

# **STATE REVIEW FRAMEWORK**

## **Puerto Rico**

### **Clean Water Act and Resource Conservation and Recovery Act Implementation in Federal Fiscal Year 2013**

**U.S. Environmental Protection Agency  
Headquarters, Washington, D.C.**

**Final Report  
November 25, 2015**

# Executive Summary

## Introduction

EPA Headquarters enforcement staff conducted a State Review Framework (SRF) enforcement program oversight review of EPA Region 2's direct implementation of the RCRA and CWA enforcement program in Puerto Rico.

EPA bases SRF findings on data and file review metrics, and conversations with program management and staff. EPA will track recommended actions from the review in the SRF Tracker and publish reports and recommendations on EPA's ECHO web site.

## Areas of Strong Performance

- Region 2 has created an effective inspection/return-to-compliance system for the PRASA and some other Puerto Rico NPDES facilities. Most facilities appear to take corrective action when, following an inspection, Region 2 provides them with a letter that lists the deficiencies identified through the inspection, and includes a requirement that the facility provide a written response describing how it corrected or is in the process of correcting each deficiency.
- Region 2 exceeded the national goal for data entry of both NPDES permit limit and discharge monitoring report (DMR) data.
- Region 2 staff make accurate NPDES compliance determinations through inspections of PR facilities.
- Region 2's NPDES enforcement actions in Puerto Rico consistently return facilities to compliance.
- Region 2 consistently considered and documented gravity and economic benefit when calculating an appropriate penalty for its civil enforcement cases in Puerto Rico.
- Region 2 consistently documents payment of the penalty in the enforcement case file.
- RCRA inspection reports were complete and sufficient to determine compliance and were completed within the expected timeframe.
- RCRA one-year and five-year inspection coverage for LQGs also met or exceeded national goals.
- RCRA files reviewed showed that accurate compliance determinations were made and violations were being identified correctly.
- RCRA files reviewed showed that enforcement actions returned facilities to compliance.

## Priority Issues to Address

The following are the top-priority issues affecting the region's program's performance:

- R2 needs to document compliance determinations related to the deficiencies identified through its NPDES inspections in Puerto Rico. The Region needs to document which

deficiencies qualify as single event violations (SEVs) and identify and document which SEVs place the facility in an SNC status.

- Region 2 needs to improve timeliness of completing NPDES Puerto Rico inspection reports and timely response to violations (identified via inspections and ICIS-NPDES SNC). Late completion of inspection reports appears in some instances to have affected the region's ability to timely respond to violations.

## **CWA-NPDES Integrated SRF-PQR Findings**

This section will be updated upon completion of the 2014 Permit Quality Review report

## **Most Significant PQR CWA-NPDES Findings**

This section will be updated upon completion of the 2014 Permit Quality Review report

## **Most Significant SRF CWA-NPDES Program Issues<sup>1</sup>**

- Region has not been making/documenting SEV or SNC non-compliance determinations based on inspection reports.
- Region has not been reporting SEVs or SEV-SNCs to ICIS.
- Documentation supporting inspection findings has not been consistently placed into the official facility enforcement file.
- Interim effluent limits for some of the POTW's covered by the PRASA consent decree have not been correctly entered into ICIS-NPDES;
- Stipulated penalties paid have not all been entered into ICIS.
- Inspection reports have not been consistently completed timely (apparently causing enforcement responses to be untimely).

## **Most Significant SRF RCRA Subtitle C Program Issues**

- Mandatory data are not all accurately reflected in the national data system.
- Files lacked adequate documentation of gravity, economic benefit, and the difference between initial and final penalties for most penalty actions.

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<sup>1</sup> EPA's "National Strategy for Improving Oversight of State Enforcement Performance" identifies the following as significant recurrent issues: "Widespread and persistent data inaccuracy and incompleteness, which make it hard to identify when serious problems exist or to track state actions; routine failure of states to identify and report significant noncompliance; routine failure of states to take timely or appropriate enforcement actions to return violating facilities to compliance, potentially allowing pollution to continue unabated; failure of states to take appropriate penalty actions, which results in ineffective deterrence for noncompliance and an unlevel playing field for companies that do comply; use of enforcement orders to circumvent standards or to extend permits without appropriate notice and comment; and failure to inspect and enforce in some regulated sectors."



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## **I. CWA-NPDES Integrated SRF and PQR Review**

[This section will be updated upon completion of the 2014 Permit Quality Review report]

## **II. CWA-NPDES Permit Quality Review**

[This section will be updated upon completion of the 2014 Permit Quality Review report]

### III. 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 Water Act National Pollutant Discharge Elimination System
- Clean Air Act Stationary Sources (Title V)
- Resource Conservation and Recovery Act Subtitle C

Reviews cover:

- **Data** — completeness, accuracy, and timeliness of data entry into national data systems
- **Inspections** — meeting inspection and coverage commitments, inspection report quality, and report timeliness
- **Violations** — identification of violations, determination of significant noncompliance (SNC) for the CWA and RCRA programs and high priority violators (HPV) for the CAA program, and accuracy of compliance determinations
- **Enforcement** — timeliness and appropriateness, returning facilities to compliance
- **Penalties** — calculation including gravity and economic benefit components, assessment, and collection

EPA conducts SRF reviews in three phases:

- Analyzing information from the national data systems in the form of data metrics
- Reviewing facility files and compiling file metrics
- Development of findings and recommendations

EPA builds consultation into the SRF to ensure that EPA and the state understand the causes of issues and agree, to the degree possible, on actions needed to address them. SRF reports capture the 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 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 once every five years. The first round of SRF reviews began in FY 2004. The third round of reviews began in FY 2013 and will continue through FY 2017.



## IV. SRF Review Process

**Review period:** Fiscal Year 2013

**Key dates:**

<i>September 9, 2014</i>	<i>Data metric analysis and file selection list sent to R2</i>
<i>September 22, 2014</i>	<i>Kick off call</i>
<i>October 20-24, 2014</i>	<i>On-site review conducted at the Region 2, Caribbean Environmental Protection Division offices</i>
<i>November 20, 2014</i>	<i>On-site review conducted at the Region 2, New York City offices</i>
<i>November 25, 2015</i>	<i>Draft Report</i>

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## V. SRF Findings

Findings represent EPA's conclusions regarding state performance and are based on findings made during the data and/or file reviews and may also be informed by:

- Annual data metric reviews conducted since the state's last SRF review
- Follow-up conversations with state agency personnel
- Review of previous SRF reports, Memoranda of Agreement, or other data sources
- Additional information collected to determine an issue's severity and root causes

There are three categories of findings:

**Meets or Exceeds Expectations:** The SRF was established to define a base level or floor for enforcement program performance. This rating describes a situation where the base level is met and no performance deficiency is identified, or a state performs above national program expectations.

**Area for State Attention:** An activity, process, or policy that one or more SRF metrics show as a minor problem. Where appropriate, the state should correct the issue without additional EPA oversight. EPA may make recommendations to improve performance, but it will not monitor these recommendations for completion between SRF reviews. These areas are not highlighted as significant in an executive summary.

**Area for State Improvement:** An activity, process, or policy that one or more SRF metrics show as a significant problem that the agency is required to address. Recommendations should address root causes. These recommendations must have well-defined timelines and milestones for completion, and EPA will monitor them for completion between SRF reviews in the SRF Tracker.

Whenever a metric indicates a major performance issue, EPA will write up a finding of Area for State Improvement, regardless of other metric values pertaining to a particular element.

The relevant SRF metrics are listed within each finding. The following information is provided for each metric:

- **Metric ID Number and Description:** The metric's SRF identification number and a description of what the metric measures.
- **Natl Goal:** The national goal, if applicable, of the metric, or the CMS commitment that the state has made.
- **Natl Avg:** The national average across all states, territories, and the District of Columbia.
- **State N:** For metrics expressed as percentages, the numerator.
- **State D:** The denominator.
- **State % or #:** The percentage, or if the metric is expressed as a whole number, the count.

## Clean Water Act Findings

CWA Element 1 — Data							
<b>Finding 1-1</b>	<b>Meets or Exceeds Expectations</b>						
<b>Summary</b>	Data in the ICIS-NPDES data system indicates that R2 has exceeded the national goal for data entry of both NPDES permit limit and discharge monitoring report (DMR) data.						
<b>Explanation</b>	Region 2 exceeded the national goal (95%) and the national average (99.2%) for NPDES permit limit data entry, and exceeded the national goal (95%) for DMR data entry.						
<b>Relevant metrics</b>	<b>Metric ID Number and Description</b>		<b>Natl Goal</b>	<b>Natl Avg</b>	<b>EPA R2 N</b>	<b>EPA R2 D</b>	<b>EPA R2 % or #</b>
	1b1 Permit limit rate for major facilities		95%	99.2%	69	69	100%
	1b2 DMR entry rate for major facilities		95%	98.9%	1275	1325	96.2%
<b>Region response</b>							
<b>Recommendation</b>	None.						

CWA Element 1 — Data						
<b>Finding 1-2</b>	<b>Area for Region Improvement</b>					
<b>Summary</b>	Data related to the compliance status of NPDES facilities in Puerto Rico is not reliable in ICIS-NPDES; Region 2 has trouble determining whether Puerto Rico NPDES enforcement files are located in CEPD/PR or DECA/NY.					
<b>Explanation</b>	Review of 40 Region 2 Puerto Rico NPDES inspection/enforcement files showed only 4 (or 10.0%) of those files had all the relevant data accurately recorded in ICIS. The problem with data completeness and accuracy, with few exceptions, was failing to identify SEVs or SNCs identified during inspections. When significant compliance problems were identified (and usually addressed via an exchange of letters) the deficiencies identified were not categorized as SEVs or SNCs and, consequently, this information					

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was not recorded in ICIS. (Note, a finding from the Round 2 SRF review of Region 2/PR/NPDES, was “Single Event Violations and Compliance/Permit Schedule Violations are not being entered in ICIS-NPDES.”) Per finding 3-2 below, Region 2 needs to regularly review NPDES inspection reports to determine SEVs and SNCs and then record these violation determinations in ICIS. To accomplish this, the compliance officer in CEPD needs to make these determinations and communicate them to the data entry personnel in New York.

A discussion with Region 2 early in the SRF process revealed that the Region has not entered all of the correct interim effluent limitation data from the PRASA consent decree into ICIS. Entry of the correct interim effluent limits to ICIS would impact the compliance status of many of the 61 PRASA facilities covered by the consent decree. The result is PRASA facilities showing inaccurate violation and/or SNC status information in ICIS/ECHO. (Note that PRASA consent decree data being inaccurate in ICIS was also an issue identified in the SRF Round 2 report.)

These two problems, not entering SEVs and SNCs from inspections and missing interim effluent limits, render the noncompliance rates and SNC rates for Puerto Rico NPDES facilities unreliable.

We also found that some stipulated penalties that had been imposed and paid for violations of the PRASA consent decree had not been entered into ICIS.

The number of facilities in the NPDES majors universe varies for the SRF data metrics. For metrics 1a1, 1b1 and 7d1 the number is 65, for metric 5a1 it is 69, and for metric 8a2 the number is 74. Also, for these (and other) metrics there are activities recorded in the DMA attributed to the state/PR rather than EPA. Given the unauthorized status of PR this does not appear to make sense. We suspect that these data inconsistencies are all attributable ICIS-NPDES data errors.

Outside these specific concerns, the Region’s NPDES data entry for Puerto Rico was generally complete and accurate. This includes entry of other inspection data, facility information, DMR data, and required enforcement action information.

Finally, we note that Region 2 had difficulty determining whether Puerto Rico NPDES inspection/enforcement files resided with CEPD or DECA. Many files the Region originally thought were in New York appeared during the review in Puerto Rico. Later, in New York we found additional, similar problems. Throughout the review it never became clear why a facility was being handled out of DECA vs. CEPD. Ultimately, all

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the SRF materials needed were provided, but coordination between CEPD and DECA appears to be a problem.

Because of the large number of PRASA facilities with inaccurate compliance data, the lack of entering SEVs and SEV/SNCs into ICIS-NPDES, and the problems associated with Region 2's records management practices, reviewers determine this finding to be an Area for Regional Improvement.

**Relevant metrics**

Metric ID Number and Description	Natl Goal	Natl Avg	EPA R2 N	EPA R2 D	EPA R2 % or #
2b Files reviewed where data are accurately reflected in the national data system			4	40	10.0%

**Region response**

CEPD has direct and complete authority for all NPDES inspection and enforcement work in PR. DECA provides support as requested. Region 2 also explained, subsequent to the review, that “there are some legacy practices related to file maintenance that are still being updated as the Region develops its records management program and finalizes transition of programs to CEPD.”

At this time all interim effluent limitations from the PRASA consent decree have been corrected in ICIS. The problem was not that the information was not entered, but that there was a discrepancy in understanding the terms of the consent decree. This misunderstanding has been resolved and the effluent limitations corrected. NY is currently reviewing and reorganizing its PR NPDES permit files which will help resolve any questions about file location. There is an SOP for communication and data entry of SEVs now in place and compliance officers have received training and are provided annual refresher training on the process. A process for communicating any changes to consent decree limits and penalties for violations has also recently been established.

After the enforcement review, instructions were provided to MWPB staff to start submitting SEVs to DECA/CAPS for input into ICIS. Several entries have been done so far.

**Recommendations**

Recommendation #1: Within 60 days of finalization of this report, Region 2 will submit to the Office of Compliance (OC) an SOP that assures SEV and SNC information is reported timely into ICIS. Within 30 days of receipt of OC comments, Region 2 will finalize and begin to implement this SOP.

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Recommendation #2: Region 2 shall include-- in this or a separate SOP a mechanism for insuring that interim effluent limits written into consent decrees and stipulated penalties imposed for violation of a consent decree are entered into ICIS. If this is done using a separate SOP, this SOP should be final and implemented within three months following final issuance of this report.

Recommendation #3: The Region, working with the Office of Compliance as necessary, should examine and correct two issues related to the NPDES data in ICIS (to the extent these issues have continued beyond FY 2013):

- 1) the NPDES majors universe inconsistencies; and,
- 2) the facilities/activities attributed in the SRF NPDES data metrics to PR (rather than EPA).

Assuming these issues did continue, investigation of and corrections to the data in ICIS-NPDES to correct these two issues should be completed in ICIS-NPDES, and completion attested to by the Region in an email to the Office of Compliance, within three months of issuance of this report.

Recommendation #4: Region 2 shall complete updating its legacy practices related to file maintenance as the Region develops its records management program and finalize transition of programs to CEPD. This effort shall be completed within 6 months of the issuance of this report.

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**CWA Element 2 — Inspections**

**Finding 2-1 Meets or Exceeds Expectations**

**Summary** Region 2 is conducting inspections sufficient to meet CMS commitments for the Puerto Rico CSO, MS4 and stormwater universes.

**Explanation** Region 2 met or exceeded their FY13 CMS inspection commitments for NPDES majors, non-majors, and for the CSO, MS4 and stormwater programs.

Per the FY13 CMS, the Region committed to inspect 53 majors and 142 minors. Upon reviewing a draft of this report, Region 2 explained that the FY13 CMS NPDES non-majors inspection commitment number of 142 was in error and should have been 108. The Region also agreed that they actually conducted 122 inspections of non-majors in FY13, per ICIS-NPDES, and not 143 as reported by the Region in the CMS.

**Relevant metrics**

Metric ID Number and Description	Natl Goal	Natl Avg	EPA R2 N	EPA R2 D	EPA R2 % or #
4a4 Major CSO inspections	100% of Commitment		5	1	500%
4a5 SSO inspections	100% of Commitment		30	1	3000%
4a7 Phase I & II MS4 audits or inspections	100% of Commitment		25	25	100%
4a8 Industrial stormwater inspections	100% of Commitment		21	20	105%
4a9 Phase I and II stormwater construction inspections	100% of Commitment		10	10	100%
4a10 Medium and large NPDES CAFO inspections	100% of Commitment		0	0	N/A
5a1 Inspection coverage of NPDES majors	100% of Commitment	56.8%	53	69	76.8%
5b1 Inspection coverage of NPDES non-majors with individual permits	100% of Commitment	26.0%	96	175	54.9%
5b2 Inspection coverage of NPDES non-majors with general permits	100% of Commitment	7.0%	26	70	37.1%

**Region response**



<b>Recommendation</b>	None.
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## CWA Element 2 — Inspections

<b>Finding 2-2</b>	<b>Area for Region Improvement</b>
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<b>Summary</b>	Region 2 compliance files often do not contain checklists and/or documentary support. Inspection reports are not completed in a timely manner. Based on reported information, Region 2 did not conduct any pretreatment compliance inspections in FY13 and did not report any SIU inspection information.
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<b>Explanation</b>	<p>Most of the NPDES facility enforcement files reviewed did not contain field notes from inspections, and many did not contain adequate photo documentation from the inspection. As a result, the file review found only 19% of the inspection files (10 of 53) were complete. According to the CEPD managers, photo logs and field notes generally are being kept in each inspector’s office rather than being placed in the official case files and a number of examples were produced for the SRF team demonstrating this.</p> <p>49% of the Puerto Rico NPDES inspections reports reviewed (26 of 53) were submitted in a timely manner. According to the EMS, inspection reports should be submitted between 30-45 calendar days after an inspection is done, depending on the type of inspection. Region 2 inspection reports were submitted anywhere between 42-429 days beyond the recommended deadline. The report at the upper end of the range for an inspection that occurred on 8/21/13 had not yet been submitted as of mid-October. The average number of days for a report to be completed and signed was 84 days. (Notably, the median number of days for report completion was 42 indicating that the few reports that were very late significantly impacted the average.)</p> <p>For FY 13 the Region committed to undertake one pretreatment compliance inspection or audit but reported doing none.</p>
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<b>Relevant metrics</b>	<b>Metric ID Number and Description</b>	<b>Natl Goal</b>	<b>Natl Avg</b>	<b>EPA R2 N</b>	<b>EPA R2 D</b>	<b>EPA R2 % or #</b>
	4a1 Pretreatment compliance inspections and audits			0	1	0%
	4a2 Significant Industrial User inspections for SIUs discharging to non-authorized POTWs			0	0	NA

	6a Inspection reports complete and sufficient to determine compliance at the facility	10	53	18.9%
	6b Inspection reports completed within prescribed timeframe	26	53	49.1%
<b>Region response</b>	In relation to the timeliness of inspection reports, this finding was also observed during an internal audit [by Region 2]. Corrective measures were developed and shared with MPCB staff in 2014. Training on inspection reports was included as part of a mandatory training (FOG) provided to CEPD staff in November 2014. This included training on including all field notes, checklists and photos in each facility's official enforcement file.			
<b>Recommendation</b>	Within 90 days of finalization of this SRF report, Region 2 shall submit an SOP to OC that: a) directs the NPDES inspection staff to place their inspection checklists and all other documentation that supports the inspection in the facility enforcement file; b) provides a plan to improve and assure the timely submission of inspection reports; and c) ensures management reviews inspection reports and confirms that inspection information is complete in the facility file.			

### CWA Element 3 — Violations

<b>Finding 3-1</b>	<b>Meets or Exceeds Expectations</b>					
<b>Summary</b>	Region 2 staff make accurate NPDES compliance determinations through inspections of PR facilities.					
<b>Explanation</b>	Review of case files show that Region 2 inspectors consistently accurately determine when a facility in Puerto Rico is in compliance with the CWA.					
<b>Relevant metrics</b>	<b>Metric ID Number and Description</b>	<b>Natl Goal</b>	<b>Natl Avg</b>	<b>EPA R2 N</b>	<b>EPA R2 D</b>	<b>EPA R2 % or #</b>
	7e Accuracy of compliance determinations	100%		52	52	100%
<b>Region response</b>						
<b>Recommendation</b>	None.					

### CWA Element 3 — Violations

<b>Finding 3-2</b>	<b>Area for Region Improvement</b>						
<b>Summary</b>	The Region does not accurately identify SEVs.						
<b>Explanation</b>	<p>Region 2 generally does not document compliance determinations related to the deficiencies identified through its NPDES inspections in Puerto Rico. The Region does not document which deficiencies qualify as single event violations and does not identify or document which SEVs place the facility in an SNC status. In none of the inspection reports/files where the Region identified serious compliance deficiencies did the Regions identify these as “SEVs” or enter them as SEVs into ICIS. The Region also did not record any of these SEVs in ICIS as SNC.</p> <p>The number of major facilities with SEV-based noncompliance is uncertain because Region 2 has not been reporting SEVs to ICIS. The same is true for SNC’s based on SEVs. See Finding 1-2.</p>						
<b>Relevant metrics</b>	<b>Metric ID Number and Description</b>		<b>Natl Goal</b>	<b>Natl Avg</b>	<b>EPA R2 N</b>	<b>EPA R2 D</b>	<b>EPA R2 % or #</b>
	7a1 Number of major facilities with single event violations				0	69	0%
	7d1 Major facilities in noncompliance			62.3%	67	69	97.1%
	8a2 Percentage of major facilities in SNC			34.5%	52	78	66.7%
	8b1 Single-event violations accurately identified as SNC or non-SNC		100%		3	48	6.3%
	8c Percentage of SEVs identified as SNC reported timely at major facilities		100%		2	45	4.4%
<b>Region response</b>	After the enforcement review, instructions were provided to MWPB staff to start submitting SEV to DECA / CAPS for input into ICIS. Several entries have been done so far. There is a draft SOP available.						
<b>Recommendation</b>	Within 60 days of finalization of this report, Region 2 shall submit an SOP to OC for review describing how the Region will make and record SEV’s and SNC status determinations resulting from NPDES inspections in Puerto Rico. Within 30 days of receipt of OC’s comments, Region 2 will finalize and begin to implement the SOP.						

Within 30 days of the end of each of the two quarters following finalization of the SOP, Region 2 will submit to OC documentation from two inspections from each NPDES inspector that did an inspection in PR that quarter showing the compliance determination (SEVs and SNCs) made for each deficiency identified in the inspection, and screen shots from ICIS showing that the SEVs/SNCs identified were entered into ICIS. Once OC has determined that Region’s actions have addressed these deficiencies, OC will mark this recommendation complete.

**CWA Element 4 — Enforcement**

<b>Finding 4-1</b>	<b>Meets or Exceeds Expectations</b>												
<b>Summary</b>	Region 2’s NPDES enforcement actions in Puerto Rico return facilities to compliance.												
<b>Explanation</b>	In 31 of 34 enforcement responses reviewed, R2 succeeded in returning the facility to compliance. (The three instances where this was not the case were Essroc San Juan (ongoing quarterly SNC violations), Hato Nuevo Construction Project (not clear that enforcement action returned facility to compliance), and PREPA (ongoing quarterly RNC violations).)												
<b>Relevant metrics</b>	<table border="1"> <thead> <tr> <th>Metric ID Number and Description</th> <th>Natl Goal</th> <th>Natl Avg</th> <th>EPA R2 N</th> <th>EPA R2 D</th> <th>EPA R2 % or #</th> </tr> </thead> <tbody> <tr> <td>9a Percentage of enforcement responses that return or will return source in violation to compliance</td> <td>100%</td> <td></td> <td>31</td> <td>34</td> <td>91.2%</td> </tr> </tbody> </table>	Metric ID Number and Description	Natl Goal	Natl Avg	EPA R2 N	EPA R2 D	EPA R2 % or #	9a Percentage of enforcement responses that return or will return source in violation to compliance	100%		31	34	91.2%
Metric ID Number and Description	Natl Goal	Natl Avg	EPA R2 N	EPA R2 D	EPA R2 % or #								
9a Percentage of enforcement responses that return or will return source in violation to compliance	100%		31	34	91.2%								
<b>Region response</b>													
<b>Recommendation</b>	None.												

## CWA Element 4 — Enforcement

<b>Finding 4-2</b>	<b>Area for Region Improvement</b>					
<b>Summary</b>	Region 2 does not always respond to NPDES violations in Puerto Rico timely.					
<b>Explanation</b>	<p>Data in ICIS indicate that the Region undertakes timely enforcement actions against major NPDES facilities with violations in Puerto Rico 34.4% of the time. Though this is above the national average, it is well below the national goal of 98%.</p> <p>In six instances (of 35 enforcement responses reviewed) the time between identification of a significant violation and the initiation of the enforcement action exceeded the expected response time described in the CWA Enforcement Management System (see Memorandum, “<i>Clarification of NPDES EMS Guidance on Timely and Appropriate Enforcement Response to Significant Noncompliance Violations</i>” (May 29, 2008)). Enforcement responses were otherwise found to be appropriate in approximately 83% of the files reviewed.</p> <p>Note: In all but one of these instances of untimely enforcement response, the inspection report that underlay the enforcement action was not completed within the timeliness guidelines (30-45 days), likely causing or contributing to the untimeliness of the enforcement action. Per the recommendation under CWA Element 2, Finding 2-2, the region needs to improve the timeliness of completing NPDES PR inspection reports. If this is done it will likely, largely solve the problem of untimely enforcement response to NPDES violations identified through inspections.</p>					
<b>Relevant metrics</b>	<b>Metric ID Number and Description</b>	<b>Natl Goal</b>	<b>Natl Avg</b>	<b>EPA R2 N</b>	<b>EPA R2 D</b>	<b>EPA R2 % or #</b>
	10a1 Major facilities with timely action as appropriate	>=98%	24.7%	11	33	34.4%
	10b Enforcement responses reviewed that address violations in an appropriate manner	100%		29	35	82.9%
<b>Region response</b>	See comment above in relation to timeliness of reports. Inspectors received training on timing for completing inspection reports and on required contents of reports. Timely completion of inspection reports will allow staff to respond to violations in a more timely fashion.					

<b>Recommendation</b>	For SNC at PR facilities identified through DMR reporting, the Region needs to more closely monitor SNC status in ICIS-NPDES and resolve these SNC's timely and appropriately, in accordance with NPDES enforcement guidance (EMS). To accomplish this, the region should first determine why DMR-based SNC at PR facilities is not being timely addressed, and identify a mechanism for correcting the problem. Region 2 should send a description of the cause of the issue and the region's mechanism for resolution to OC within 30 days of completion of this report.
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### CWA Element 5 — Penalties

<b>Finding 5-1</b>	<b>Meets or Exceeds Expectations</b>																		
<b>Summary</b>	Files reviewed showed that the R2 consistently considered and documented gravity and economic benefit when calculating an appropriate penalty for its civil enforcement cases in Puerto Rico; R2 also consistently documents payment of the penalty in the enforcement case file.																		
<b>Explanation</b>	One hundred percent (7 of 7) of penalty calculations reviewed included consideration of both economic benefit and gravity. For collection of penalties, 24 of 26 (or 92%) of files reviewed included documentation establishing that the assessed penalty had been paid.																		
<b>Relevant metrics</b>	<table border="1"> <thead> <tr> <th>Metric ID Number and Description</th> <th>Natl Goal</th> <th>Natl Avg</th> <th>EPA R2 N</th> <th>EPA R2 D</th> <th>EPA R2 % or #</th> </tr> </thead> <tbody> <tr> <td>11a Penalty calculations reviewed that consider and include gravity and economic benefit</td> <td>100%</td> <td></td> <td>7</td> <td>7</td> <td>100%</td> </tr> <tr> <td>12b Penalties collected</td> <td>100%</td> <td></td> <td>24</td> <td>26</td> <td>92.3%</td> </tr> </tbody> </table>	Metric ID Number and Description	Natl Goal	Natl Avg	EPA R2 N	EPA R2 D	EPA R2 % or #	11a Penalty calculations reviewed that consider and include gravity and economic benefit	100%		7	7	100%	12b Penalties collected	100%		24	26	92.3%
Metric ID Number and Description	Natl Goal	Natl Avg	EPA R2 N	EPA R2 D	EPA R2 % or #														
11a Penalty calculations reviewed that consider and include gravity and economic benefit	100%		7	7	100%														
12b Penalties collected	100%		24	26	92.3%														
<b>Region response</b>																			
<b>Recommendation</b>	None.																		

## CWA Element 5 — Penalties

<b>Finding 5-2</b>	<b>Area for Region Improvement</b>																
<b>Summary</b>	None of the case files reviewed included documentation explaining the difference between the initial and final penalty calculations.																
<b>Explanation</b>	<p>Three Region 2 Puerto Rico enforcement cases that were reviewed resulted in a penalty and had the initial penalty calculation revised. In all three instances the case file did not include an explanation or justification for the changes to lower the penalty amounts. The enforcement case files included two or more penalty calculations, but no written explanations for the penalty calculation changes. This is contrary to the requirement in the Interim CWA Settlement Penalty Policy (1995) which states, “Each component of the settlement penalty calculation (including all adjustments and subsequent recalculations) must be clearly documented with supporting materials and written explanations in the case file.” For every change to a penalty calculation, Region 2 should include in the case file, attached to the changed calculation, a narrative explaining and justifying the change. From this narrative the reader should be able to determine exactly how the calculation was changed, why the changes were made, and how these changes are in accordance with the). The settlement should not be approved by Region 2 management until the penalty documentation is complete and the penalty is in accordance with the Penalty Policy.</p>																
<b>Relevant metrics</b>	<table border="1"> <thead> <tr> <th>Metric ID Number and Description</th> <th>Natl Goal</th> <th>Natl Avg</th> <th>EPA R2 N</th> <th>EPA R2 D</th> <th>EPA R2 % or #</th> </tr> </thead> <tbody> <tr> <td>12a Documentation of the difference between initial and final penalty and rationale</td> <td>100%</td> <td></td> <td>0</td> <td>3</td> <td>0%</td> </tr> </tbody> </table>					Metric ID Number and Description	Natl Goal	Natl Avg	EPA R2 N	EPA R2 D	EPA R2 % or #	12a Documentation of the difference between initial and final penalty and rationale	100%		0	3	0%
Metric ID Number and Description	Natl Goal	Natl Avg	EPA R2 N	EPA R2 D	EPA R2 % or #												
12a Documentation of the difference between initial and final penalty and rationale	100%		0	3	0%												
<b>Region response</b>	Staff should be aware that a narrative explaining and justifying changes to penalty calculations must be prepared in accordance with the penalty policy. Staff will be reminded (through written notification or through an SOP) that a copy of the narrative should be included in the case file.																
<b>Recommendation</b>	The Region should develop an SOP to relevant staff and managers that describes the appropriate penalty documentation requirements as identified in Interim CWA Settlement Penalty Policy (1995) and ensures management review of this documentation prior to approval. This SOP should be finalized within three months following the date of final issuance of this report and a copy should be sent to OC.																





## Resource Conservation and Recovery Act Findings

RCRA Element 1 — Data																		
<b>Finding 1-1</b>	<b>Area for State Improvement</b>																	
<b>Summary</b>	Mandatory data are not all accurately reflected in the national data system.																	
<b>Explanation</b>	<p>SRF reviewers examined files from both R2 and EQB to review the performance of the RCRA enforcement program. For R2, data discrepancies between the files reviewed and the national data system included 4 NOVs and 2 inspections not entered into the data system and 7 violation determinations from inspections not being updated from “undetermined” status after violation determinations had been made. There was also 1 violation and 1 penalty not entered into the data system, 1 permit ID that did not match and 1 facility name change that had not been updated. In the EQB files, reviewers found 2 NOVs not entered into the system and a few minor address discrepancies.</p> <p>For R2, 10 of 24 files showed accurate entry of mandatory data. For EQB, 11 of 17 files showed accurate entry of mandatory data. The total combined was 21 of 41 files showing evidence of complete and accurate data entry.</p>																	
<b>Relevant metrics</b>	<table border="1"> <thead> <tr> <th>Metric ID Number and Description</th> <th>Natl Goal</th> <th>Natl Avg</th> <th>EPA N</th> <th>EPA D</th> <th>EPA % or #</th> </tr> </thead> <tbody> <tr> <td>2b Complete and accurate entry of mandatory data</td> <td>100%</td> <td></td> <td>21</td> <td>41</td> <td>51.2%</td> </tr> </tbody> </table>						Metric ID Number and Description	Natl Goal	Natl Avg	EPA N	EPA D	EPA % or #	2b Complete and accurate entry of mandatory data	100%		21	41	51.2%
Metric ID Number and Description	Natl Goal	Natl Avg	EPA N	EPA D	EPA % or #													
2b Complete and accurate entry of mandatory data	100%		21	41	51.2%													
<b>State response</b>	A Standard Operation Procedure (SOP) for RCRA has been prepared and implemented. The SOP includes a description of when and how to enter all the enforcement into the national data system as well as the update. The SOP became in effect on 2014.																	
<b>Recommendation</b>	It is recommended that R2 develop and implement a process to ensure all NOVs and inspections are entered into the national data system, and compliance determinations from inspections are updated and accurately reflected in the data system once a compliance determination has been made. It is also recommended that EQB and R2 develop a process to periodically check to make sure all of the enforcement data is being entered and updated in the national data system. At a minimum this																	

should be done through participation in the annual data verification process. It could also be done through quarterly or semi-annual checks, or another mechanism.

**RCRA Element 2 — Inspections**

**Finding 2-1 Area for State Attention**

**Summary** Two-year inspection coverage for operating TSDFs did not meet the national goal of 100%.

**Explanation** RCRA requires that every operating TSDFs be inspected at least once every two years. According to the national data system, R2 inspected 6 of 8 operating TSDFs in PR. EQB inspected 5 of 8. Combined this covered 75% of the universe compared to the national goal of 100%.

Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	EPA N	EPA D	EPA % or #
	5a Two-year inspection coverage of operating TSDFs	100%	93.9%	6	8	75%

**State response** The universe of the TSD facilities in Puerto Rico has been reduced significantly. Some of the TSD facilities have been closed but permits still active. Review the use of resources to conduct TSD inspections to closed facilities with open permits will be evaluated.

**Recommendation** It is recommended that R2 take appropriate steps to ensure that every operating TSDF is inspected at least once every two years. Additional upfront planning, sharing of inspection lists, and/or increased coordination between R2 and EQB may be one way to accomplish this.

## RCRA Element 2 — Inspections

<b>Finding 2-2</b>	<b>Meets or Exceeds Expectations</b>					
<b>Summary</b>	Both R2 and EQB’s inspection reports were generally complete and sufficient to determine compliance and were completed within the expected timeframe. One-year and five-year inspection coverage for LQGs also met or exceeded national goals.					
<b>Explanation</b>	<p>R2 and EQB files reviewed included narrative discussions of the nature of facility activities, discussed manufacturing, process and waste management operations, described generation and handling of wastes, and provided documentary evidence of potential violations such as photographs, maps, drawings, and statements. EQB also included good onsite and pre-inspection checklists and other information as part of their files. Reviewers found two inspections where R2 failed to write reports and 3 inspection reports that were not complete and sufficient to determine compliance. However, the majority of R2 reports were written well as described above.</p> <p>R2 and EQB exceeded the national goal and national average for annual inspection coverage of LQGs. Given that the RCRA universe is constantly changing, R2 and EQB met the five-year goal national goal and exceeded the national average for inspection coverage of LQGs. In addition, R2 and EQB far exceeded the five-year national average for inspections of active SQGs. According to the national data system, the two agencies also inspected almost 500 other facilities, including 183 CESQs in the same five year period. While this number was high, we do not believe that the quantity of SQGs inspected adversely impacted the quality of the LQG inspections, a potential concern in some states where too many inspections are conducted without proper attention to the quality of the inspections.</p>					
<b>Relevant metrics</b>	<b>Metric ID Number and Description</b>	<b>Natl Goal</b>	<b>Natl Avg</b>	<b>EPA N</b>	<b>EPA D</b>	<b>EPA % or #</b>
	5b Annual inspection coverage of LQGs	20%	23.2%	20	81	24.7%
	5b Annual inspection coverage of LQGs	100%	71.7%	78	81	96.3%

	5d Five-year inspection coverage of active SQGs	11.6%	86	154	55.8%
	5e1 Five-year inspection coverage of active conditionally exempt SQGs				183
	5e4 Five-year inspection coverage of active sites not covered by metrics 2c through 2f3				310
	6a Inspection reports complete and sufficient to determine compliance	100%	33	38	89.5%
	6b Timeliness of inspection report completion	100%	29	38	76.3%
<b>State response</b>					
<b>Recommendation</b>					

### RCRA Element 3 — Violations

<b>Finding 3-1</b>	<b>Meets or Exceeds Expectations</b>
<b>Summary</b>	Files reviewed for R2 and EQB showed that accurate compliance determinations were made and violations were being identified correctly.
<b>Explanation</b>	<p>For all the files reviewed, R2 and EQB were accurately making compliance determinations and accurately identifying violations as SV or SNC.</p> <p>EQB also did a good job of finding violations during inspections. According to the data system, EQB found violations in 33 of 102 inspections for a rate of 32.4%. R2's rate was a little more than half the national average.</p> <p>While R2 had an SNC identification rate of 0%, the file reviewers believe this may be evidence of a data entry issue, rather than a proper identification issue, due to the fact that R2 took formal enforcement actions for SNCs, even though the formal actions were not timely, as described below under Finding 4-2. EQB had an SNC identification of 2.9% which is slightly above the national average, but file reviewers believe EQB was properly identifying and characterizing violations.</p> <p>Regarding timeliness of making SNC determinations, the national data system had no data to determine whether R2 was making SNC determinations in a timely manner (within 150 days). Based on the files reviewed and the timeliness of inspection reports described in Finding 2-2, it seemed that R2 was in fact making timely SNC determinations. For the EQB, the data system showed that 2 of 5 SNC determinations were made in a timely manner. However, based on the inspection reports and other file information reviewed at EQB, reviewers believe that EQB is making determinations in a timely manner, but delays involved in the administrative process of referring inspection results through to the legal division, and ultimately through the EQB Board, may be artificially skewing these data results.</p>

Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	EPA N	EPA D	EPA % or #
	7a Accurate compliance determinations	100%		37	37	100%
7b Violations found during inspections			31.1%	9	50	18%
8a SNC identification rate			2.3%	0	50	0%
8b Timeliness of SNC determinations	100%	57.1%	0	0	0%	
8c Appropriate SNC determinations	100%		28	28	100%	

**State response**

**Recommendation**

### RCRA Element 4 — Enforcement

<b>Finding 4-1</b>	<b>Meets or Exceeds Expectations</b>					
<b>Summary</b>	Files reviewed showed that R2 and EQB enforcement actions returned facilities to compliance.					
<b>Explanation</b>	With only two exceptions, every enforcement file reviewed at the R2 and EQB offices included evidence that facilities were returning to compliance as a result of proper enforcement actions. Of the two exceptions, one was an EBQ file where EQB took appropriate action, but the violator refused to comply. EQB then acted appropriately and referred the case for follow-up formal enforcement. At the time of the review, there was no evidence to suggest that EQB’s legal division had acted on the referral and thus no evidence that the facility was brought back into compliance at the time of the review. The other exception was a R2 file that had no evidence in it indicating whether the facility returned to compliance.					
Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	EPA N	EPA D	EPA % or #
	9a Enforcement that returns violators to compliance	100%		22	24	91.7%
<b>State response</b>						
<b>Recommendation</b>						

## RCRA Element 4 — Enforcement

<b>Finding 4-2</b>	<b>Area for State Attention</b>					
<b>Summary</b>	Timely and appropriate enforcement actions are usually taken to address SNC.					
<b>Explanation</b>	<p>EQB is taking timely action to address SNC violations. The data systems shows 2 out of 2 enforcement actions to address SNC were timely.</p> <p>Data on timely enforcement to address SNCs does not exist in the data system for R2. Based on the file review, it appears that timely enforcement to address SNC may still be an issue from the last SRF review that R2 needs to continue to pay attention to. One facility that was identified in the last SRF report as not receiving timely and appropriate enforcement for SNC violations was identified again, and like the last review, it did not receive timely enforcement action to address new SNC violations. Three other facilities received a formal action, but the actions took more than 360 days.</p> <p>Both R2 and EQB took appropriate enforcement actions to address violations in the files reviewed with the exception of examples mentioned above.</p>					
<b>Relevant metrics</b>	<b>Metric ID Number and Description</b>	<b>Natl Goal</b>	<b>Natl Avg</b>	<b>EPA N</b>	<b>EPA D</b>	<b>EPA % or #</b>
	10a Timely enforcement taken to address SNC	80%		0	0	0
	10b Appropriate enforcement taken to address violations	100%		14	18	77.8%
<b>State response</b>	A Standard Operation Procedure (SOP) for RCRA has been prepared and implemented. The SOP includes a description of when and how to enter all the enforcement into the national data system as well as the update. The SOP became in effect on 2014.					
<b>Recommendation</b>						



## RCRA Element 5 — Penalties

<b>Finding 5-1</b>	<b>Area for State Improvement</b>																								
<b>Summary</b>	Files lacked adequate documentation of gravity, economic benefit, and the difference between initial and final penalties for most penalty actions.																								
<b>Explanation</b>	<p>Of the five R2 files that included a penalty action, three lacked documentation of gravity, economic benefit, and collection of the penalty. Two of R2's files also lacked rationale on the difference between the initial and final penalties.</p> <p>None of the EQB files reviewed associated with penalty actions contained documentation of gravity, economic benefit, or the difference between initial and final penalties. Based on discussions with EQB, EPA believes EQB could benefit from training on how to better calculate and document penalties. This is a continuing recommendation that was in the Round 2 SRF report. File reviewers did observe photocopies of checks as evidence that penalties were being collected.</p>																								
<b>Relevant metrics</b>	<table border="1"> <thead> <tr> <th>Metric ID Number and Description</th> <th>Natl Goal</th> <th>Natl Avg</th> <th>EPA N</th> <th>EPA D</th> <th>EPA % or #</th> </tr> </thead> <tbody> <tr> <td>11a Penalty calculations include gravity and economic benefit</td> <td>100%</td> <td></td> <td>3</td> <td>6</td> <td>50%</td> </tr> <tr> <td>12a Documentation on difference between initial and final penalty</td> <td>100%</td> <td></td> <td>3</td> <td>5</td> <td>60%</td> </tr> <tr> <td>12b Penalties collected</td> <td>100%</td> <td></td> <td>6</td> <td>9</td> <td>66.7%</td> </tr> </tbody> </table>	Metric ID Number and Description	Natl Goal	Natl Avg	EPA N	EPA D	EPA % or #	11a Penalty calculations include gravity and economic benefit	100%		3	6	50%	12a Documentation on difference between initial and final penalty	100%		3	5	60%	12b Penalties collected	100%		6	9	66.7%
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12a Documentation on difference between initial and final penalty	100%		3	5	60%																				
12b Penalties collected	100%		6	9	66.7%																				
<b>State response</b>	Acknowledged. EPA will work with EQB as recommended. The Region requests that OECA support this recommendation by taking the lead on providing economic benefits training to EQB.																								
<b>Recommendation</b>	It is recommended that within 90 days of this final report, R2 begin working with EQB to train all appropriate EQB staff on how to properly calculate and document penalties with an emphasis on gravity, economic benefit and the rationale between initial and final penalties. As part of the training, it is recommended that R2 collect and share some good examples of penalty documentation that have been done in accordance with EPA penalty policies. It is recommended that for a 12 month period beginning after the training is completed, EQB send documentation of all its penalty calculations as they are being developed to R2 to for review, so that R2 can work with the EQB to ensure sufficient documentation of penalties continues. It is recommended that																								

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once EQB properly documents its penalties, EQB place a copy of that completed documentation in the corresponding enforcement file in the RCRA enforcement branch that prompted the penalty action. If R2 is satisfied that penalties are being properly documented after one year of reviewing EQB penalty actions, this recommendation will be closed.

It is also recommended that R2's NY office take steps to ensure that all files for penalty actions taken in the future include adequate documentation of gravity, economic benefit, the difference between initial and final penalty, and collection.

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## VI. Appendix

*[This section is optional. Content with relevance to the SRF review that could not be covered in the above sections should be included here. Regions may also include file selection lists and metric tables at their discretion. Delete this page if it isn't used.]*

**Roles and responsibilities:** Since its inception, the goal has been for the Caribbean Environmental Protection Division (CEPD) to be responsible for implementing hazardous waste programs under the Resource Conservation and Recovery Act (RCRA) in Puerto Rico. CEPD's Response and Remediation Branch (RRB) has responsibility for the core RCRA program in the Puerto Rico and the Virgin Islands. RRB, in consultation with RCB and based on national priorities, performs their own targeting, inspections, and enforcement, and is responsible for setting and meeting their own goals.

Nevertheless, RRB and Region 2's RCRA Compliance Branch (RCB) have a workplan agreement in place. This workplan serves to prevent duplication of efforts and to ensure that activities performed by RRB and RCB complement each other. Due to resource and expertise constraints, RCB coordinates with RRB to perform inspections and enforcement at air emission facilities, landfills, and certain other hazardous and solid waste facilities. Both RCB and RRB work closely together to coordinate with each other to ensure the effective implementation of a full RCRA compliance and enforcement program in the Caribbean.

RCB continues to coordinate with RRB at the beginning of each fiscal year to ensure that the Region's Annual Commitment System (ACS) commitments in Puerto Rico are met. CEPD has the lead in meeting the Region's RCRA ACS commitments in Puerto Rico and Virgin Islands; however, RCB generally has the lead in performing RCRA 40 CFR 264/265 Subpart AA, BB and CC inspections and may assist and perform other inspections as well. RCB also has the lead in addressing the municipal and industrial solid waste management facilities (e.g. landfills, recycling collection sites) located in Puerto Rico and Virgin Islands.

RCB and RRB are each responsible for entry of their own data into RCRAInfo. However, RCB-Information Technology enters RCB and RRB-RCRA RCRAInfo data into ICIS to avoid duplicity and error. In the past, RCB provided training to RRB inspectors on inspections, regulations, data entry, etc. and continues to do so on an as-needed basis.

RCB and RRB communicate often to ensure effective program implementation. Owing to its large reservoir of experience, RCB also serves as a source of advice and consultation for RRB.

Regarding EQB, a Memorandum of Agreement between EPA and EQB was signed in 1986. The MOA expired around 2000. During FY2015, CEPD will work to include the work agreement in EQBs grant application. We expect to have the new language ready by May 2015.

# **STATE REVIEW FRAMEWORK**

## **Puerto Rico**

### **Clean Air Act in Federal Fiscal Year 2014**

**U.S. Environmental Protection Agency  
Region 2, New York**

**Final Report  
December 18, 2015**

# Executive Summary

## Introduction

EPA Region 2 enforcement staff conducted a State Review Framework (SRF) enforcement program oversight review of the Puerto Rico Environmental Quality Board (PREQB). The Clean Air Act (CAA) program was reviewed.

EPA bases SRF findings on data and file review metrics, and conversations with program management and staff. EPA will track recommended actions from the review in the SRF Tracker and publish reports and recommendations on EPA's Enforcement and Compliance History Online (ECHO) web site.

## Areas of Strong Performance

- PREQB's Compliance monitoring reports (CMRs) and facility files reviewed provided sufficient documentation to determine compliance of facilities.
- Formal enforcement responses, that include required corrective action that will return the facility to compliance, were completed in the specified time frame.
- HPVs were addressed timely and appropriately.

## Priority Issues to Address

The following are the top-priority issues affecting the state program's performance:

- **Finding 1-2:** Minimum data requirements (MDR) in the national data system do not consistently match the data in facility file folders.
- **Finding 2-2:** Inspection reports are missing key Full Compliance Evaluation elements.
- **Finding 5-2:** Penalty calculations did not consistently document gravity and economic benefit.
- **Finding 5-2:** Rationale for difference between initial penalty calculation and final penalty was not documented in facility files.

## Repeat Findings from Round 2

All of the issues above continue from Round 2, in which EPA found that:

- Certain MDRs in the file did not agree with AFS data.
- Six of ten FCEs were missing at least one aspect of a complete compliance evaluation, most commonly visible emissions observations.
- PREQB did not use EPA's penalty policy, and no gravity or economic benefit appeared to be included. This issue continues from Round 1 as well.
- No explanation was included in the facility's file when initial and final penalty amounts differed.

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

Reviews cover:

- **Data** — completeness, accuracy, and timeliness of data entry into national data systems
- **Inspections** — meeting inspection and coverage commitments, inspection report quality, and report timeliness
- **Violations** — identification of violations, determination of significant noncompliance (SNC) for the CWA and RCRA programs and high priority violators (HPV) for the CAA program, and accuracy of compliance determinations
- **Enforcement** — timeliness and appropriateness, returning facilities to compliance
- **Penalties** — calculation including gravity and economic benefit components, assessment, and collection

EPA conducts SRF reviews in three phases:

- Analyzing information from the national data systems in the form of data metrics
- Reviewing facility files and compiling file metrics
- Development of findings and recommendations

EPA builds consultation into the SRF to ensure that EPA and the state understand the causes of issues and agree, to the degree possible, on actions needed to address them. SRF reports capture the 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 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 at least once every five years. The first round of SRF reviews began in FY 2004. The third round of reviews began in FY 2013 and will continue through FY 2017.

## II. SRF Review Process

**Review period:** Fiscal year 2014

**Key dates:**

- Kickoff letter and data metric analyses sent to state: April 6, 2015
- File selection list sent to state: June 4, 2015
- Kickoff meeting conducted: May 13, 2015
- Onsite file reviews conducted:
  - Clean Air Act (CAA): June 22-26, 2015
- Draft report sent to state: November 13, 2015
- Report finalized: December 18, 2015

**State and EPA key contacts for review:**

- Patrick Durack, Deputy Director, EPA-DECA
- Barbara McGarry, Chief, EPA-DECA-CAPSB
- Daniel Teitelbaum, SRF Coordinator, EPA-DECA-CAPSB
- Robert Buettner, Chief, EPA-DECA-ACB
- Nancy Rutherford, Air Data Steward, EPA-DECA-ACB
- Nancy Rodriguez, Chief, EPA-CEPD-MPCB
- Francisco Claudio, EPA-CEPD-MPCB
- Carlos Rivera, EPA-CEPD-MPCB
- Luis R. Sierra, Chief, Inspection and Compliance Division, PREQB



### III. SRF Findings

Findings represent EPA’s conclusions regarding state performance and are based on findings made during the data and/or file reviews and may also be informed by:

- Annual data metric reviews conducted since the state’s last SRF review
- Follow-up conversations with state agency personnel
- Review of previous SRF reports, Memoranda of Agreement, or other data sources
- Additional information collected to determine an issue’s severity and root causes

There are three categories of findings:

**Meets or Exceeds Expectations:** The SRF was established to define a base level or floor for enforcement program performance. This rating describes a situation where the base level is met and no performance deficiency is identified, or a state performs above national program expectations.

**Area for State Attention:** An activity, process, or policy that one or more SRF metrics show as a minor problem. Where appropriate, the state should correct the issue without additional EPA oversight. EPA may make recommendations to improve performance, but it will not monitor these recommendations for completion between SRF reviews. These areas are not highlighted as significant in an executive summary.

**Area for State Improvement:** An activity, process, or policy that one or more SRF metrics show as a significant problem that the agency is required to address. Recommendations should address root causes. These recommendations must have well-defined timelines and milestones for completion, and EPA will monitor them for completion between SRF reviews in the SRF Tracker.

Whenever a metric indicates a major performance issue, EPA will write up a finding of Area for State Improvement, regardless of other metric values pertaining to a particular element.

The relevant SRF metrics are listed within each finding. The following information is provided for each metric:

- **Metric ID Number and Description:** The metric’s SRF identification number and a description of what the metric measures.
- **Natl Goal:** The national goal, if applicable, of the metric, or the CMS commitment that the state has made.
- **Natl Avg:** The national average across all states, territories, and the District of Columbia.
- **State N:** For metrics expressed as percentages, the numerator.
- **State D:** The denominator.
- **State % or #:** The percentage, or if the metric is expressed as a whole number, the count.

## Clean Air Act Findings

CAA Element 1 — Data						
<b>Finding 1-1</b>	<b>Meets or Exceeds Expectations</b>					
<b>Summary</b>	Stack Test minimum data requirements were reported timely.					
<b>Explanation</b>	<p>PREQB is above the national average and has met the national goal for all metrics in this category.</p> <p>For metric 3b2, PREQB reviewed one stack test and entered the data within the accepted range of 120 days. For metrics 7b1 and 7b3, PREQB recorded all identified informal actions and HPVs in AFS.</p>					
<b>Relevant metrics</b>	<b>Metric ID Number and Description</b>	<b>Natl Goal</b>	<b>Natl Avg</b>	<b>State N</b>	<b>State D</b>	<b>State % or #</b>
	3a2 Untimely Entry of HPV Determinations	0				0
	3b2 Timely reporting of stack test dates and results	100%	80.8%	1	1	100%
	7b1 Violations reported per informal actions	100%	65.6%	2	2	100%
	7b3 Violations reported per HPV identified	100%	63.2%	1	1	100%
<b>State response</b>	No comments.					
<b>Recommendation</b>						

## CAA Element 1 — Data

<b>Finding 1-2</b>	<b>Area for State Improvement</b>																								
<b>Summary</b>	Data in facility files is not consistent with the data in the national data system or is missing; mostly NAICS codes and address errors.																								
<b>Explanation</b>	<p>For metric 2b, MDR data were not accurately reflected in AFS for any of the eight major files reviewed. Five of the eight had missing or incorrect NAICS codes; two of eight files had incorrect parts of their addresses (1 ZIP; 1 street address), and two of eight major facility files had miscellaneous data issues. Most minor files reviewed had NAICS code or address errors as well. This issue continues from Round 2 and is due to staff turnover.</p> <p>For metrics 3b1 and 3b3, PREQB was below the national goal and national average as well. Only 60% of compliance monitoring-related MDRs and only 50% of enforcement actions were reported to AFS within 60 days.</p>																								
<b>Relevant metrics</b>	<table border="1"> <thead> <tr> <th>Metric ID Number and Description</th> <th>Natl Goal</th> <th>Natl Avg</th> <th>State N</th> <th>State D</th> <th>State % or #</th> </tr> </thead> <tbody> <tr> <td>2b Accurate MDR data in AFS</td> <td>100%</td> <td>--</td> <td>6</td> <td>25</td> <td>24.0%</td> </tr> <tr> <td>3b1 Timely reporting of compliance monitoring MDRs</td> <td>100%</td> <td>83.3%</td> <td>9</td> <td>15</td> <td>60%</td> </tr> <tr> <td>3b3 Timely reporting of enforcement MDRs</td> <td>100%</td> <td>77.9%</td> <td>4</td> <td>8</td> <td>50%</td> </tr> </tbody> </table>	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #	2b Accurate MDR data in AFS	100%	--	6	25	24.0%	3b1 Timely reporting of compliance monitoring MDRs	100%	83.3%	9	15	60%	3b3 Timely reporting of enforcement MDRs	100%	77.9%	4	8	50%
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3b3 Timely reporting of enforcement MDRs	100%	77.9%	4	8	50%																				
<b>State response</b>	No comments.																								
<b>Recommendation</b>	<ol style="list-style-type: none"> <li>1) EPA Region 2 will conduct training on how to report to ICIS-air in accordance with EPA policies and procedures by March 31, 2016, with a focus on MDRs.</li> <li>2) PREQB shall update NAICS codes and other inaccurate facility information in files and database by March 31, 2016 and send a memorandum to EPA confirming that errors have been resolved.</li> <li>3) PREQB shall issue memorandum to staff reiterating importance of accurate data entry by March 31, 2016 and share a copy with EPA Region 2 to confirm resolution of this action item.</li> <li>4) Following the conclusion of FY'16, EPA will review MDR data entry in selected facility files from the second half of the fiscal year, and this</li> </ol>																								

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recommendation will be considered complete if MDR data are found to be accurate and complete.

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## CAA Element 2 — Inspections

<b>Finding 2-1</b>	<b>Meets or Exceeds Expectations</b>																													
<b>Summary</b>	Sufficient documentation to determine compliance of the facility was provided in Compliance Monitoring Reports (CMRs) and facility files.																													
<b>Explanation</b>	<p>For metric 6b, PREQB met the national goal. All 18 major facility inspection reports reviewed contained complete data to determine facility compliance.</p> <p>Metrics 5c and 5d are not applicable because PREQB does not have minors or non-SM 80 synthetic minors included in a CMS plan.</p>																													
<b>Relevant metrics</b>	<table border="1"> <thead> <tr> <th>Metric ID Number and Description</th> <th>Natl Goal</th> <th>Natl Avg</th> <th>State N</th> <th>State D</th> <th>State % or #</th> </tr> </thead> <tbody> <tr> <td>6b Compliance monitoring reports reviewed that provide sufficient documentation to determine facility compliance</td> <td>100%</td> <td>--</td> <td>18</td> <td>18</td> <td>100%</td> </tr> <tr> <td>5c FCE coverage: synthetic minors (non-SM 80s) that are part of CMS plan</td> <td>100%</td> <td>15.6%</td> <td>0</td> <td>0</td> <td>NA</td> </tr> <tr> <td>5d FCE coverage: minor facilities that are part of CMS plan</td> <td>100%</td> <td>4.4%</td> <td>0</td> <td>0</td> <td>NA</td> </tr> </tbody> </table>						Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #	6b Compliance monitoring reports reviewed that provide sufficient documentation to determine facility compliance	100%	--	18	18	100%	5c FCE coverage: synthetic minors (non-SM 80s) that are part of CMS plan	100%	15.6%	0	0	NA	5d FCE coverage: minor facilities that are part of CMS plan	100%	4.4%	0	0	NA
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<b>State response</b>	No comments.																													
<b>Recommendation</b>																														

## CAA Element 2 — Inspections

Finding 2-2	Area for State Improvement																														
<p><b>Summary</b></p>	<p>Major and SM80 Full Compliance Evaluation (FCE) commitments were not met, primarily because inspectors lacked visible emissions (VE) certification.</p> <p>Title V Annual Compliance Certification (TVACC) review goal was not met.</p> <p>Required full-compliance evaluations (FCE) elements are not documented.</p>																														
<p><b>Explanation</b></p>	<p>For metrics 5a and 5b, the national goal is 100% FCE coverage; PREQB’s coverage is 6.25% for majors and 0% for SM-80s. PREQB committed to 16 TV major FCEs and two SM80 FCEs in FY14; only one major FCE was completed and entered into the database. The other major evaluations conducted could only be counted as Partial Compliance Evaluations (PCEs) because inspectors did not have VE training or certification. FCEs for two SM-80s were completed but not entered in AFS.</p> <p>For metric 5e, the national goal for TVACC reviews is 100% of all permitted facilities. PREQB reviewed 13 out of 30, or 43.3%; the national goal was not met because PREQB only reviewed ACCs for majors for which an FCE or PCE was conducted.</p> <p>For metric 6a, the national goal for documentation of FCE elements is 100%. PREQB’s rate is 72%; one major facility CMR out of two reviewed is missing emission control unit data and operating parameters, and four minor facility CMRs for dry cleaners are missing important details such as temperature, pounds of laundry, and type of fuel used.</p>																														
<p><b>Relevant metrics</b></p>	<table border="1"> <thead> <tr> <th data-bbox="483 1503 1003 1575">Metric ID Number and Description</th> <th data-bbox="1013 1503 1084 1575">Natl Goal</th> <th data-bbox="1094 1503 1172 1575">Natl Avg</th> <th data-bbox="1182 1503 1214 1575">State N</th> <th data-bbox="1224 1503 1295 1575">State D</th> <th data-bbox="1305 1503 1409 1575">State % or #</th> </tr> </thead> <tbody> <tr> <td data-bbox="483 1587 1003 1621">5a FCE coverage: majors and mega-sites</td> <td data-bbox="1013 1587 1084 1621">100%</td> <td data-bbox="1094 1587 1172 1621">85.7%</td> <td data-bbox="1182 1587 1214 1621">1</td> <td data-bbox="1224 1587 1295 1621">16</td> <td data-bbox="1305 1587 1409 1621">6.25%</td> </tr> <tr> <td data-bbox="483 1633 1003 1667">5b FCE coverage: SM-80s</td> <td data-bbox="1013 1633 1084 1667">100%</td> <td data-bbox="1094 1633 1172 1667">91.7%</td> <td data-bbox="1182 1633 1214 1667">0</td> <td data-bbox="1224 1633 1295 1667">2</td> <td data-bbox="1305 1633 1409 1667">0.0%</td> </tr> <tr> <td data-bbox="483 1680 1003 1751">5e Review of Title V annual compliance certifications (TVACC)</td> <td data-bbox="1013 1680 1084 1751">100%</td> <td data-bbox="1094 1680 1172 1751">78.8%</td> <td data-bbox="1182 1680 1214 1751">13</td> <td data-bbox="1224 1680 1295 1751">30</td> <td data-bbox="1305 1680 1409 1751">43.3%</td> </tr> <tr> <td data-bbox="483 1764 1003 1797">6a Documentation of FCE elements</td> <td data-bbox="1013 1764 1084 1797">100%</td> <td data-bbox="1094 1764 1172 1797">--</td> <td data-bbox="1182 1764 1214 1797">13</td> <td data-bbox="1224 1764 1295 1797">18</td> <td data-bbox="1305 1764 1409 1797">72.2%</td> </tr> </tbody> </table>	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #	5a FCE coverage: majors and mega-sites	100%	85.7%	1	16	6.25%	5b FCE coverage: SM-80s	100%	91.7%	0	2	0.0%	5e Review of Title V annual compliance certifications (TVACC)	100%	78.8%	13	30	43.3%	6a Documentation of FCE elements	100%	--	13	18	72.2%
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6a Documentation of FCE elements	100%	--	13	18	72.2%																										
<p><b>State response</b></p>	<p>No comments.</p>																														

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**Recommendation** By March 31, 2016, PREQB inspectors shall have successfully completed their visible emissions certification. Copies of completed certifications shall be submitted to EPA Region 2 for verification of resolution.

PREQB must review all TVACCs within 60 days of receipt. On a quarterly basis beginning April 1, 2016, PREQB shall submit to EPA a list of all Title V certifications received during the previous quarter and confirmation that review was completed. This recommendation will be considered complete when PREQB demonstrates that reviews were completed appropriately for four straight quarters.

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### CAA Element 3 — Violations

<b>Finding 3-1</b>	<b>Area for State Attention</b>																								
<b>Summary</b>	Accurate compliance determination was not made. A High-priority violation (HPV) was not properly identified.																								
<b>Explanation</b>	<p>For metric 7a (percentage of CMRs or source files reviewed that led to accurate compliance determinations), the national goal was 100%; PREQB’s rate was 95.8%. At one major facility, a violation was reported and an NOV was sent although no violation occurred.</p> <p>For metric 8c (percentage of violations in files reviewed that were accurately determined to be HPVs), the national goal was 100%; PREQB’s rate was 87.5%. One HPV (for recordkeeping) was not documented in the file nor in the database. Note that EPA last provided training on the HPV policy for PREQB inspectors in December 2011.</p>																								
<b>Relevant metrics</b>	<table border="1"> <thead> <tr> <th>Metric ID Number and Description</th> <th>Natl Goal</th> <th>Natl Avg</th> <th>State N</th> <th>State D</th> <th>State % or #</th> </tr> </thead> <tbody> <tr> <td>7a Accuracy of compliance determinations</td> <td>100%</td> <td>--</td> <td>23</td> <td>24</td> <td>95.8%</td> </tr> <tr> <td>8a HPV discovery rate at majors</td> <td>--</td> <td>3.10%</td> <td>1</td> <td>40</td> <td>2.5%</td> </tr> <tr> <td>8c Accuracy of HPV determinations</td> <td>100%</td> <td>--</td> <td>7</td> <td>8</td> <td>87.5%</td> </tr> </tbody> </table>	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #	7a Accuracy of compliance determinations	100%	--	23	24	95.8%	8a HPV discovery rate at majors	--	3.10%	1	40	2.5%	8c Accuracy of HPV determinations	100%	--	7	8	87.5%
Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #																				
7a Accuracy of compliance determinations	100%	--	23	24	95.8%																				
8a HPV discovery rate at majors	--	3.10%	1	40	2.5%																				
8c Accuracy of HPV determinations	100%	--	7	8	87.5%																				
<b>State response</b>	No comments.																								
<b>Recommendation</b>	<p>EPA will provide training on the HPV policy for PREQB inspectors by March 2016.</p> <p>EPA Region 2 will continue to hold quarterly Significant Noncompliance Action Plan (SNAP) calls to monitor PREQB’s implementation of both the FRV and HPV Policies throughout FY16.</p>																								



## CAA Element 4 — Enforcement

<b>Finding 4-1</b>	<b>Meets or Exceeds Expectations</b>					
<b>Summary</b>	The state is taking appropriate corrective action in enforcement cases.					
<b>Explanation</b>	For metrics 9a and 10b, PREQB met the national goal of 100%. PREQB has made appropriate enforcement responses that required corrective action that returned the facility to compliance in a timely manner.					
<b>Relevant metrics</b>	<b>Metric ID Number and Description</b>	<b>Natl Goal</b>	<b>Natl Avg</b>	<b>State N</b>	<b>State D</b>	<b>State % or #</b>
	9a Formal enforcement responses that include required corrective action that will return the facility to compliance in a specified timeframe	100%	--	4	4	100%
	10a Timely action taken to address HPVs	--	73.2%	1	1	100%
	10b Appropriate enforcement responses for HPVs	100%	--	1	1	100%
<b>State response</b>	No comments.					
<b>Recommendation</b>						

## CAA Element 5 — Penalties

<b>Finding 5-1</b>	<b>Area for State Attention</b>					
<b>Summary</b>	Penalty payment documentation is incomplete in one facility file.					
<b>Explanation</b>	For metric 12b, PREQB did not meet the national goal of 100%, as only two of three penalty files reviewed (66.7%) documented collection of penalty. All scheduled payments were received; however, a minor facility file was missing the copy of the check for a second penalty payment.					
<b>Relevant metrics</b>	<b>Metric ID Number and Description</b>	<b>Natl Goal</b>	<b>Natl Avg</b>	<b>State N</b>	<b>State D</b>	<b>State % or #</b>
	12b Penalties collected	100%	--	2	3	66.7%
<b>State response</b>	No comments.					
<b>Recommendation</b>						

## CAA Element 5 — Penalties

<b>Finding 5-2</b>	<b>Area for State Improvement</b>																		
<b>Summary</b>	Penalty calculations are missing key components.																		
<b>Explanation</b>	<p>For metric 11a, PREQB did not meet the national goal of 100%; economic benefit was not included in the three facility penalties reviewed. This finding continues from Round 1 and Round 2.</p> <p>For metric 12a, PREQB did not meet the national goal of 100%; penalty adjustment rationale was not included in two of three facility penalties reviewed. This finding also continues from Round 2.</p> <p>Since Round 2, PREQB has developed a penalty policy that is in accordance with EPA’s policy and has been reviewed by EPA Region 2.</p>																		
<b>Relevant metrics</b>	<table border="1"> <thead> <tr> <th>Metric ID Number and Description</th> <th>Natl Goal</th> <th>Natl Avg</th> <th>State N</th> <th>State D</th> <th>State % or #</th> </tr> </thead> <tbody> <tr> <td>11a Penalty calculations include gravity and economic benefit</td> <td>100%</td> <td>--</td> <td>0</td> <td>3</td> <td>0%</td> </tr> <tr> <td>12a Documentation on difference between initial and final penalty</td> <td>100%</td> <td>--</td> <td>1</td> <td>3</td> <td>33.3%</td> </tr> </tbody> </table>	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #	11a Penalty calculations include gravity and economic benefit	100%	--	0	3	0%	12a Documentation on difference between initial and final penalty	100%	--	1	3	33.3%
Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #														
11a Penalty calculations include gravity and economic benefit	100%	--	0	3	0%														
12a Documentation on difference between initial and final penalty	100%	--	1	3	33.3%														
<b>State response</b>	No comments.																		
<b>Recommendation</b>	<p>1) EPA shall provide economic benefits training by September 30, 2016.</p> <p>2) Within 30 days following training, PREQB shall issue a memorandum to staff requiring economic benefit calculations and documentation.</p> <p>3) At the conclusion of FY’17, PREQB will submit FY’17 penalty actions to EPA Region 2 for a review of selected actions. This recommendation will be considered complete if the penalties selected for review are deemed sufficient.</p>																		

# Appendix

## File Selection

### File Selection Process

Due to state's limited amount of Major FCEs completed in FY14, EPA requested files for minor facilities with FCEs. 25 facility files and 4 back-up files were chosen. The 29 files included 10 majors and 19 minors.

**File Selection Table**

ICIS-Air #	Facility Name	City	Universe	FCE	Violations Identified	Failed Stack Tests	Informal Enforcement Actions	Formal Enforcement Actions	HPV	Penalties Reported
PR0000007212700190	ALEX FRENCH CLEANERS	SAN JUAN	minor	X	X		X			
PR0000007213500005	ASPHALT SOLUTIONS TOA ALTA (FORMER ALCO	TOA ALTA	minor	X	X		X	X		12371
PR0000007211100003	COMMONWEALTH OIL REFINING CO.INC.(CORCO)	PEÑUELAS	Major		X					
PR0000007212700135	CONDADO CLEANERS	SANTURCE	minor	X	X		X			
PR0000007203700001	DAGUAO TURBINE POWER BLOCK (PREPA)	CEIBA	Major		X					
PR0000007206300021	GURABO LAUNDRY EXPRESS	GURABO	minor	X	X		X			
PR0000007202500129	HIMA (HOSPITAL INTERAMERICANO MED AVAN)	CAGUAS	Major		X		X			
PR0000007213700010	HOLSUM DE PUERTO RICO INC	TOA BAJA	Major			X				
PR0000007212700044	LAUNDRY CENTRAL	SAN JUAN	minor	X	X		X			
PR0000007212700735	LAUNDRY NARVAEZ MONTEHIEDRA	SAN JUAN	minor	X	X		X			
PR0000007203100015	LILLY DEL CARIBE, INC.(ELI LILLY IND.)	CAROLINA	Major		X					
PR0000007206300041	MASTER CLEANERS	GURABO	minor	X	X		X			
PR0000007206300011	MASTER CLEANERS (RAFANIE'S LAUNDRY)	GURABO	minor	X	X		X			
PR0000007203100001	P.R. AGGREGATES	CAROLINA	minor	X	X		X			
PR0000007211100004	PEERLESS OIL & CHEMICALS	PENUELAS	Major		X		X	X	X	85250
PR0000007202500044	PREMIER CLEANERS	CAGUAS	minor				X	X		1250
PR0000007205700005	PREPA JOBOS	GUAYAMA	Major		X					
PR0000007209700008	PREPA MAYAGUEZ - GAS TURBINE	MAYAGUEZ	Major		X					
PR0000007212700174	PRESTIGE DRY CLEANERS	SAN JUAN	minor	X	X		X			
PR0000007213900001	ROUND HILL DRY CLEANER	TRUJILLO ALTO	minor	X	X					
PR0000007213700077	SIERRA'S DRY CLEANERS	TOA BAJA	minor	X	X		X			
PR0000007201300095	VERTEDERO MUNICIPAL DE ARECIBO	ARECIBO	Major		X					
PR0000007206100172	VERTEDERO MUNICIPAL DE GUAYNABO	GUAYNABO	minor	X	X					
PR0000007212700733	VERTEDERO MUNICIPAL DE SAN JUAN	SAN JUAN	Major	X	X					
PR0000007202500128	WASH & WEAR DRY CLEANERS	CAGUAS	minor					X		
PR0000007209100020	5 A SEC WALMART MANATI (back-up)	MANATI	minor	X	X					

PR0000007202500022	5'SEC DRY CLEANING & LAUNDRY (WALMART) (back-up)	CAGUAS	minor	X	X					
PR0000007206300008	GONZALEZ CLEANERS (back-up)	GURABO	minor	X	X		X			
PR0000007212700578	LA CUMBRE DRY CLEANER (back-up)	SAN JUAN	minor	X	X					

## Data Metric Analysis

Attached below are the results of the SRF data metric analyses. All data metrics are 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; final findings are developed only after evaluating the data alongside file review results and details from conversations with the state.

**Data Metric Analysis table**

Metric ID	Metric Name	Metric Type	National Goal	National Average	PR	Count	Universe	Not Counted	PREQB Comment
3a2	Untimely Entry of HPV Determinations	Goal	0		0				
3b1	Timely Reporting of Compliance Monitoring Minimum Data Requirements	Goal	100%	83.30%	60%	9	15	6	The Enforcement and Compliance Division is working in the process to improve the data entry of the MDR's.
3b2	Timely Reporting of Stack Test Minimum Data Requirements	Goal	100%	80.80%	100%	1	1	0	
3b3	Timely Reporting of Enforcement Minimum Data Requirements	Goal	100%	77.90%	50%	4	8	4	Orders are not reported properly to the Inspection and Compliance Division. However, we are working in the process to improve the data entry of the MDR's.
5a	FCE Coverage Major	Goal	100% of commitment	85.70%	.06%	1	16	15	Universe of inspections reflect FCE after EPA change action in AFS due to lack of VE certification of inspectors. The Inspection and Compliance Division disagree with that determination as we explain in the enclosed document. Therefore, we request to include 16 additional FCE conducted by the PREQB for a total of 18 inspections. <b>EPA comment</b> - Count should = 1. An EPA FCE is erroneously counted as a state FCE. Universe count should = 16 since this was the ACS commitment for FY14.
5b	FCE Coverage SM-80	Goal	100% of commitment	91.70%	0%	0	1	1	During FY 2014 2 FCE were completed to SM-80 sources (Cadillac Uniforms and BASF). They were not reported timely. The reports were also missed in the data review process. The action were entered in ICIS on March 9, 2015 for Cadillac and March 10, 2014 for BASF.
5c	FCE Coverage Synthetic Minors (non SM-80)	Goal	100% of commitment	15.60%	0/0	0	0	0	
5d	FCE Coverage Minors	Goal	100% of commitment	4.40%	0/0	0	0	0	

5e	Review of Title V Annual Compliance Certifications Completed	Goal	100%	78.80%	43.30%	13	30	17	Annual Compliance Certifications (ACC) has not been entered properly in AFS. Previous instruction was to review the ACC during a Full Compliance in order to determine if information submitted is corrected. However, instructions for current fiscal year is to evaluate ACC as soon as possible to report information in ICIS. New procedure establish to enter ACC in ICIS once the report arrive.
7b1	Alleged Violations Reported Per Informal Enforcement Actions (Tier I only)	Goal	100%	65.60%	100%	2	2	0	
7b3	Alleged Violations Reported Per HPV Identified	Goal	100%	63.20%	100%	1	1	0	
8a	HPV Discovery Rate Per Major Facility Universe	Review Indicator		3.10%	2.50%	1	40	39	
10a	HPV cases which meet the timeliness goal of the HPV Policy	Review Indicator		73.20%	100%	1	1	0	