPSCO INC	FLR000046748	MELBOURNE	FLCD	0	0	0	0	1	5,000	OTH

16	PITBULL MOTORSPORTS LTD CO	FLR000137679	ORLANDO	FLCD	0	0	0	0	1	32,156	NON
17	RICK'S EUROPEAN CONNECTION INC	FLD984229310	LARGO	FLSW	0	0	0	0	1	1,500	CES
18	SOUTH BEACH CLEANERS	FL0000936898	JACKSONVILLE BEACH	FLNE	0	0	0	0	1	4,250	CES
19	WALSH HEAVY DUTY TRUCK PARTS INC	FLD984227801	FORT MYERS	FLSD	0	0	1	0	1	8,190	CES
20	WINGS AVIATION SERVICES INC	FLD001673391	MIAMI	FLSE	0	0	0	0	1	44,484	OTH
21	AMERISEAL HIGHWAY STRIPING INC	FLR000054056	ST AUGUSTINE	FLNE	1	4	0	1	0	0	OTH
22	BELAC LLC	FLR000061721	OLDSMAR	FLSW	1	1	0	1	0	0	SQG
23	CEREX ADVANCED FABRICS INC	FLD982104283	CANTONMENT	FLNW	1	1	0	1	0	0	CES
24	CHEMKO TECHNICAL SERVICES INC	FLD982091506	MIMS	FLCD	1	2	0	1	0	0	TSD(LDF)
25	DELTURA COUNTRY CLUB	FLD001323880	NORTH FORT MYERS	FLSD	1	5	0	1	0	0	OTH
26	DERMATOLOGY ASSOCIATES OF TALLAHASSEE PA	FLR000165068	TALLAHASSEE	FLNW	1	3	0	1	0	0	SQG
27	ENVIRONMENTAL REMEDIATION SERVICES	FLD984261412	JACKSONVILLE	FLNE	1	4	0	1	0	0	TRA
28	LOWE'S OF NE GAINESVILLE	FLR000178368	GAINESVILLE	FLNE	1	1	0	1	0	0	CES
29	MOFFITT CANCER CENTER	FLR000138891	TAMPA	FLSW	1	5	0	1	0	0	LQG
30	NAVAL AIR STATION KEY WEST	FL6170022952	KEY WEST	FLSD	1	2	0	1	0	0	TSD(TSF)
31	SEA WORLD OF FLORIDA INC	FLD086466943	ORLANDO	FLCD	1	3	0	1	0	0	SQG

32	SEMINOLE ELECTRIC COOPERATIVE, INC.	FLD000772194	PALATKA	FLNE	1	3	0	1	0	0	LQG
33	ASH TISDELLE MOTORS INC	FLD981753874	ORANGE PARK	FLNE	1	2	0	0	0	0	CES
34	BAY LINE RAILROAD LLC	FLD984229906	PANAMA CITY	FLNW	2	3	0	0	0	0	CES
35	CUMBERLAND FARMS #1035	FLD984225094	WEST PALM BCH	FLSE	1	0	0	0	0	0	OTH
36	DRS RECONNAISSANCE, SURVEILLANCE AND TARGET AQUISTION	FLD982169708	MELBOURNE	FLCD	1	2	0	0	0	0	LQG
37	KIDDIE KANDIDS #76525	FLR000137042	JACKSONVILLE	FLNE	1	0	0	0	0	0	OTH
38	MODEL SCREW PRODUCTS INC	FLD980844773	CLEARWATER	FLSW	2	8	0	0	0	0	CES
39	TISCH COIN LAUNDRY	FLD981859820	BONITA SPRINGS	FLSD	1	1	0	0	0	0	TSD(TSF)
40	UNIVERSAL WATER IND INC	FLD982124745	HIALEAH	FLSE	1	0	0	0	0	0	OTH

Appendix D: Status of Past SRF Recommendations

During the Round 1 SRF review of Florida's compliance and enforcement programs, EPA Region 4 recommended actions to address issues found during the review. The following table contains all completed and outstanding recommendations for Round 1. The statuses in this table were current as of October 31, 2011.

For a complete and up-to-date list of recommendations from Round 1 visit the SRF website.

Round	Status	Due Date	Media	E#	Element	Finding	Recommendation
Round 1	Completed	1/3/12008	CAA	E2	Violations ID'ed Appropriately	Our review of the 36 source files showed six files with one or more of the FCE or CMR elements missing. One file was lacking documentation of all elements .	DEP should develop and implement a plan that ensures all elements of a CMR and FCE are consistently completed and documented in the source files and that credit for a FCE not be shown in AFS until completion of all elements can be documented.
Round 1	Completed	1/31/2008	CAA	E3	Violations ID'ed Timely	Thirty-two of the 36 files reviewed had an inspection report though three were undated.	Finalize revisions to FCE checklist - completed 12/31/2007; Add FCE checklist as evaluative criteria to biennial reviews - completed 12/31/2008; Create online application to train staff on using the FCE checklist - completed 1/31/08
Round 1	Completed	12/31/1007	CAA	E6	Timely & Appropriate Actions	54 HPVs (31.5%) went unaddressed beyond 270 days. This statistic was supported by the file review.	Create and begin distributing monthly HPV case summary - completed June 2007; Petition EPA for creation of multimedia enforcement resolving code - completed 12/31/2007
Round 1	Completed	1/28/2008	CAA	E8	Penalties Collected	For the eight penalties where economic benefit was not addressed, it could not be determined by examining the worksheet whether this component was found not to apply or whether it was not considered.	Revise air penalty guidelines to emphasize economic benefit - completed 11/30/2007; Update penalty calculation spreadsheet to highlight economic benefit - completed 11/30/2007
Round 1	Completed	12/31/2007	CAA	E11	Data Accurate	The data metrics show 36 of 42 HPVs being carried in AFS as in compliance when in fact these 36 HPVs have not been resolved and thus should be depicted in AFS as in non compliance.	Written comments to EPA Region 4 describing HPV resolution process - completed 12/31/2007; Make any necessary changes to HPV resolution procedure, database
Round 1	Completed	1/28/2008	CWA	E1	Inspection Universe	As part of DEP's CWA §106 work plan commitment, Florida is to develop an inspection plan annually that covers inspections at conventional, storm water, and CAFO facilities. The inspection plan was determined to be consistent with EPA guidance.	DEP should input all inspections into PCS per the CWA §106 work plan requirements. Current data entry process should be evaluated for possible improvements to ensure timely data entry of inspections.

Round 1	Completed	1/28/2008	CWA	E2	Violations ID'ed Appropriately	The files reviewed did not contain documentation that SNC review was performed, when applicable. The quality of inspection reports varied from well documented inspection findings with supporting photographic evidence to very brief with little to no description. Specific areas observed, condition of the facility, specific records reviewed, etc. could not clearly be determined if the inspection report cover sheet was not accompanied with a detailed narrative and/or photos.	Inspection reports receiving noncompliance ratings, necessitating further review of the SNC criteria, should all be accompanied with documentation that such additional review was performed and that the review supports a SNC determination.
Round 1	Completed	1/28/2008	CWA	E3	Violations ID'ed Timely	Eighty-five per cent (39 out of 46 inspection reports reviewed) of inspections reports reviewed were completed and delivered/forwarded to the permittee in a timely manner, within 30 days from the date of the inspection. Timely issuance of one inspection report could not be determined due to the final signed and dated CEI cover letter not found.	DEP should consider including guidance on inspection report content and issuance time frame in its next revision of the EMS. This would help ensure that inspection findings are well documented with appropriate supporting material referenced as well as the timely issuance of the inspection reports.
Round 1	Completed	1/28/2008	CWA	E4	SNC Accuracy	The current EMS does not address changes in the rules/regulations such as those dealing with storm water, MS4, and concentrated animal feeding operation, and changes in SNC definitions.	Florida should review and update its EMS and submit the EMS to EPA in accordance with the CWA §106 work plan. The enforcement escalation requirement, in addition to the circumstances mentioned in the EMS, should allow for facilities that would become SNC or were in SNC to be fast tracked to a formal enforcement action instead of the current process where WL is issued followed then by formal enforcement action consideration.
Round 1	Completed	1/28/2008	CWA	E6	Timely & Appropriate Actions	Florida is above the 2% threshold, set by national guidance, for SNC facilities that were beyond required enforcement timeliness milestones, reported at 6%, but is below the national average of 8.6%. 43% (three out of seven) of the enforcement actions at major facilities reviewed were determined not to be issued timely (beyond 180 days from the date the facility was determined to be out of compliance). A total of 24 enforcement actions were reviewed (eleven informal and 13 formal enforcement actions). Two storm water files reviewed demonstrated DEP did not respond timely to violations discovered.	DEP should evaluate its enforcement response policies to determine ways to ensure that the state enforcement action response is timely, striving to maintain the less than two percent national goal for major facilities without timely action. The ERG/EMS should be amended to incorporate processes that address identified areas of improvement. Florida should better utilize their county partners' inspection resources in targeting unpermitted facilities for enforcement and/or compliance assistance. County inspection reports submitted to DEP should all be reviewed and inspection findings evaluated in order to more timely address violations.
Round 1	Completed	1/28/2008	CWA	E9	Grant Commitments	DEP met or exceeded most requirements of their NPDES compliance and enforcement FY 2006 CWA §106 work plan with the exception of data management requirements. No storm water enforcement information has been entered into PCS (see Element 8). It is noted that all storm water formal and informal actions and penalty only actions were submitted quarterly to EPA, but were not identified in PCS.	DEP should ensure that all negotiated grant work plan commitments are met.
Round 1	Completed	1/28/2008	CWA	E7,8	Penalty Calculations, Penalties Collected	The storm water program utilizes a penalty guideline for characterizing NPDES violations. A penalty assessment matrix is used which considers degree of violation and potential for harm. Adjustment factors that may increase or decrease the penalty amount include: good or bad faith efforts, History of	An assessment of economic benefit or potential economic benefit derived should always be performed and documented. Every reasonable effort must be made to calculate and recover economic benefit and gravity. If such assessment is not feasible or is not applicable, a notation in the file should be made with an explanation. If exceptions to the calculated penalties are made, then a detailed explanation should follow documenting the cause for

						noncompliance, Economic benefit of noncompliance, Ability to pay, Merits of the case and Resource consideration Although included as one of the adjustment factors, consideration of economic benefit as a component of the penalty assessment for storm water was not clear and could not be determined during the file review.	such deviations (e.g. waiving penalties, inability to pay evaluation, etc.). All supporting documentation demonstrating penalty derivation, specifically addressing gravity and economic benefit, should be retained and made available for review by EPA.
Round 1	Completed	1/28/2008	CWA	E10	Data Timely	Additional minimum data requiring PCS data entry per the CWA §106 work plan reporting schedule include all formal and informal enforcement actions to be entered within 30 days of issuance, assessed and collected penalty amounts to be entered within 30 days of issuance, and inspection data to be entered within 15 days of completion of inspection report, but no later than 90 days from the date of the inspection. The file review discovered that penalty information, formal and informal enforcement actions and inspection documentation were found to be in the facility file but not entered into PCS consistently (see Element 9).	Florida should enter all required minimum data in PCS in a timely manner for inspections, enforcement action, permit limits, penalty information and/or DMR data per the negotiated CWA Section 106 work plan reporting schedule.
Round 1	Completed	1/18/2008	CWA	E11	Data Accurate	The SRF data metrics noted major facilities having correctly coded limits (current) for Florida is at par with the national average of 91%, yet still below the national goal of at or above 95%. The data metric findings were supported by the file review process. The file review discovered several informal and formal enforcement actions as well as numerous inspection reports (including two MS4 audits) were not entered into PCS (see Elements nine and ten). This is both a data accuracy and completeness concern. No storm water enforcement information has been entered into PCS (see Element 8). It is noted that all storm water formal and informal actions and penalty only actions were submitted quarterly to EPA, but no data is available in PCS.	DEP should strive to achieve the national goal of 95% for data quality with respect to DMR and parameter measurement coding into PCS. Data entry procedures should be developed that account for regular QA/QC of data entered into PCS. Florida should re-evaluate and revise, as necessary, current protocols to ensure limits are coded correctly. Pending results of the review, DEP should develop a plan/schedule to implement actions to improve the timeliness of data entry limits for majors.
Round 1	Completed	1/28/20908	CWA	E12	Data Complete	During the file review, nine informal and seven formal enforcement actions were found to be in the facility file but not accounted for in PCS; ten inspection (including two MS4 audits) were found not to be entered into PCS; no storm water enforcement was found in PCS; and no SEVs were reported in PCS.	DEP should institute procedures that assure that all information that should be entered into PCS is routed to data entry staff. Periodic data pulls should be performed from the state database and PCS for all minimum data required, and reconcile any differences found.
Round 1	Completed	1/28/2008	RCRA	E7	Penalty Calculations	Of the twenty enforcement files reviewed, DEP had calculated and documented a penalty in eight cases (40%) that addressed both the gravity component and economic benefit, where appropriate. An additional eleven cases (55%) had penalty calculations that contained a gravity component, but did not include economic benefit calculations. One case did not have any penalty calculation documentation in the file,	DEP should document the consideration of the economic benefit of noncompliance in each enforcement action. The documentation should take place even in cases where no economic benefit was realized by the facility. DEP revised both their procedures and prices for calculating/documenting economic benefit calculations in penalty calculations. This was submitted to EPA in September 2007.

						although the penalty was recorded in RCRAInfo. DEP asserted that they consider the economic benefit from noncompliance in each penalty calculation. However the consideration was not always stated in the penalty documentation.	
Round 1	Completed	1/28/2008	RCRA	E8	Penalties Collected	As mentioned in Element 7 above, 55% of the final enforcement actions had penalty calculations that contained a gravity component, but did not include economic benefit calculations. One case did not have any penalty calculation documentation in the file; although the penalty was recorded in RCRAInfo DEP considers the economic benefit from noncompliance in each penalty calculation. However the consideration was not always stated in the penalty documentation.	DEP should document the consideration of the economic benefit of noncompliance in each enforcement action. The documentation should take place even in cases where no economic benefit was realized by the facility. DEP revised both their procedures and prices for calculating/documenting economic benefit calculations in penalty calculations. This was submitted to EPA in September 2007.
Round 1	Completed	1/28/2008	RCRA	E9	Grant Commitments	69% of the Comprehensive Groundwater Monitoring Evaluations (CMEs) and groundwater Operation and Maintenance (OAM) inspections were completed and 87% of planned inspections at LDFs were completed. The End-of-Year report did not refer to the specific reason for the shortfall. In FY 2006, there was no specific OECA NPM Guidance requirement for the frequency of CMEs/OAMs at LDFs.	It is recommended that the grant work plan be updated annually to reflect any changes in guidance/policy for that fiscal year.
Round 1	Non Completed in Round 1	9/30/2011	RCRA	E11	Data Accurate	According to the data metric, in FL there were 17 facilities that were in violation for greater than three years. The data metrics did not indicate that SNC determinations were being withheld from entry into RCRAInfo until enforcement actions were complete. There were, however, a significant number of Secondary Violators that appear to have longstanding violations without being re-designated as SNC facilities.	It is recommended that DEP review the SV facilities and determine if the appropriate next steps are in accordance with the RCRA Enforcement Response Policy. DEP should share the results of their review and analysis with the Region.

Appendix E: Program Overview

The information in this section, including agency structure, resources, roles and responsibilities, staffing and training, data reporting systems and architecture and state priorities and accomplishments was provided by Florida DEP and was not verified by EPA for the SRF report.

Agency Structure

The Florida Department of Environmental Protection (DEP) is the lead agency in state government for environmental protection and public land management. Florida's environmental priorities include restoring America's Everglades, restoring and protecting the water quality in our springs, lakes, rivers and coastal waters and providing citizens and visitors with recreational opportunities.

DEP is divided into three primary areas: Regulatory Programs; Land and Recreation; and Water Policy and Ecosystem Restoration. Regulatory Programs include permitting, compliance and enforcement activities. Land and Recreation Programs provide for acquiring and protecting lands for preservation and recreation – including Florida State Parks – and managing coastal resources. Water Policy and Ecosystem Restoration coordinates water policy across the state's five water management districts and support the state's regulatory and restoration goals in the Everglades.

DEP's regulatory responsibilities include administering Florida's air pollution control programs to best protect human health; protecting and restoring water quality; managing solid and hazardous waste and cleanups; overseeing beach restoration; ensuring statewide compliance with DEP rules; and reviewing applications for power plants, transmission lines and natural gas pipelines.

These regulatory responsibilities are carried out by DEP's four regulatory divisions and six district offices:

- Division of Air Resource Management
- Division of Water Resource Management
- Division of Waste Management
- Division of Environmental Assessment and Restoration
- Northwest District
- Northeast District
- Central District
- Southwest District
- South District
- Southeast District

Compliance and Enforcement Program Structure

DEP's longstanding policy has been to promote compliance with the law, first and foremost, to prevent environmental harm. DEP promotes compliance by developing sound rules with public input, writing clear and enforceable permits, providing technical assistance and public education.

DEP also promotes compliance through enforcement. In all cases, ensuring that the violator fixes the problem and comes back into compliance is the first objective.

Compliance rates across DEP's regulatory programs are generally 90 percent or higher, and we continually evaluate them by conducting thousands of on-site inspections and reviewing hundreds of thousands of air and water quality data results every year. DEP is committed to finding the most effective resolution to each violation, with the specific objective of preventing the next violation. Beyond penalties and other traditional enforcement actions, DEP continues to improve its use of innovative approaches, cutting-edge technologies, and targeted activities to reduce environmental harm and human health risk.

DEP's four regulatory divisions are located in Tallahassee, with the six district offices performing DEP's duties at the local level. These offices include the Northwest District (Pensacola), Northeast District (Jacksonville), Central District (Orlando), Southwest District (Tampa), South District (Fort Myers) and Southeast District (West Palm Beach). The six district offices perform compliance and enforcement inspections of assigned facilities within their geographic region.

Roles and Responsibilities

For the most part, compliance and enforcement is separated by media programs and is led by the permitting entity (regulatory district, division or delegated local program). DEP does not interact with Florida's Attorney General on compliance matters; the Attorney General's Office is rarely involved in enforcement cases.

Local Agencies Included and Excluded From Review

Air

All of the following local air program agencies were included in the review for the State Review Framework. EPA's criteria for reviewing the local air programs were the same criteria used for reviewing the Districts.

- **Broward County -** Environmental Protection and Growth Management Department (EPGMD)
- **Orange County -** Environmental Protection Division
- **Miami-Dade County -** Miami-Dade County Permitting, Environment and Regulatory Affairs
- **Palm Beach County -** Palm Beach County Health Department
- **City of Jacksonville/Duval County -** Environmental Quality Division
- **Pinellas County -** Department of Environmental Management
- **Hillsborough County -** Environmental Protection Commission
- **Sarasota County -** Sarasota County ESBC Air Quality/ Storage Tank Management

Water

Florida has not delegated our NPDES authority to any local programs.

Hazardous Waste
Florida has not delegated this authority to any local programs.

Resources

Air: 329.9 FTE

- 80 FTE: Division of Air Resource Management (Tallahassee)
- 14.5 FTE: Northwest District Office
- 17.5 FTE: Northeast District Office
- 15 FTE: Central District Office
- 22 FTE: Southwest District Office
- 13.25 FTE: Southeast District Office
- 11 FTE: South District Office
- 23 FTE: Broward County Local Program
- 22.75 FTE Hillsborough County Local Program
- 28 FTE: Miami-Dade County Local Program
- 28 FTE: Duval County Local Program
- 14 FTE: Orange County Local Program
- 16 FTE: Palm Beach County Local Program
- 20 FTE: Pinellas County Local Program
- 4.9 FTE: Sarasota County Local Program

Water: 392 FTE

- 260 FTE: Division of Water Resource Management (Tallahassee)
- 23 FTE: (8 permitting; 15 C/E) Northwest District Office (Pensacola)
- 17.5 FTE: (8 permitting; 9.5 C/E) Northeast District Office (Jacksonville)
- 23 FTE: (12 permitting; 11 C/E) Central District Office (Orlando)
- 32 FTE: (13 permitting; 19 C/E) Southwest District Office (Tampa)
- 18.5 FTE: (7.5 permitting; 11 C/E) Southeast District Office (West Palm Beach)
- 18 FTE: (6.5 permitting; 11.5 C/E) South District Office (Fort Myers)

Hazardous Waste: 58.15 FTE

- 22.20 FTE: Division of Waste Management (Tallahassee)
- 5.45 FTE: Northwest District Office
- 6.80 FTE: Northeast District Office
- 5.60 FTE: Central District Office
- 6.65 FTE: Southwest District Office
- 4.00 FTE: South District Office
- 7.40 FTE: Southeast District Office

DEP has 13 attorneys that handle enforcement cases:

- 1 FTE: Air
- 6 FTE: Water

- 6 FTE: Hazardous Waste

DEP does not have any resource constraints that present major obstacles to implementing the Clean Air Act, Clean Water Act or Resource Conservation and Recovery Act.

Staffing and Training

DEP's regulatory programs have not been and do not expect to be impacted by vacancies in the near future. DEP advertises all positions they are looking to fill through Florida's online personnel system – People First – to ensure the most qualified candidate is selected. Each regulatory division and district has developed plans for technical and professional development training for their staff.

Data Reporting Systems and Architecture

Air
Minimum Data Requirements (MDR) data is entered into DEP's Air Resource Management System (ARMS) by District and Local Program offices. District and Local staff pull up the facility and enter the relevant MDR data into ARMS. Compliance information is then batch uploaded to AFS by DEP in Tallahassee. Violation data is manually entered into AFS by DEP staff. Violation data needs to be manually entered because the violation must be linked to a compliance activity. There is not a method for DEP to link a violation to a compliance activity in AFS, in batch form. The batch uploading of high-priority violations (HPV), federally reportable violations (FRV), air program, pollutant, and violation types is also currently not possible.

Water
DEP uses its Wastewater Facility Regulation (WAFR) database to manage NPDES permit data. For most data families that DEP enters into ICIS-NPDES, some or all of the data is transferred from WAFR to ICIS-NPDES via Extensible Markup Language (XML) files submitted through the EPA's Central Data Exchange (CDX) website. Discharge Monitoring Report (DMR) data is primarily entered into the electronic DMR (eDMR) system. All NPDES DMR data that is entered into eDMR is transferred from eDMR to ICIS-NPDES via XML files submitted through the CDX website. While data is still entered manually into ICIS-NPDES as needed, most data is transferred via these batch flows. Florida has helped test many of these batch flows as a pilot test state and has participated in the ICIS-NPDES Integrated Project Team.

WAFR is an Oracle-based application. eDMR is a .NET-based web application that uses an Oracle database. Version 3 of Florida's eDMR system has been in full production since January 2012. Currently, more than 450 facilities have signed up to use eDMR.

Hazardous Waste
Florida's RCRA permitting data is directly data entered into RCRA data system (RCRAInfo).

The rest of Florida's RCRA minimum data requirements (MDRs) for RCRAInfo are collected through four Oracle databases: FIESTA, SWIFT, LCT, and CHAZ. Facility location and contact information is collected in FIESTA from direct data entry and data transfer from SWIFT (for field collected new facilities). Facility status and registered activities data is collected in CHAZ from direct data entry and data transfer from SWIFT (for field collected data). Facility Compliance, Monitoring, and Enforcement activities are collected in SWIFT. Enforcement Penalties and Payments amounts are collected in LCT.

On a monthly basis, EPA Handler (HD) data is translated into RCRAInfo through a flat file transfer directly into RCRAInfo of a set of text-only flat files created by a SQLPlus script that collects data from daily refreshed copies of FIESTA and CHAZ, along with some intermediate tables that convert the native data structures into formats that better match the flat file requirements. EPA Compliance, Monitoring, and Enforcement (CME) activities data is translated into RCRAInfo through a flat file transfer directly into RCRAInfo from tables created by a weekly refreshed data pull of SWIFT and LCT data that converts the native data structures into formats that better match the flat file requirements. Changes to DEP's data systems must be assessed to determine how they affect the translation, but generally speaking, the changes can usually be translated if the basic information collection structure is not significantly changed.

Major State Priorities and Accomplishments

Air

One of DEP’s main priorities is to maintain Florida’s high compliance rate for its air facilities. This is done by emphasizing compliance assistance and using DEP resources to assist facilities with staying in compliance. Florida also focuses inspection efforts on facilities that have a history of noncompliance, to ensure future compliance and to prevent environmental harm before it occurs.

DEP’s enforcement focus is on achieving the best possible environmental result and to resolve enforcement in a consistent and timely manner. Consistency is achieved by the utilization of a peer review process, whereby District offices provide an enforcement recommendation to its District Director and to the Division of Air Resource Management. The Division reviews the recommendation and provides its own comments on the proposed enforcement action.

The timely resolution of enforcement cases is achieved by monitoring the resolution times across the state. DEP runs reports to assess how long enforcement matters are being resolved, from the date discovered to date resolved. This information is relayed to District and Local offices. The Division also provides Districts and Locals with monthly summaries of open violations.

Florida attains the best possible environmental result in resolving enforcement matters by working with the facility to understand the cause of noncompliance and the best way to prevent it in the future. DEP also places its focus on environmental results, not the amount of penalties received. The environment is often bettered by the installation of new control technologies, the implementation of pollution prevention projects, and the modification of management practices, rather than the accumulation of penalties in state bank accounts.

The Division's priorities are based on direction from DEP leadership, which is shaped by the Governor's 7-7-7 Plan and the Florida Strategic Plan for Economic Development.

Water

A key priority for DEP is getting Florida's water right. Florida is defined by our waterways – the ocean, gulf, rivers, lakes and springs. And getting the water right in Florida is crucial to the future of our state's ecology and economy. This means improving the quality of our water, ensuring that we have an adequate water supply and balancing those needs so that our livelihood and our way of life remain protected.

Hazardous Waste

DEP directed compliance-monitoring activities toward those handlers presenting the greatest degree of environmental risk to groundwater and drinking water. DEP took enforcement actions to abate situations presenting imminent and substantial endangerment to public health and the environment. DEP required corrective measures at facilities with prior or continuing releases to the environment.

Compliance monitoring activities at all large quantity generators were based on environmental risk factors including quantity and acuteness of waste generated, as calculated using Biennial Reporting data, and proximity to population centers and environmentally sensitive areas using GIS tools and analysis.

In general, DEP directs inspections and follow-up enforcement actions to the critical areas of groundwater monitoring, closure, post-closure, corrective action and financial responsibility requirements. Other factors for targeting facilities for inspections include: never inspected generators; facilities that are significant non-compliers; facilities that are the subject of citizen complaints; non-notifier facilities that are believed to be generating hazardous waste; persons that generate, transport, treat, store, or dispose of significant quantities of hazardous waste in proximity to population centers or environmentally sensitive areas; and recalcitrant or repeat violators.

In addition, DEP targeted at a minimum, 100 onsite compliance assistance visits for small businesses in Florida that did not have a recent DEP inspection.

Accomplishments

1. Compliance Assistance Initiatives

DEP's primary regulatory objective is compliance with Florida's environmental laws. As such, compliance assistance must be integral and fundamental to our work. This year, DEP's regulatory programs have expanded their outreach, education and technical assistance efforts to help our constituents avoid violations. By reaching out to local small business organizations, trade groups, homeowners associations, contractors, local governments, and similar groups to arrange regular and continuing educational meetings, DEP has been able to improve compliance and environmental stewardship by gaining trust and increasing responsiveness to our citizens and businesses.

Examples of DEP's compliance assistance initiatives include:

- **Wastewater Operator Training**: DEP's Northeast District is proactively addressing wastewater non-compliance issues industry-wide by providing training for operators. This training has helped increase the regulatory knowledge of plant operators, which has decreased the rate of facilities in non-compliance.
- **Business Support Project:** DEP's South District is focusing on encouraging and enhancing partnerships with the regulated community and creating a climate favorable for business development through their Business Support Project. Within three days of receiving a permit application, staff contacts the applicant to discuss their project. Within 30 days, staff will visit with the applicant. These activities help DEP work with applicants to understand their goals to achieve a quicker resolution. The Business Support Project has also helped DEP achieve increased compliance through better communication and partnership development with the regulated community.
- **Industry Workshops:** DEP's Regulatory Programs have increased the compliance assistance offered to specific industry groups by hosting workshops and webinars. These outreach initiatives focus on the most common compliance issues within a targeted industry (e.g., dry cleaners, asphalt plants, marine contractors, etc.) and are an educational opportunity for business owners and facility operators to better understand DEP's rules and permit requirements.

As a result of sharing these ideas across regulatory districts, the Wastewater Operator Training and various industry workshops are now statewide initiatives. The Business Support Project will soon be conducted statewide.

2. Reduction of Permit Application Time-in-House

In 2011, DEP reduced the average time in house for permit applications by 20 percent over the previous year, and we are targeting an additional 20 percent reduction in 2012. This reduction was not at the expense of our environmental standards, but instead through better communication with applicants, more pre-application meetings, and a policy that requires all permit processors to contact the applicant within three days of receipt of a permit application.

3. Environmental Stewardship Dashboard Monitors Performance

DEP developed Phase 1 of our Environmental Steward Dashboard, which serves as a convenient means of reporting statistical data on regulatory activities as well as assessing our agency performance.

The dashboard provides a mechanism for knowing what environmental programs and actions work, and how well they work, to assure cleaner air and water, higher recycling and reuse rates, more enjoyable parks and trails, and an enhanced economy and quality of life in Florida.

4. Air Program Accomplishments

- Florida's focus on compliance assistance and targeting of high-risk facilities has resulted in a 98 percent compliance rate for all air facilities.
- Florida has exceeded EPA-mandated Title V and synthetic non-Title V inspection schedules, and has reported more HPV than the average amount reported by Region 4 states.

- By focusing on environmental results in enforcement matters, DEP has seen the installation of activate carbon injection to control mercury at a municipal waste combustor, the installation of alarms to alert staff to the "off status" of flares and control technologies at landfill and a paper products facility, and the improvement of management practices to ensure high combustion at the a municipal waste combustor.

5. Water Accomplishments

- Florida has eliminated surface water discharges such that less than 10 percent of all domestic wastewater treatment facilities in the state discharge to surface waters and more than 25 percent of the remaining surface water discharges provide full advanced wastewater treatment.
- Florida is a national leader in controlling nonpoint sources of pollution. Florida has implemented a wide variety of programs with enforceable requirements to minimize and reduce nutrient contributions from nonpoint sources. This includes having state laws, rules and policies that require the implementation of Best Management Practices to reduce nutrient loads from nonpoint sources of pollution. This effort has also included land acquisition programs, programs designed to manage urban development, storm water treatment and wetland protection programs and septic tank regulations.
- DEP supports a nationally renowned reclaimed water program promoting the reuse of highly treated wastewater for irrigation, groundwater recharge, architectural uses and natural systems.
- Approximately 62 percent of Florida's wastewater treatment capacity is devoted to reuse and about 42 percent of the wastewater is productively reused every day, which is by far the highest in the nation.

6. Hazardous Waste Accomplishments

- The number of Small Quantity Generators (SQGs) in Florida declined significantly (-2,415), while Conditionally Exempt Small Quantity Generators (CESQGs) increased by a smaller amount (+463). The increase in number of CESQGs and decrease in number of SQGs can be attributed to continued compliance assistance outreach to small businesses and documentation of notified SQGs that are actually generating CESQG waste amounts or are not generating hazardous waste.
- DEP exceeded its overall federal Fiscal Year 2011 Work Plan inspection goal (799) by conducting 1,654 EPA counted inspection activities. DEP also exceeded the goal (100) for compliance assistance site visits by conducting 129.
- DEP continued to provide compliance assistance outreach to Auto Dismantlers and Recyclers through the DEP Compliance Assistance Program. This includes an informational web site, a compliance assistance self-audit workbook and self-audit checklist. For the SC3 – School Chemical Cleanout Campaign, DEP developed a step-by-step "walk-through' instructional chemical management and inventory video training to assist teachers and other school staff.
- Sections 403.7225 and 403.7234, Florida Statutes, established the Small Quantity Generator (SQG) Assessment, Notification, and Verification Program. The goals of the SQG Program are for local governments to inform SQGs of their legal responsibilities in properly managing their hazardous wastes, to protect public health and the environment, and to update the original information submitted to DEP in each county's hazardous waste assessment as required in section 403.7225, Florida Statutes. For the state's 2011 Fiscal Year,

approximately 113,000 small businesses were reported in the county assessment rolls as potential or active small quantity generators of hazardous waste (<1,000 kg/mo). These businesses were notified by mail or through renewal of their occupational or business license of their waste management responsibilities. They were also provided options to properly manage their wastes. County and Regional Planning Council SQG program coordinators, through mostly on-site visits, verified approximately 24,200 businesses on the assessment roll. Additional educational and pollution prevention assistance in the form of fact sheets and consultation were provided to small businesses during these site visits.

- Each year DEP provides annual hazardous waste and site safety training to local governments responsible for conducting the SQG and Household Hazardous Waste Programs. Several counties have, through contractual arrangements with DEP, implemented the Enhanced Small Quantity Generator (ESQG) program that supplements DEP's efforts to improve the SQG compliance with RCRA. The ESQG program provides enhanced communication and coordination with the districts; conducting compliance assistance visits to a select number of SQGs; reviewing waste management practices; identifying and correcting minor compliance violations; notifying them of the RCRA regulations and responsibilities; and providing them with technical assistance.

7. Pollution Prevention Programs

DEP's Clean Marina Program is a voluntary pollution prevention program consisting of the following programs: Clean Marina, Clean Boatyard, Clean Retailer, Clean Boater, and Clean Vessel Act.

- **Clean Marina Program:** The Clean Marina Program provides boater and marine facility education and technical assistance and compliance assistance workshops. Outreach to marinas includes onsite technical assistance to marine facility personnel by DEP and the Clean Boating Partnership guiding them towards Clean Marina designation status. The intended result is a cleaner and safer waterway environment to sustain ecotourism for Florida as well as profitable marine facility operations.
    - Clean Marina designations:
        - 266 Clean Marinas
        - 39 Clean Boatyards
        - 17 Clean Retailers
    - Compliance Assistance Workshops were held for marinas, boatyards and retailers to assist them with marina permitting, compliance with regulations, Clean Marina designation and Clean Vessel Act grants.
    - Compliance monitoring is accomplished through the Clean Marina renewal process. Each year, marinas that have been designated as clean must renew yearly by completing a renewal form and communicating to the program manager of any inspections, compliance issues and enforcement. The program staff performs an in-house compliance check on each marina yearly. An onsite visit is conducted every five years following designation as a clean facility to re-verify that program criteria is still being met.

- **Clean Vessel Act Program:** Through funding from the US Fish and Wildlife Service's Sport Fish Restoration Program, the Florida Clean Vessel Act Program provides funding for the

purchase and operation of pumpout equipment. The goal of the Clean Vessel Act Program is to prevent water pollution from boat sewage discharge by constructing accessible, convenient pumpout and waste reception stations and educating boaters and marina staff on proper boat sewage disposal in the coastal and inland areas of Florida. This goal is met by encouraging marinas to install pumpout facilities and by encouraging boaters to use those facilities thus increasing the need for those services. To date, 481 pumpouts have been installed and 13,828,596 gallons has been pumped and disposed of appropriately.

- **Clean Boater Program:** The Clean Boater Program provides outreach to boaters who are given the opportunity to sign the Clean Boating pledge. The outreach strategies are to encourage marine and freshwater facilities and boaters to adopt practices that eliminate or reduce pollution. To date, more than 26,000 boaters have signed the pledge.

Appendix F: SRF Correspondence

Kick-off letter

May 23, 2012

Mr. Herschel T. Vinyard, Jr.
Secretary
Florida Department of Environmental Protection
3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000

Dear Mr. Vinyard:

As discussed briefly at the State Commissioners meeting in Atlanta May 2-3, 2012, EPA Region 4 will be initiating a review of the enforcement and compliance programs of the Florida Department of Environmental Protection (FDEP) during this fiscal year. This review will be conducted using the Round 3 State Review Framework (SRF) protocol, and will consist of a review of FDEP's Clean Air Act (CAA) Stationary Source program, Resource Conservation and Recovery Act (RCRA) Subtitle C program and an integrated review of the Clean Water Act (CWA) National Pollutant Discharge Elimination System (NDPDES) program, which will include an NPDES Permit Quality Review (PQR) along with the Round 3 CWA SRF. The SRF and NPDES PQR will be conducted by regional staff and will be based on inspection and enforcement activities from federal fiscal year 2011 and from permitting actions taken during federal fiscal year 2010 and 2011.

While discussions are beginning between our staff and yours regarding logistics and scheduling, we thought it would be useful for us to provide additional background and context for the upcoming review.

SRF Background

The SRF is a continuation of a national effort that allows EPA to ensure that State agencies meet agreed-upon minimum performance levels in providing environmental and public health protection. The SRF looks at twelve 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). The review is conducted in three phases: analyzing information from the national data systems, reviewing a limited set of state files, and the development of findings and recommendations.

Florida's CAA, RCRA and CWA NPDES enforcement and compliance programs were reviewed under the SRF protocol in 2006. A copy of the final report can be found on the SRF website at: http://www.epa.gov/compliance/resources/reports/srf/srf-rd1-rev-fl.pdf

Permit Quality Review and the Integrated Review Background

EPA reviews state NPDES programs every four years as part of the PQR process. The PQR assesses the State's implementation of the requirements of the NPDES program as reflected in the permit and other supporting documents (e.g., fact sheet, calculations, etc.).

As part of the Clean Water Act Action Plan, the Office of Water (OW) and the Office of Enforcement and Compliance Assurance (OECA) have developed a process to integrate oversight of state NPDES permitting and enforcement programs by integrating the SRF and the PQR at the regional level. In FY2011, a workgroup was formed to revise the PQR process, and develop guidance for implementation of these reviews. The revised PQR process will continue to assess how well states implement NPDES program requirements as reflected in permits and other supporting documents, and shifts responsibility for conducting reviews from EPA Headquarters to the regional offices. This integrated approach will also provide a better appreciation of the work and challenges of a state NPDES program, reduce the burden on states through having a coordinated visit and report, and allow increased transparency by making the PQR and SRF results publically available on EPA's website.

For your information, a review of Florida's NPDES program was conducted in 2005. A copy of the profile can be accessed at: http://www.epa.gov/npdes/pubs/florida_final_profile.pdf.

Overview of the Process for Reviews

Staff from the Region's Office of Environmental Accountability (OEA) and the Water Protection Division, accompanied by EPA Headquarters staff and contractor support, will be conducting the SRF/PQR integrated review. As mentioned previously the SRF will also include a review of the State's CAA and RCRA programs. An integral part of the integrated review process is the visit to state agencies. State visits for this review will include:

- Discussions between Region 4 and FDEP program managers and staff
- Examination of data in EPA and FDEP data systems
- Review of selected permitting, inspection and enforcement files and policies

The EPA Region 4 SRF coordinator for the review is Becky Hendrix and she can be reached at (404) 562-8342 and by email at hendrix.becky@epa.gov. The contact for the PQR is Virginia Buff who can be reached at (404)562-9262 and by email at buff.virginia@epa.gov. To facilitate the on-site file and permit review and to ensure that we maintain effective and open communication between our offices, we are requesting your designation of a central point of contact at FDEP for the SRF/PQR process and providing the name and contact information to Becky Hendrix.

Following our visit to your offices, Region 4 will summarize findings and recommendations in a draft report. Your management and staff will be provided an opportunity to review the draft report and provide a response to the findings, which will be incorporated in the final report.

Region 4 and FDEP are partners in carrying out the review. If any areas for improvement are identified, we will work with you to address them in the most constructive manner possible. As we discussed at the State Commissioners meeting, we are committed to conducting these reviews as efficiently as possible and we will work with your staff to ensure this is accomplished.

Next Steps

In early June we will provide the FDEP point of contact with an analysis of the CWA, CAA and RCRA Data Metrics that will be used for the review, along with a list of selected facility enforcement files to be reviewed. Concurrently, the Regional PQR coordinator will provide a list of permits to be reviewed. We will work with your staff to arrange a convenient time for our on-site file reviews.

Should you have questions or wish to discuss this matter in greater detail, please feel free to contact either of us through Scott Gordon, Associate Director of OEA, at (404) 562-9741.

Sincerely,

/s/	/s/
Mary J. Wilkes Regional Counsel and Director of the Office of Environmental Accountability	James D. Giattina Director Water Protection Division

cc: Jeff Littlejohn

Transmittal of DMA and file selections

FL SRF Review - Next Steps

Kelly Sisario to: jeff.littlejohn

Cc: Scott Gordon, Becky Hendrix

From: Kelly Sisario/R4/USEPA/US

To: jeff.littlejohn@dep.state.fl.us

Cc: Scott Gordon/R4/USEPA/US@EPA, Becky Hendrix/R4/USEPA/US@EPA

Jeff, this is a follow-up to our communication to you of May 23, and includes the File Selections and the Data Metric Analysis for the SRF review of FDEP's CAA, CWA and RCRA programs. I'm providing this information to you as the FDEP SRF Point of Contact. As we move forward with the review, there will be more documents and communications, so if there is someone else that you would like to designate as the Point of Contact, just let me know. The documents below have already been provided separately to FDEP program managers who are working with our staff on the reviews.

After reviewing this information, if there are additional circumstances that the region should consider during the review, please have your staff provide that information to Becky Hendrix prior to the on-site file reviews. She can be reached at 404 562-8342 or hendrix.becky@epa.gov

RCRA

FL SRF - RCRA Data Metric Analysis.xls

FL SRF RCRA files selections.xlsx

Map of file selection locations.pdf

FL SRF - RCRA File Selection Logic.docx

The RCRA review will be conducted by Shannon Maher, the RCRA Technical Authority in our office, and Laurie DiGaetano, the FL coordinator from the RCRA and OPA Enforcement and Compliance Branch, during the week of July 9 - 13, 2012

CAA


FL CAA Data Metric Analysis - final.xlsx


FL SRF File Selection Logic.docx


FL SRF File Selection Logic - Addendum.docx


FL File Selection - revised final.xlsx

The CAA on-site file review will be conducted by Mark Fite, the CAA Technical Authority in our office, and Lornette Harvey and Sydnee Adams from the Air Enforcement program during the week of June 25, 2012

CWA


FY 11 FL DMA.revised.xls


FL SRF Review File Selection Logic.docx


File Selection 3.xlsx

The CWA on-site SRF file review will be conducted by Ronald Mikulak, the CWA Technical Authority in our office, with Alenda Johnson from the Clean Water Enforcement Branch. Darryl Williams from the Region's NPDES Permitting Branch will accompany them to conduct the Permit Quality Review for Storm Water. Virginia Buff will continue the PQR on-site review in the Tampa and Orlando District Offices in August.

We are also asking you to provide specific information on FDEP's organization, resources, staffing and training, data reporting systems and architecture and major state priorities and accomplishments. An outline for this information is attached below. This information will be incorporated in the SRF report. As such, we hope that you can provide this information to Becky Hendrix by September 30, 2012.


Appendix E. Program Overview.docx

If you have any questions, please don't hesitate to give me a call at 404-562-9054.

Thanks,
Kelly

Other communication

Followup correspondence on program overview
October 4, 2012

Jeff,

As part of my email to you on June 6 transmitting the State Review Framework Data Metric Analyses and the File Selections, we also asked for your input into the Program Overview section of the report dealing with FDEP's organization, resources, staffing and training, data reporting systems and architecture and major state priorities and accomplishments. An outline for this information is attached below. Since this information will be incorporated in the draft SRF report, we hope that you can provide it to us soon. The end of October should work. The information should be forwarded to Becky Hendrix (hendrix.becky@epa.gov).

Appendix E. Program Overview.docx

If you have any questions, please don't hesitate to give me a call at 404-562-9054.

And, thank you for making adjustments for our annual visit. We look forward to seeing you on November 6 at 10:15.

Thanks,
Kelly

May 7, 2013

From: Gordon.scott@epa.gov
To: jeff.Littlejohn@dep.state.fl.us

Jeff,

I want to thank you & your team for the engaged discussions that lead to this final document. Attached are PDFs of the final SRF-PQR report for FL.

The attachments include:

(1) Transmittal letter signed by Jim and Anne to Herschel Vinyard with cc: to Jeff Littlejohn
(2) SRF-PQR report
(3) SRF-PQR report appendices

The report will be posted on the SRF webpage by the end of the week.

Let me know if you have questions.

Thanks,

Scott Gordon
EPA Region 4
404 562-9741

May 7, 2013

From: Littlejohn, Jeff [Jeff.Littlejohn@dep.state.fl.us]

To: Gordon.scott@epa.gov

Thank you, Scott. You and the rest of your review team were very professional, and we appreciate your constructive criticism. I assure you that we will utilize this feedback to continue to improve our regulatory programs.

Sincerely,

Jeff Littlejohn, P.E.
Deputy Secretary for Regulatory Programs
Florida Department of Environmental Protection
E-mail: Jeff.Littlejohn@dep.state.fl.us
Direct #: (850)245-2037
3900 Commonwealth Blvd MS 15
Tallahassee, FL 32399

Appendix G

Core Review Permits

Permit #	Facility Name	Type of Facility	SIC	Major	District/HQ
FL0001961	US Agrichemical – Bartow	Fertilizer plant	2874	Y	Tampa
FL0001465	Pilgrim's Pride (Goldkist)	Chicken processor	2015	Y	Jacksonville
FL0039772	Lakeland – Glendale	POTW	4952	Y	Tampa
FL0002984	Vero Beach Power Plant	Power Plant	4911	Y	Tallahassee
FL0037966	Iron Bridge Rd - Orlando	POTW	4952	Y	Orlando
FLA183326	Zolfo Springs Dairy	CAFO	0241	N	Tampa
FL0002488	Ascend Performance	Industry	4911	Y	Pensacola
FL0036251	Wekiva Hunt Club	Private Utility	4952	Y	Orlando
FL0041122	Melbourne	POTW	4952	N	Orlando
FL0043443	Lake Washington water plant	Drinking water	4941	N	Orlando
FL0027821	River Oaks Hillsborough	POTW	4952	Y	Tampa
FL0122904	Kinder Morgan Port Sutton	Terminal	4226	N	Tampa

National Core Topic Areas

Nutrients

Permit #	Facility Name	Type of Facility	SIC	Major	District/HQ
FL0039772	Lakeland- Glendale	POTW	4952	Y	Tampa
FL0002488	Ascend Performance	Industry	4911	Y	Pensacola
FL0001465	Pilgrim's Pride (Goldkist)	Chicken Processor	2015	Y	Jacksonville
FL0001961	US Agrichemical – Bartow	Fertilizer Plant	2894	Y	Tampa

Stormwater

Permit #	Municipality
FLS000011	Orange County
FLS000035	Lee County
FLS000002	Miami
FLS000013	Jacksonville Beach
Construction general permit.	

Pretreatment - Review of boilerplate

Permit #	Facility Name	Type of Facility	SIC	Major	District/HQ
FL0037966	Iron Bridge Rd Orlando	POTW	4952	Y	Orlando
FL0027821	River Oaks Hillsborough	POTW	4952	Y	Tampa
FL0039772	Lakeland - Glendale	POTW	4952	Y	Tampa

Pretreatment – Review of permit language for a permit without pretreatment

Permit #	Facility Name	Type of Facility	SIC	Major	District/HQ
FL0039721	Ridaught Landing	POTW	4952	Y	Jacksonville

Regional Special Focus Areas

Reasonable Assurance/Reasonable Potential

Permit #	Facility Name	Type of Facility	SIC	Major	District/HQ
FL0037966	Iron Bridge Rd Orlando	POTW	4952	Y	Orlando
FL0002488	Ascend Performance	Industry	4911	Y	Pensacola
FL0027821	River Oaks Hillsborough	POTW	4952	Y	Tampa
FL0001902	US Agrichemical – Ft Meade	Phosphate mine	1475	Y	Tampa
FL0000817	Tampa Electric (Big Bend)	Power Plant	4911	Y	Tallahassee

Phosphate Mining /Fertilizer Plants

Permit #	Facility Name	Type of Facility	SIC	Major	District/HQ
FL0001961	US Agrichemical – Bartow	Fertilizer plant	2874	Y	Tampa
FL0001902	US Agrichemical – Ft Meade	Fertilizer Plant	2874	Y	Tampa
FL0033294	Mosaic -Hooker's Prairie	Phosphate Mine	1475	Y	Tampa
FL0027600	Mosaic -Fort Green	Phosphate Mine	1475	Y	Tampa
FL0000078	CF Industries	Fertilizer Plant	2874	Y	Tampa

Implementing TMDLs in a Priority Watershed (Tampa Bay and Indian River Lagoon)

Permit #	Facility Name	Type of Facility	SIC	Major	District/HQ
FL0039772	Lakeland – Glendale	POTW	4952	Y	Tampa
FL0122904	Kinder Morgan Port Sutton	Terminal	4226	N	Tampa

FL0000817	Tampa Electric (Big Bend)	Power Plant	4911	Y	Tallahassee
FL0187691	Tampa Bay Water	Water Treatment	4941	N	Tampa
FL0027821	Hillsborough River Oaks	POTW	4952	Y	Tampa
FL0002984	Vero Beach Power Plant	Power Plant	4911	Y	Tallahassee
FL0043443	Lake Washington water plant	Drinking water	4941	N	Orlando
FL0041637	IRCUD West	POTW	4952	Y	Orlando
FL0021571	Rockledge	POTW	4952	N	Orlando

Permit Enforceability of Generic Permits

http://www.dep.state.fl.us/legal/Rules/shared/62-621/62-621.pdf
Generic Permit for Discharges from Concrete Batch plants
Generic Permit for Discharges from Petroleum Contaminated Sites
Generic Permit for the Discharge of Stormwater from Phase II Municipal Separate Storm Sewer Systems