

# **STATE REVIEW FRAMEWORK**

**Hawaii**  
**Department of Health**

**Clean Water Act, Clean Air Act, and  
Resource Conservation and Recovery Act  
Implementation in Federal Fiscal Year 2014**

**U.S. Environmental Protection Agency  
Region 9, San Francisco**

**Final Report  
March 29, 2016**

# Executive Summary

## Introduction

EPA Region 9 enforcement staff conducted a State Review Framework (SRF) enforcement program oversight review of the Hawaii Department of Health's Clean Water Act National Pollutant Discharge Elimination System (NPDES) monitoring and enforcement program, Clean Air Act Stationary Source program, and RCRA Hazardous Waste program.

EPA bases SRF findings on standardized 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

- The HDOH more than meets its water NPDES annual inspection commitments, going beyond minimum CMS requirements to address complaints and other inspection needs as they arise throughout the year.
- Inspection report quality in the NPDES program generally met or exceeded EPA's expectations for accuracy of compliance determinations.
- Water penalties were appropriately calculated and collected for the enforcement actions taken.
- HDOH evaluates air CMS sources on a more frequent basis than the minimum evaluation frequencies recommended in the CMS Policy.
- The air enforcement backlog was resolved. Previously, the backlog was resulting in due process concerns. The Air Enforcement Section and its current supervisor have successfully addressed this backlog.
- Enforcement Guidelines and Procedures were recently updated.
- For the RCRA program, the HDOH has focused on the following, leading to strong performances as noted in the report: Core inspection coverage, completeness and accuracy of inspection reports and compliance determinations (except SNC), appropriate enforcement actions returning facilities to compliance, and penalty collection. The hazardous waste inspectors have focused on completion of inspections and enforcement.

## Priority Issues to Address

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

### Water Program:

- Completeness and accuracy of permit and inspection data in EPA's national water database.
- Timeliness and clarity of contractor inspection reports.

- Timely and appropriate enforcement against facilities in Significant Noncompliance (SNC).

#### Air Program:

- Data Reporting/Timeliness: This issue was cited in the prior Round 2 SRF review and continues.
- Inaccurate CMS source universe.
- Lack of FRV reporting/Inaccurate FRV and HPV reporting/identification – inaccurate reporting of all federally reportable violations as High Priority Violations (HPVs).
- Some CAA informal enforcement actions did not return facilities to compliance.
- Low penalties. Hawaii has a penalty policy similar to EPA's and the penalty amounts for each violation are significantly lower. The state should increase penalty amounts, as appropriate, to ensure penalties serve as a deterrent to future violations.

#### RCRA Program:

- Incomplete and inaccurate entry of mandatory data into RCRAInfo. Staffing in data management (planner) position has seen high vacancy and turnover in the last several years, which may account for some of the RCRAInfo data quality issues;
- Timeliness of inspection report completion;
- Not documenting SNC determinations; and
- Economic benefit calculations not included in penalties.

The issues summarized above are discussed in greater detail, including recommendations to address these concerns, in the program-specific reports which follow this executive summary.

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# **STATE REVIEW FRAMEWORK**

## **Hawaii**

### **Clean Water Act Implementation in Federal Fiscal Year 2014**

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EPA bases SRF findings on standardized 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

- The DOH more than meets its annual inspection commitments, going beyond minimum CMS requirements to address complaints and other inspection needs as they arise throughout the year. (CWA Finding 2-1)
- Inspection report quality generally met or exceeded EPA's expectations for accuracy of compliance determinations. (CWA Finding 3-2)
- Penalties were appropriately calculated and collected for the enforcement actions taken. (CWA Finding 5-1)

## Priority Issues to Address

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

- Completeness and accuracy of permit and inspection data in EPA's national database (CWA Finding 1-1).
- Timeliness and clarity of contractor inspection reports (CWA Finding 2-2).
- Timely and appropriate enforcement against facilities in SNC (CWA Finding 4-2).

# 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 (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.

## **II. SRF Review Process**

**Review period:** 2014

**Key dates:**

**CWA:** On-Site File Review conducted July 13-17, 2015

**State and EPA Key Contacts for Review:**

**CWA EPA Contacts:** Ken Greenberg, Kristine Karlson

**CWA State Contact:** Matt Kurano



### 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 Water Act Findings

### CWA Element 1 — Data

#### Metrics 1b and 2b: Completeness and accuracy of permit limit and discharge data and inspections and enforcement action data in EPA’s national database.

Finding 1-1	Area for State Improvement
<b>Summary</b>	<p>The state exhibits mixed performance on data tracking. Enforcement staff are doing an excellent job using both the state’s compliance database of record (WPC) and a recently-developed electronic filing system to document inspection and enforcement information as required. DOH goes beyond the minimum requirements to enter helpful compliance information on Minor dischargers (for example, the state’s use of SEV codes to record noncompliance information from inspections or DMRs, so as to prioritize those facilities for future targeting). However, permit coding issues have caused an accumulation of un-entered DMRs, most associated with a single permit that cannot be coded into ICIS. In addition, basic facility information is missing from a significant number of compliance records.</p>
<b>Explanation</b>	<p>Metrics 1b1 and 1b2 measure the state’s rate of entering permit limits and DMR data into ICIS, EPA’s national database.</p> <p>Initially, the data analysis showed that Hawaii entered only 85% of permit limits into ICIS for major facilities, falling below both EPA’s national goal of <math>\geq 95\%</math> and the national average of 98.4%. Upon review, it was discovered that the universe of Majors was skewed by two MS4 permittees erroneously entered into ICIS as Majors. When that was taken into consideration, Hawaii’s performance on this measure increased to 94.4%. The one Major permittee with limits still missing from ICIS is reportedly entered into WPC (the state’s database), but the information does not appear in ICIS. This may be a data flow problem.</p> <p>Hawaii entered only 58.7% of Major permittee DMR data into ICIS, falling well below both EPA’s national goal of <math>\geq 95\%</math> and the national average of 97.2%. According to DOH, the vast majority of the missing DMR entries are attributable to a single Major permit written to include limits incompatible with ICIS’s capabilities. Because the permit cannot be coded into ICIS, DMRs may not be entered, leaving this Major discharger with associated major potential environmental impacts to remain untracked by ICIS and therefore outside the realm of public scrutiny. This is a serious permitting issue that must be addressed.</p>

Under Metric 2b, EPA compared inspection reports and enforcement actions found in selected files to determine if the inspections, inspection findings, and enforcement actions were accurately entered into ICIS. The analysis was limited to data elements mandated in EPA’s ICIS data management policies. States are not required to enter inspections or enforcement actions for certain classes of facilities.

EPA found 15 of the 26 files reviewed (57.7%) had all required information (facility location, inspection, violation, and enforcement action information) accurately entered into ICIS. Among the files reviewed, there were six instances in which basic facility information (address, SIC code, etc.) was missing or compromised, and seven instances in which the state did not enter SEV codes for violations found during inspections of Major dischargers. In two cases, a Major discharger’s record was missing essential compliance records (inspection, NAV). Although its use of SEV codes to track compliance is likely above the national average, Hawaii’s overall data accuracy rate of 57.7% for entry of information on inspections and enforcement actions is well below the national goal of 100%.

The statistical results for Metrics 1b1, 1b2, and 2b are shown below.

Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
	1b1 Permit limit rate for major facilities	≥95%	91.1%	17	18	94.4%
1b2 DMR entry rate for major facilities	≥95%	96.6%	884	1506	58.7%	
2b Files reviewed where data are accurately reflected in the national data system	100%	N/A	15	26	57.7%	

**State response**

The SRF review was based on FFY14 data; metric 1b1 reported input of 85% of permit limits for major facilities into ICIS. As of the date of this (HDOH) correspondence the State has input 100% of its permit limits for major facilities.

As noted, the ICIS DMR data entry rate is below EPA’s goal, but that is primarily due to a single Major NPDES permit’s incompatibility with ICIS. When the lone ICIS incompatible permit is excluded from the ICIS universe, the State is at a 94.3% input rate (metric 1b2). However, the State recognizes that permits must be ICIS compatible and the ability to input DMR data rests on being able to code permit limits into ICIS. The DOH-CWB staff from both Enforcement and Permitting are currently working towards more ICIS compatible effluent limits such that DMR entry is more efficient.

As far as data accuracy for facility information, the DOH-CWB will be looking to correct data errors as they are discovered. SEV input and

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oversight will be addressed through the development of an enforcement staff training program. Due to staff workload and FTE limitations, Enforcement Section review of pre-public comment permits will not be possible.

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**Recommendation**

- By June 30, 2016, Hawaii DOH will implement a quality assurance review for all inspection reports to ensure SEV codes are identified and entered for majors per the minimum national standards, and to ensure that basic facility data of the type reflected by EPA’s 3560-3 form is present in both inspection reports and their accompanying entries into WPC and ICIS.
  - By June 30, 2016, Hawaii DOH’s Enforcement Section will initiate efforts to coordinate with the Engineering Section to improve permit enforceability and “codability.” Among the quality assurance efforts that should be investigated are: implementing an Enforcement Section review of pre-public comment draft permits; transferring permit coding duties to the Engineering Section; and helping draft a new standard operating procedure for permit issuance to ensure the quality and consistency of DOH permits going forward.
  - By June 30, 2016 Hawaii DOH will investigate and address the data flow problems contributing to missing data in ICIS. EPA will include this as a standing agenda topic during regular meetings with the state to track progress and ensure Hawaii DOH is meeting its CWA section 106 grant workplan commitments for ICIS-NPDES data management.
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**CWA Element 2 — Inspections**  
**Metrics 4a, 5a, and 5b: Inspection coverage compared to state workplan commitments.**

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

**Summary** Hawaii conducted 98 inspections in FY 2014 and met or exceeded the inspection commitments in its Clean Water Act Section 106 grant workplan.

**Explanation** The metrics below measure the number of inspections completed by the state in the State Fiscal Year 2014 compared to the commitments in Hawaii’s Clean Water Act Section 106 grant workplan. EPA Region 9 established workplan inspection commitments for Hawaii consistent with the inspection frequency goals established in EPA’s 2007 Compliance Monitoring Strategy (CMS). In addition to meeting or exceeding each of the numeric inspection goals, Hawaii DOH handled an additional 29 complaint-response inspections.

Metric 4a4 measures CSO inspections against the state’s commitment in the workplan. There are no CSO communities in Hawaii, so this metric is not applicable. Metric 4a5 measures SSO inspections against the state’s commitments in the workplan. The 2014 workplan does not include a minimum performance level for SSO inspections, so this metric is also not applicable.

Metric 5b2 measures the state’s performance with regard to inspections of non-major general permittees. Hawaii’s 2014 workplan does not agglomerate the three types of general permittees (CGP Phase I and II facilities and industrial stormwater dischargers), so the state’s performance cannot be cleanly measured against the national average of 7.1% coverage. The following excerpt from EPA’s end-of-year assessment breaks down the state’s performance with regard to its commitments in each of the above three sectors. The state’s general performance of 5.5% coverage is lower than the national average. The metric is skewed, though, by the 5% coverage agreed to in the 2014 workplan for the most populous category (Phase II construction permittees). Overall, Hawaii DOH outperformed its commitments in all three sectors.

Permit Type	# Permits as of 9/15/2014	Inspections Required per CMS	# Inspections Required per CMS	# Inspections per Agreement with EPA	Total Number Inspected During FY13
<b>Industrial Stormwater Permittees</b>					
NGPC	130	10%	13.0	13	16
<b>Construction Stormwater Permittees</b>					
Phase I	90	10%	9	16	17
Phase II	555	5%	28	2	10

This metric is an area of strength for Hawaii DOH’s enforcement program, establishing a credible field presence, particularly in Oahu. Hawaii’s ability to meet or exceed inspection commitments represents a significant improvement over its performance in the Round 2 SRF review.

Relevant metrics	Metric ID Number and Description	State CMS	Natl Avg	State N	State D	State % or #
	4a1 Pretreatment compliance inspections and audits	100%	N/A	1	0	100%
4a2 Significant Industrial User inspections for SIUs discharging to non-authorized POTWs	100%	N/A	0	0	100%	
4a4 Major CSO Inspections	N/A	N/A	0	0	N/A	
4a5 SSO Inspections	N/A	N/A	0	0	N/A	
4a7 Phase I & II MS4 audits or inspections	100%	N/A	2	2	100%	
4a8 Industrial stormwater inspections	100%	N/A	16	13	123%	
4a9 Phase I and II stormwater construction inspections	100%	N/A	27	18	150%	
4a10 Medium and large NPDES CAFO inspections	100%	N/A	0	0	100%	
5a1 Inspection coverage of NPDES majors	100%	55.4%	10	9	111%	
5b1 Inspection coverage of NPDES non-majors with individual permits	100%	26.5%	18	18	100%	
5b2 Inspection Coverage – NPDES Non-Majors with General Permit Coverage	N/A	7.1%	43	775	5.5%	

**State response** Meeting inspection commitments has been a priority for the State program. Due to additional workload required to comply with the new Federal eReporting Rule, the State is forecasting reduced inspection coverage with an emphasis on inspection targeting.

**Recommendation** None required.

**CWA Element 2 — Inspections**  
**Metrics 6a and 6b: Quality and timeliness of inspection reports.**

<b>Finding 2-2</b>	<b>Area for State Improvement</b>
<b>Summary</b>	<p>Hawaii’s inspection report quality meets or exceeds EPA’s expectations; however, timeliness of report completion was well below expectations. Contractor inspection reports should be better organized for clarity of compliance determinations.</p>
<b>Explanation</b>	<p>Metric 6a assesses the quality of inspection reports, in particular, whether the inspection reports provide sufficient documentation to determine the compliance status of inspected facilities. EPA reviewed 20 inspection reports; 16 were found complete and sufficient to determine compliance in accordance with the 2004 NPDES Compliance Inspection Manual guidelines. Contractor inspections were of high quality but missing some key elements such as exit time, completion date, and inspector and quality assurance/manager review signatures. Contractor reports were sometimes organized in a way that was confusing and obfuscated the compliance determinations.</p> <p>Reports written by “off-island” staff outside the enforcement section were missing many essential elements, including the name and contact information for the onsite representative, attribution of factual statements, backup documentation (such as photographs), and clear findings that could be compared against Clean Water Act requirements. Inspection report quality was a factor in delaying enforcement at one noncompliant facility.</p> <p>Upon discussion of these deficiencies with DOH, EPA learned that there is no formal training or credentialing program established for Clean Water Act inspectors in Hawaii. Considering the dearth of formal training, enforcement staff are doing an excellent job documenting violations in inspection reports. This is probably the result of experience gained over years handling enforcement cases. Nevertheless, the lack of training requirements may result in wasted resources where inspections by less experienced staff do not accomplish the program’s goals; it may also unnecessarily expose inspectors to potential legal liability (if access to sites is not gained legally) and to risk of physical harm.</p> <p>Metric 6b measures the state’s timeliness in completing inspection reports within the recommended deadline of 45 days for compliance evaluation inspection reports. EPA reviewed 20 inspection reports, eight of which were found to be completed within the guidelines. There was a large disparity between the timeliness of reports written by DOH staff versus</p>

those written by contract inspectors. DOH staff generally completed reports well within the 45-day deadline, while contractors generally completed their reports more than 200 days after their inspections.

**Relevant metrics**

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
6a Inspection reports complete and sufficient to determine compliance at the facility	100%	N/A	16	20	80%
6b Inspection reports completed within prescribed timeframe	100%	N/A	8	20	40%

**State response**

In preparation for FFY2015, the State worked directly with the EPA in-kind inspection contractor to improve both quality and timeliness of inspection reports. The contractor will now complete drafts of inspection reports within 45 days on the EPA-developed inspection report (“LEAN”) template.

The state recognizes the value in formalizing inspector qualifications and training requirements as well as standardizing minimum training requirements for inspectors across the Environmental Management Division. By [2016], the DOH will initiate development of a training curriculum to meet EPA’s recommendations, and standardize cross-media practices. The DOH does not anticipate development and training can be completed by September 30, 2016, but will make its best efforts to develop the technical material and make the administrative, labor and personnel changes needed to complete this task.

**Recommendation**

- By September 30, 2016, DOH shall establish inspector qualifications and training requirements, including basic inspector training covering site entry and collection of evidence; health and safety training to ensure inspectors are properly prepared for site conditions; and program-specific training covering specific elements of proof necessary to support a case. DOH shall ensure that after March 31, 2017, no inspections are performed by staff unless they are trained and credentialed under the new criteria.
- Contract mechanisms shall be established to ensure contract inspectors complete reports and submit them to DOH with enough review time to ensure the deadlines are met. These new contractor requirements shall be included in contract documents before FY 2017.
- DOH shall work with contractors in FY 2016 to ensure that report templates contain all necessary information (such as that required on EPA’s 3560-3 form) and that reports are organized



so as to clearly convey areas of concern. The new templates shall be in place before FY 2017.

**CWA Element 3 — Violations**  
**Metrics 7a1, 8b and 8c: Tracking of single event violations.**

**Finding 3-1**

**Area for State Attention**

**Summary**

Hawaii is not consistently entering single event violations (SEVs) in EPA’s ICIS database as required for major facilities. This was an area identified as needing attention during the previous SRF review in 2010.

**Explanation**

Metric 7a1 assesses whether single-event violations (SEVs) are reported and tracked in ICIS-NPDES. SEVs are violations that are determined by means other than automated review of discharge monitoring reports and include violations such as spills and violations observed during field inspections. SEV codes are meant to track noncompliance issues for Majors that do not appear on DMRs and would not otherwise be tracked. The ECHO data metrics analysis showed no major facilities with SEVs entered in FY 2014. Hawaii uses SEV codes to record noncompliance issues for all types of dischargers, including minors, but does not consciously use them to track SNC violations for majors. Single event violations are a required data entry for major facilities as indicated in the December 28, 2007 EPA memorandum, *ICIS Addendum to the Appendix of the 1985 Permit Compliance System Statement* (p.9).

DOH’s expanded use of SEV codes to note violations reported on DMRs or discovered during inspections is a good and appropriate use of the codes, especially within an electronic-only filing system where there must be a place to record compliance determinations; however this application should be in addition to meeting the minimum data entry requirements for major facilities.

Metric 8b measures the number of majors in the file review set with SEVs correctly identified as either Significant Non-Compliance (SNC) or non-SNC. The file review of 10 major facility files found that there were seven cases in which major dischargers experienced violations in FY 2014 that could be categorized as SEVs. None of the SEV codes were entered into ICIS for those dischargers. If the SEV codes had been entered, three of them should have been flagged as SNC. Hawaii currently does not flag any SEVs as SNC in ICIS but relies on the automated DMR-based criteria to flag effluent limits and reporting violations as SNC.

Metric 8c requires timely reporting of SEVs identified as SNC at major facilities. Hawaii did not record any SEVs identified at majors as SNC, so the numerator and denominator of this metric were both zero, and as such the timeliness of such reports could not be gauged. The state is not meeting the requirements of this metric.

EPA will provide to DOH guidance materials covering SEV codes and the minimum data entry requirements for non-DMR violations identified at major facilities. EPA suggests these materials be disseminated to staff to encourage proper identification and entry of the codes and proper application of SNC criteria. In the meantime, EPA encourages DOH to continue use of the SEV codes to track noncompliance at minors, where helpful.

Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
	7a1 Number of major facilities with single event violations	N/A	N/A	0	18	0%
	8b Single-event violations accurately identified as SNC or non-SNC	100%	N/A	4	7	57.1%
	8c Percentage of SEVs identified as SNC reported timely at major facilities	100%	N/A	0	0	N/A
State response						
Recommendation	None required.					

**CWA Element 3 — Violations**  
**Metric 7e: Accuracy of compliance determinations**

<b>Finding 3-2</b>	<b>Meets or Exceeds Expectations</b>												
<b>Summary</b>	Inspection reports generally provide sufficient information to ascertain compliance determinations on violations found during inspections.												
<b>Explanation</b>	<p>Metric 7e measures the percent of inspection reports that have accurate compliance determinations. EPA reviewed 20 inspection reports and found that 16 of the reports (80%) led to accurate compliance determinations which is within the acceptable range of the national goal of 100%. Inspection report quality for both contractors and DOH staff is generally high, with CWB-enforcement staff in particular doing an excellent job documenting compliance issues and tying them to permit requirements. There were four instances in which observations that appeared to constitute noncompliance were not called out as such.</p> <p>Suggestion: the program-specific inspector training (covering the elements of proof in CWA cases) recommended in Finding 2-2 above could address the few instances in which inspector findings were amorphous and did not lead to an appropriate compliance determination.</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>7e Inspection reports reviewed that led to an accurate compliance determination</td> <td>100%</td> <td>N/A</td> <td>16</td> <td>20</td> <td>80%</td> </tr> </tbody> </table>	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #	7e Inspection reports reviewed that led to an accurate compliance determination	100%	N/A	16	20	80%
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7e Inspection reports reviewed that led to an accurate compliance determination	100%	N/A	16	20	80%								
<b>State response</b>													
<b>Recommendation</b>	None required.												

**CWA Element 3 — Violations**  
**Metrics 7a1, 7d1: Major facility violations.**  
**Metric 8a2: Major facilities in significant non-compliance**

<b>Finding 3-3</b>	<b>Area for State Attention</b>
<b>Summary</b>	<p>The rate of significant noncompliance at major facilities in Hawaii is slightly higher than the national average. This finding was an area of concern during the previous SRF review in 2010. Hawaii should prioritize majors for swift formal enforcement action when they enter SNC status.</p>
<b>Explanation</b>	<p>Metric 7a1 measures the percent of major facilities with single event violations (SEVs). There were seven such facilities among the 18 majors, but none had SEV codes entered in ICIS.</p> <p>Metric 7d1 measures the major facilities in non-compliance reported in ICIS. Based on data in ICIS, noncompliance at major facilities in Hawaii was 100% during the review year. This rate of noncompliance is higher than the national average noncompliance rate of 78.7%. Note that new use of NetDMR has caused a higher than usual rate of reporting errors that skew this number. When the reporting errors are addressed, noncompliance is likely to go down. In addition, a number of NPDES permits have been challenged, and some permit limits are stayed; another circumstance that will affect these statistics when the stays go into effect.</p> <p>Metric 8a2 measures the percentage of major facilities in significant noncompliance. During the first data retrieval, it appeared that 10 of Hawaii’s 20 major dischargers were in SNC status in 2014 based on DMR violations. Upon further review, the number of majors was reduced to 18, as two facilities listed as majors are in fact Phase 1 MS4 permittees. SNC status only exists for major dischargers.</p> <p>The 10 major facilities flagged as SNC in ICIS were investigated during the file review. Two facilities were found to be erroneously shown in SNC status due to permittee self-reporting errors. Specifically, the permittees selected an inappropriate “no discharge” code in NetDMR. One facility was shown in SNC for reasons that could not be determined. Two more facilities were shown in SNC status, however DOH had not yet made changes to reflect that the applicable permit conditions had been challenged and stayed. The remaining five facilities (of 18 total majors) were legitimately in SNC status, with one having been addressed with an enforcement action. This puts the rate of significant noncompliance in Hawaii (27.7%) slightly higher than the national average of 20.7%. Note that all major facilities identified as SNC during the Metric 8b analysis were also flagged as SNC due to DMR violations.</p>

The SRF process this year has emphasized to DOH staff the high priority EPA places on SNC violations, such that the department already plans to track SNC lists generated by DMR submissions more closely. The state plans to take more timely and appropriate action to address SNC violations accordingly. In addition, EPA suggests Hawaii DOH ensure that violations at major facilities that are found outside DMR submittals are evaluated for possible classification as SNC. To that end, EPA will provide guidance materials that we suggest be disseminated to DOH staff to help identify appropriate SEV codes, especially those that would warrant SNC status at major facilities.

Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
	7a1 Number of major facilities with single event violations	N/A	N/A	7	18	38.9%
7d1 Major facilities in noncompliance	N/A	78.7%	18	18	100%	
8a2 Percentage of major facilities in SNC	N/A	20.7%	5	18	27.7%	

**State response**

**Recommendation** None required.

## CWA Element 4 — Enforcement

### Background Information

### Summary

This finding highlights the number and type of NPDES enforcement actions taken by Hawaii DOH during the review year, and the change in those totals between this SRF review and the previous round. The finding is to provide contextual information and is not subject to a rating under EPA's SRF protocols.

### Explanation

During fiscal year 2014, Hawaii DOH issued the following enforcement actions in response to NPDES violations:

- 21 Informal Actions (Notices of Apparent Violation)
  - 1 Requests for Information
  - 7 Field Citations (expedited compliance orders with a nominal penalty)
  - 4 Notice of Finding of Violation and Order (compliance order with penalty)

Hawaii's NAVs are informal administrative enforcement actions used by HDOH as either an initial response to a violation, or as the only response in cases where the violations are quickly and easily resolved. NAVs do not create independently enforceable obligations on respondents. Field citations are expedited enforcement actions in which respondents are directed to quickly resolve the cited compliance issues and pay a small penalty. A Notice of Finding of Violation and Order is a formal administrative enforcement action that imposes independently enforceable obligations on the respondent to take actions to return to compliance. A penalty is assessed as part of the NFVO, and it is generally larger than one imposed by a field citation.

Hawaii DOH relies primarily on informal enforcement actions to address NPDES violations. The department's record on the percentage of enforcement actions returning permittees to compliance (60%) is lower than that found during the Round 2 SRF process (80%). Its overall number of enforcement actions (33 total) is also much lower than during Round 2 (78 total). It is likely that this trend is due to the recent emphasis on meeting inspection commitments. In the face of limited resources, there appears to have been a trade-off between inspections and enforcement actions. However, DOH took action to help streamline the enforcement process with new penalty and field citation policies finalized in FY 2014. It is anticipated that these policies will allow the department to address cases requiring formal action more quickly and thoroughly.

**CWA Element 4 — Enforcement**

**Metric 9a: Enforcement actions promoting return to compliance**

<b>Finding 4-1</b>	<b>Area for State Attention</b>
<b>Summary</b>	About 60% of Hawaii’s enforcement actions resulted in a return, or apparent return, to compliance.
<b>Explanation</b>	<p>Metric 9a measures the percent of enforcement responses that return or will return the source to compliance. EPA found 11 of 19 enforcement actions reviewed promote return to compliance compared to the national goal of 100%. The 19 enforcement actions reviewed in selected DOH files included 12 informal actions (Notices of Apparent Violation or NAVs), and 7 combined orders-with-penalties (Field Citations or NFVOs).</p> <p>DOH-CWB staff excel at issuing timely initial enforcement where violations are found. The efficacy of these initial actions is mixed. In 10 of the 12 cases in which an NAV was issued, it was the sole enforcement action to address violations. Full compliance was achieved in only four of those 10 cases. In the seven cases in which formal enforcement actions were taken, five such actions resulted in a return to compliance. In the remaining two cases, DOH is planning further enforcement. DOH’s significantly higher success rate with formal enforcement appears to indicate the need for more of such actions to achieve compliance.</p> <p>In some cases, discussions with DOH staff revealed that formal enforcement actions are still being developed to address violations found in FY 2014; accordingly, EPA’s finding on metric 9a is partially an artifact of not enough separation between the reviewed period (FY 2014) and the year of the SRF review (FY 2015).</p> <p>DOH’s new field citation tool and penalty policy may help fill the need for formal actions without diverting staff excessively from their many other duties (data entry, compliance assistance, conducting inspections and writing inspection reports). The new policies may have already been helpful: from FY 2014 to FY 2015, the number of formal actions (combining both a penalty and a directive to address violations) increased from 11 to 39, more than tripling DOH’s output.</p> <p>Beyond the field citation policy, however, there is still a need for larger and more time-consuming formal enforcement to address more complex or intractable issues. Hawaii’s performance on this metric is worse than during the previous Round 2 SRF process in 2010. This may represent a trade-off between meeting inspection commitments and meeting</p>

enforcement needs, and it suggests a need for greater coordination between DOH and EPA to address the enforcement workload.

EPA will include a discussion of noncompliant facilities as a standing agenda topic during regular meetings with the state, to track new violations and ensure that DOH and EPA share the workload posed by larger or more complex cases that require longer-term actions.

DOH may also consider adopting and implementing revisions to its enforcement response procedures to promote escalation to formal enforcement for facilities that fail to timely return to compliance in response to informal enforcement.

<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 Percentage of enforcement responses that return or will return source in violation to compliance	100%	N/A	11	19	57.9%
<b>State response</b>						
<b>Recommendation</b>	None required.					



**CWA Element 4 — Enforcement**  
**Metrics 10a and 10b: Timely and appropriate enforcement actions**

<b>Finding 4-2</b>	<b>Area for State Improvement</b>
<b>Summary</b>	<p>Enforcement actions to address SNC at major facilities must be taken to address the violations timely and appropriately. This has not been a priority for Hawaii DOH but is a developing area of Hawaii’s NPDES program.</p>
	<p>For this finding, EPA used two metrics (metrics 10a1 and 10b) to evaluate whether Hawaii is addressing violations with appropriate enforcement actions and whether those actions were taken in a timely manner.</p> <p>Metric 10a1 assesses the state’s response to SNC-level violations at major facilities. EPA examined Hawaii’s enforcement response to each of the five major facilities that had SNC-level violations during federal FY2014. EPA policy dictates that SNC level violations must be addressed by issuance of a formal enforcement action compelling compliance (administrative compliance order or judicial action) within 5 ½ months of the end of the quarter when the SNC level violations initially occurred.</p> <p>For metric 10a, EPA and DOH reviewed ICIS and discharge data to determine that the five major facilities indeed had SNC level violations in FY 2014. Hawaii reported only one formal enforcement action against any of these five facilities, and it was not timely under the EMS guidelines. In summary, DOH issued no timely and appropriate enforcement actions against the five facilities with SNC level violations in FY 2014.</p> <p>EPA policy states that no more than 2% of the total majors in the state should be in SNC without an appropriate enforcement action. It appears that Hawaii had 28% of its major dischargers (5 of 18) in SNC during FY2014 without a timely and appropriate enforcement response.</p> <p>Metric 10b assessed Hawaii’s enforcement response to all levels of violations at all facilities (major, minor and general permit dischargers). EPA’s evaluation of metric 10b was based on file reviews of a cross-section of facilities throughout Hawaii. EPA expectations for enforcement response are provided in its Enforcement Management System which includes the strict expectations cited above for enforcement response to major facility SNC violations, as well as the somewhat more subjective guidelines for responses to non-SNC violations.</p> <p>For metric 10b, EPA reviewed 23 files that included documentation that a violation had occurred at the facility. These files included a mix of major,</p>

minor and general permitted facilities. Several of the files were major facilities with SNC violations that were also considered under metric 10a. EPA found that 14 noncompliance scenarios were addressed with enforcement appropriate to the nature of the violation. See the explanation for Finding 4-1 for more details on this finding.

As previously noted, in some cases, enforcement actions are still being developed to address violations found in FY 2014; accordingly, EPA’s finding on metric 10b is partially an artifact of the reviewed period (FY 2014) being immediately prior to the year of the review year (FY 2015).

Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
	10a1 Major facilities with timely action as appropriate				0	5
10b Enforcement responses reviewed that address violations in an appropriate manner		100%	N/A	14	23	61%

**State response**

**Recommendation**

- EPA will include discussion of major facilities in SNC as a standing agenda topic during regular meetings with the state to ensure they are prioritized for swift enforcement.
- DOH will identify cases in which violations have not been adequately addressed with an enforcement action and will timely refer them to EPA for enforcement as necessary.
- By September 30, 2016, DOH will adopt and implement revisions to its enforcement response procedures to provide for swift, formal enforcement against facilities in SNC.

**CWA Element 5 — Penalties**  
**Metrics 11a, 12, and 12b: Penalty calculation and collection**

<b>Finding 5-1</b>	<b>Meets or Exceeds Expectations</b>																														
<b>Summary</b>	DOH properly considered economic benefit and gravity in its penalty calculation and documented collection of the penalty payment.																														
<b>Explanation</b>	<p>Metric 11a assesses the state’s method for calculating penalties and whether it properly includes and documents both an economic benefit and gravity component in its penalty calculations. EPA’s file review found that in five out of seven penalties assessed, both economic benefit and gravity were included. This is an acceptable record, especially given DOH’s recent adoption (in January 2015) of a penalty policy mirroring EPA’s 1995 Interim CWA Settlement Penalty Policy. The newly-adopted policy specifically calls for both economic benefit and gravity components to be included in penalty calculations.</p> <p>Metric 12a assesses whether the state documents the rationale for changing penalty amounts when the final value is less than the initial calculated value. Among the records reviewed, there were no instances of penalty amounts changing.</p> <p>Metric 12b assesses whether the state collects, and documents collection of, assessed penalties. EPA found that in all cases in which penalties were collected, documentation of the payment was included in the file. In one case, the respondent did not pay the assessed penalty; that case is still open.</p>																														
<b>Relevant metrics</b>	<table border="1"> <thead> <tr> <th><b>Metric ID Number and Description</b></th> <th><b>Natl Goal</b></th> <th><b>Natl Avg</b></th> <th><b>State N</b></th> <th><b>State D</b></th> <th><b>State % or #</b></th> </tr> </thead> <tbody> <tr> <td>11a Penalty calculations reviewed that consider and include gravity and economic benefit</td> <td>100%</td> <td>N/A</td> <td>5</td> <td>7</td> <td>71%</td> </tr> <tr> <td>12a Documentation of the difference between initial and final penalty and rationale</td> <td>100%</td> <td>N/A</td> <td>2</td> <td>2</td> <td>100%</td> </tr> <tr> <td>12b Penalties collected</td> <td>100%</td> <td>N/A</td> <td>6</td> <td>7</td> <td>86%</td> </tr> </tbody> </table>							<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>	11a Penalty calculations reviewed that consider and include gravity and economic benefit	100%	N/A	5	7	71%	12a Documentation of the difference between initial and final penalty and rationale	100%	N/A	2	2	100%	12b Penalties collected	100%	N/A	6	7	86%
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<b>State response</b>																															
<b>Recommendation</b>	None required.																														

# **STATE REVIEW FRAMEWORK**

## **Hawaii**

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

**U.S. Environmental Protection Agency  
Region 9, San Francisco**

**Final Report  
March 29, 2016**

# Executive Summary

## Introduction

The U.S. Environmental Protection Agency (EPA) Region IX Air & TRI Enforcement Office conducted a State Review Framework (SRF) enforcement program oversight review of the Hawaii Department of Health: Clean Air Branch (HDOH) in 2015.

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 the EPA ECHO web site.

## Areas of Strong Performance

- HDOH evaluates air CMS sources on a more frequent basis than the minimum evaluation frequencies recommended in the CMS Policy.
- Enforcement backlog was resolved. Previous backlog was resulting in due process concerns. The Enforcement Section and its current supervisor have successfully addressed this backlog.
- Enforcement Guidelines and Procedures were recently updated.

## Priority Issues to Address

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

- Data Reporting/Timeliness: This issue was cited in the Round 2 Review and continues. Some CAA informal enforcement actions did not return facilities to compliance.
- Inaccurate CMS source universe.
- Lack of FRV reporting/Inaccurate FRV and HPV reporting/identification – inaccurate reporting of all federally reportable violations as HPVs. Air High Priority Violations (HPVs).
- Low penalties. Hawaii has a penalty policy similar to EPA's and the penalty amounts for each violation are significantly lower. The state should increase penalty amounts, as appropriate, to ensure penalties serve as a deterrent to future violations and that enforcement is handled somewhat consistently from state to state with similar penalties for the same violation.

## 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 (Title V)
- Resource Conservation and Recovery Act Subtitle C

Reviews cover:

- **Data** — completeness, accuracy, and timeliness of data entry into national data systems
- **Inspections/Evaluations** — meeting inspection/evaluation and coverage commitments, inspection (compliance monitoring) 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/local 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/local programs.

Each state/local programs are reviewed once every four 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 2016.

## II. SRF Review Process

**Review period:** FY 2014

**Key dates:**

- Kickoff letter sent to HDOH: April 16, 2015
- CAA data metric analysis and file selection list sent to HDOH: June 8, 2015
- On-site CAA file review: July 15-16, 2015
- Draft report sent to HDOH: October, 2015
- Report finalized:

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

**HDOH**

- Nolan Hirai, P.E., Program Manager, Hawaii DOH Clean Air Branch
- Jill Stensrud, Supervisor, Enforcement Section, Hawaii DOH Clean Air Branch

**EPA Region 9**

- Matt Salazar, Manager, Air & TRI Office, Enforcement Division
- Andrew Chew, Case Developer/ Inspector, Air & TRI Office, Enforcement Division
- Nathan Dancher, Case Developer/ Inspector, Air & TRI Office, Enforcement Division
- Jennifer Sui, AFS Coordinator, Information Management Section, Enforcement Division
- Robert Lischinsky, Office of Compliance, Office of Enforcement and Compliance Assistance

### III. SRF Findings

Findings represent EPA’s conclusions regarding state/local 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 previous state/local SRF review
- Follow-up conversations with state/local 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/local performs above national program expectations.

**Area for State/Local Attention:** An activity, process, or policy that one or more SRF metrics show as a minor problem. Where appropriate, the state/local 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/Local 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/Local 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/local 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

<b>Element 1 — Data</b>	
<b>Finding 1-1</b>	<b>Area for State Improvement</b>
<b>Summary</b>	The File Review indicated that information reported into AFS/ICIS-Air was not consistent with the information found in the files reviewed.
<b>Explanation</b>	<p>Review Metric 2b evaluates the completeness and accuracy of reported MDRs in AFS. Timeliness is measured using the date the activity is achieved and the date it is reported to AFS. While the national goal for accurately reported data in AFS is 100%, only 46.9% of reviewed data in the files was accurately reported. Inaccuracies were related to facility information (incorrect names, addresses, contact phone numbers, CMS information, pollutants, operating status, etc.) and missing or inaccurate activity data (e.g., incorrect FCE dates entered; stack test not reported to AFS/ICIS-Air). Incorrect data in ICIS-Air potentially hinders targeting efforts and results in inaccurate information being released to the public.</p> <p>Metric 3a2 measures whether HPV determinations are entered into AFS/ICIS-Air in a timely manner (within 60 days) in accordance with the AFS Information Collection Request (AFS ICR) in place during FY 2014. The metric indicates that one HPV determination was reported untimely. EPA policy requires all HPV determinations to be reported to AFS within 60 days.</p> <p>Metric 3b1 measures the timeliness for reporting compliance-related MDRs (FCEs and Reviews of Title V Annual Compliance Certifications). Out of 244 individual actions, 59 were reported within 60 days (24.2%). This is below the goal of 100%.</p> <p>Metric 3b2 evaluates whether stack test dates and results are reported within 120 days of the stack test. The national goal for reporting results of stack tests is to report 100% of all stack tests within 120 days. Out of 35 stack tests, only 22 were reported within 120 days (62.9%), below the national average and the national goal.</p> <p>Metric 3b3 measures timeliness for reporting enforcement-related MDRs within 60 days of the action. The actions reported by ADEQ were Notices of Violations and Administrative Orders. Out of 7 enforcement MDR reporting, 5 were reported within 120 days (71.4%), slightly below the national average and below the national goal of 100%.</p>

Metrics 7b1, 7b2 and 7b3 use indicators of an alleged violation to measure the rate at which violations are accurately reported into AFS. Violations are reported by changing the compliance status of the relevant air program pollutant in AFS. Metrics 7b1 and 7b3 are “goal” indicators with a goal of 100% of violations reported.

Metric 7b1 indicates that for all 5 NOV’s issued, HDOH changed the compliance status to either “in violation” or “meeting schedule.” EPA commends HDOH for meeting the national goal and exceeding the national average.

Similarly, for HPV’s, Metric 7b3 indicates that for all 8 HPV’s identified at major sources in FY2014, HDOH changed the compliance status to either “in violation” or “meeting schedule.” EPA commends HDOH for meeting the national goal and exceeding the national average.

Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
	2b- Accurate MDR Data in AFS	100%		15	32	46.9%
3a2- Untimely Entry of HPV’s	0		1			
3b1 – Timely Reporting of Compliance Monitoring MDRs	100%	83.3%	59	244	24.2%	
3b2 – Timely Reporting of Stack Test Dates and Results	100%	80.8%	22	35	62.9%	
3b3 – Timely Reporting of Enforcement MDRs	100%	77.9%	5	7	71.4%	
7b1 – Violations Reported Per Informal Actions	100%	65.6%	5	5	100%	
7b3 – Violations Reported Per HPV Identified	100%	63.2%	8	8	100%	
State Response	<p>In order to improve timely and accurate reporting to EPA in the new data system ICIS-Air:</p> <ul style="list-style-type: none"> <li>HDOH will identify Title V Major and SM80 sources and correct the CMS Sources Universe in ICISAir. HDOH will update the</li> </ul>					

	<p>CMS plan to include the Title V Major and SM80 sources and submit the plan to EPA within 90 days of the final SRF report.</p> <ul style="list-style-type: none"> <li>• HDOH will review the ICIS-Air data to ensure the reported compliance and enforcement data are complete and consistent with the current minimum data requirements.</li> <li>• HDOH will revise the tack test plan and report review process which is currently done by engineers in the permitting section. The monitoring section inspectors who conduct the inspections of Title V major and SM80 sources will assume the stack test plan and report reviews. The new process and guidelines will also specify reporting requirements to ICIS-air and will be provided to EPA within 180 days of the final SRF report.</li> <li>• The CAA Stationary Source Compliance Monitoring Strategy (CMS) Federally-Reportable Violation (FRV) and High Priority Violation (HPV) policies have been provided to and reviewed with all inspectors. Inspection reports have been revised to include all reporting requirements and timelines as stated in each policy.</li> <li>• Annual training to all inspectors will include       <ol style="list-style-type: none"> <li>1. Review of CMS, FRV, and HPV policies</li> <li>2. Review of inspection and investigation guidelines</li> <li>3. Review of stack test review and reporting guidelines</li> <li>4. Inspection, information gathering, documentation, and report writing,</li> <li>5. Any additional training needs.</li> </ol> </li> </ul>
<p><b>Recommendation</b></p>	<p>EPA has recommended Hawaii revise their processes for reporting to EPA. For example, FRVs are to be reported to ICIS-Air within 60 days of the FRV determinations. Reporting into our new data system ICIS-Air, may help with obtaining more timely data.</p> <ul style="list-style-type: none"> <li>• We recommend within 180 days of issuance of the final report, Hawaii should provide a draft revised reporting processes to the Region for review. Once Hawaii begins implementing the revised processes, the Region will review the reported data throughout FY 2016. If the data is timely, the recommendation will be deemed completed at the end of the Fiscal Year.</li> <li>• We recommend within 180 days of issuance of the final report, HDOH put processes in place to ensure timely reporting of stack tests results and submit a memo describing the process to Region IX.</li> <li>• We recommend the CMS Source Universe be corrected. For example, many of Hawaii’s TV sources are not majors (e.g., crushers) and are not necessarily required to be in the state’s CMS source universe. Within 90 days of submission of the final report, we recommend HDOH submit the updated source universe</li> </ul>

reported into ICIS-Air. At that point, Region IX will review and should be able to state that this issue has been addressed already and the formal recommendation for a corrected source universe completed.

- Hawaii should provide copies of both HPV and FRV policies to all relevant managers/staff (e.g., inspectors, case developers, section chiefs) and have training to ensure managers/staff are familiar and knowledgeable of the policies. The training should take place by 240 days following the final SRF report being completed. The Region will provide assistance with the training, as needed.

EPA accepts HDOH comments above.

## Element 2 — Inspections/Evaluations

### Finding 2-1

### Meets Expectations

#### Summary

HDOH met the negotiated frequency for compliance evaluations of CMS sources.

#### Explanation

This Element evaluates whether the negotiated frequency for compliance evaluations is being met for each source. HDOH met the national goal for the relevant metrics.

HDOH met the negotiated frequency for conducting FCEs of major and SM80s. HDOH ensured each major source was evaluated with an FCE once every 2 years and each SM80 once every 5 years.

Note: The 100% achievement rate noted in the table below differs from what would be derived using the “frozen data set”, because upon review of the reported frozen data we found the state had reported a higher, inaccurate universe of facilities than actually existed. The FCEs do not match all of the Title V and SM80 facilities identified in the most recent HDOH CMS policy (likely due to facility closures, openings, and facilities that changed names). HDOH has agreed to look into the inaccurate CMS source universe to ensure that each facility is categorized accurately. Our review confirmed the universe is much smaller than the 141 reported in the frozen data set. HDOH did 117 FCE inspections in FYs 13 and 14. HDOH should revisit the CMS plan on a regular basis and update for accuracy.

	<p>EPA commends HDOH for full compliance evaluations at major facilities, an impressive accomplishment given the distance and complexities of the sources they regulate. HDOH goes beyond the minimum frequencies, and inspects sources more often than EPA’s CMS policy indicates. If HDOH believes their resources can be put to better use, EPA can approve alternative CMS plans that are not completely consistent with CMS recommended evaluation frequencies for local and state agencies to shift resources to other sources of concern, if needed.</p> <p>[As discussed on our October 20 conference call, HDOH will provide updated numbers to the chart below to correct these if they feel the numbers represented are inaccurate.]</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>5a – FCE Coverage Majors</td> <td>100%</td> <td>85.7%</td> <td>117</td> <td>141</td> <td>83%</td> </tr> <tr> <td>5b – FCE Coverage SM80s</td> <td>100%</td> <td>91.7%</td> <td>0</td> <td>0</td> <td>N/A</td> </tr> <tr> <td>5c – FCE Coverage CMS non-SM80s</td> <td>N/A</td> <td>15.6%</td> <td>0</td> <td>0</td> <td>N/A</td> </tr> <tr> <td>5d – FCE Coverage CMS Minors</td> <td>N/A</td> <td>4.4%</td> <td>0</td> <td>0</td> <td>N/A</td> </tr> </tbody> </table>	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #	5a – FCE Coverage Majors	100%	85.7%	117	141	83%	5b – FCE Coverage SM80s	100%	91.7%	0	0	N/A	5c – FCE Coverage CMS non-SM80s	N/A	15.6%	0	0	N/A	5d – FCE Coverage CMS Minors	N/A	4.4%	0	0	N/A
Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #																										
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5c – FCE Coverage CMS non-SM80s	N/A	15.6%	0	0	N/A																										
5d – FCE Coverage CMS Minors	N/A	4.4%	0	0	N/A																										
<b>State Response</b>																															
<b>Recommendation</b>	None required.																														

## Element 2 — Inspections/Evaluations

<b>Finding 2-2</b>	<b>Meets Expectations</b>
<b>Summary</b>	HDOH completed the nearly 90% of the required reviews for each Title V Annual Compliance Certification (ACC).
<b>Explanation</b>	<p>This Element evaluates whether the delegated agency has completed the required review for Title V Annual Compliance Certifications. While HDOH has exceeded the national average, the goal for annual review of Title V certifications is 100%. The data indicates that 14 certifications were not timely reviewed in FY 2014.</p> <p>It would be ideal to report all of the certifications in ICIS-AIR.</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>
	5e – Review of TV ACCs	100%	78.8%	115	129	89.1%
<b>State Response</b>						
<b>Recommendation</b>	None required.					

## Element 2 — Inspections/Evaluations

<b>Finding 2-3</b>	<b>Area for State Improvement</b>
<b>Summary</b>	Overall, the HDOH compliance monitoring reports (CMRs) provided should be improved.
<b>Explanation</b>	<p>Inspection Reports (i.e., Compliance Monitoring Reports (CMRs)) need to be improved. According to HDOH comments during interviews as well as confirmed by the File Review, the majority of reports are insufficient.</p> <p>Some reports lack sufficient detailed information to have a full understanding of the inspectors’ activities while on-site and to be able to make a strong enforcement case.</p> <p>The reports do not include enforcement history which is considered to be a “basic element” that should be included (as discussed in the CMS Policy). The report format/template should be updated to include an enforcement history section.</p> <p>Photos are often not included when necessary or when they are included, the photos may not provide the necessary information (e.g., do not provide a reference such as a ruler showing diameter).</p> <p>The statement of a facility being “in compliance” should be removed from all inspection reports (CMRs). Inspectors should not be including a “Finding” within the report – only observations and recommendations.</p>

29 HDOH compliance monitoring reports were reviewed under this Element. In reviewing some of the reports, it is unclear if all 7 CMR elements as discussed in the CMS policy were addressed in the reports. Reviewers found 22 inspections were fully documented. A number of the inspections were announced. EPA recommends unannounced inspections whenever possible.

We understand some, if not all, Hawaii inspection programs reviewed under this year’s SRF may have no formal training or credentialing program established. If this is the case for the Air inspectors, we recommend instituting a training program to ensure less experienced inspectors are equipped to accomplish program goals, and to avoid exposing inspectors to potential legal liability (if access to sites is not gained legally) and to risk of physical harm.

**Relevant metrics**

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
6a – Documentation of FCE Elements	100%		29	29	100.0%
6b – CMRs/Sufficient Documentation to Determine Compliance	100%		22	32	68.8%

**State Response**

- Inspection report (CMR) format has been updated and will be submitted to EPA by September 30, 2016.
- The HDOH inspectors are well trained and do not conduct inspections until they are well trained. The HDOH has an established basic complaint inspection and facility investigation guidelines (I&I guidance). This I&I guidance document addresses several areas where EPA noted HDOH needs to establish training, such as: site entry, proper safety equipment, collection of evidence, etc. The HDOH is undergoing an update of the I&I guidance as a result of a Kaizen event on September 21, 2015. The new updated version should be completed by the end of 2015 and will be sent to EPA.
- The HDOH inspectors also attend visible emission (VE) recertification every six months. The class room lecture portion of VE certification is recommended to be taken every 3-4 years by the inspectors, (which is not a Federal requirement but HDOH has done so our inspectors are better trained). HDOH staff also attend hydrogen sulfide (H2S) annual training. HDOH believes this is vital training for refinery, geothermal, wastewater and other H2S source inspectors.
- HDOH inspectors attended “Introduction to Environmental Enforcement Course” and “Introduction to Environmental Crimes Enforcement” which is given by the Western States

	<p>Project. The HDOH also had Western States Air Resources Council bring National Air Compliance Training courses (NACT 200 Series) to Hawaii in October 2014 that covered continuous emission monitoring, fugitive dust, aggregate, concrete and asphalt batch plants.</p> <ul style="list-style-type: none"> <li>• The HDOH recognizes the importance of having a good inspection program with well-trained inspectors. Appropriate training is available to all inspectors which includes classroom lectures, workshops, web-based courses, teleconferences, self-instructional courses, and on-the-job training. HDOH will identify specific training requirements for the inspection staff and document training taken and date of completion. In addition to annual review of the CMS, FRV, HPV policies and inspections guidelines, staff is encouraged to identify, request, and attend pertinent courses, seminars and workshops.</li> <li>• A credentialing program that EPA states HDOH shall have is more difficult to establish at this time. The HDOH recognizes the value of credentialing; however, due to administration, personnel and labor union constraints, the credentialing program may take 2-3 years to establish. The Clean Air Branch, Clean Water and Hazardous Waste Branch have met and are working to initiate and develop a credentialing program.</li> </ul>
<p><b>Recommendation</b></p>	<ul style="list-style-type: none"> <li>• Hawaii shall provide to the Region within 30 days of the final SRF report an updated inspection report (CMR) format for regional review.</li> <li>• EPA acknowledges HDOH comments above regarding current training practices, and HDOH's plans to identify specific training requirements for inspection staff and to document training taken and dates of completion. EPA recommends specific requirements include basic inspector training covering site entry and collection of evidence; health and safety training to ensure inspectors are properly prepared for site conditions; and program-specific training covering specific elements of proof necessary to support a case. EPA recommends complete identification of these requirements by September 30, 2016.</li> <li>• EPA has recommended HDOH establish a credentialing program for inspectors and ensure no inspections are performed by staff unless they are trained and credentialed under the established criteria. As stated in their comments above, HDOH shall initiate development of a credentialing program in 2016. EPA recommends HDOH update EPA during regular conference calls on progress made toward full establishment of such a program,</li> </ul>



	<p>with the goal that the credential program be fully implemented by March 31, 2017. EPA acknowledges HDOH’s concern that full establishment may take longer than our specified date of March 31, 2017, but recommends HDOH retain this date as a goal for full implementation.</p> <ul style="list-style-type: none"> <li>• Throughout FY 2016, the Region will randomly review inspection reports from Hawaii. If they are sufficient, this Recommendation will be considered addressed at the end of FY 2016.</li> </ul>
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**Element 3 — Violations**

<b>Finding 3-1</b>	<b>Area for State/Local Improvement</b>
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<b>Summary</b>	In general, compliance determinations are accurately made; however they are often untimely reported into ICIS-Air based on the CMRs reviewed and other compliance monitoring information. HDOH is above the national average for HPV discovery rate.
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<b>Explanation</b>	<p>Metric 7a is designed to evaluate the overall accuracy of compliance determinations and Metric 8c focuses on the accurate identification of violations that are determined to be HPVs.</p> <p>For 7a, in 24 out of 30 of the inspections, there was enough information to show HDOH made appropriate compliance determinations.</p> <p>Hawaii has incorrectly been reporting all violations as HPVs. However, as we discussed with Hawaii, both the FRV and HPV Policies have been revised in FY 2014. The state is now becoming familiar with both policies.</p> <p>HDOH is untimely in reporting of HPVs into ICIS-Air and Hawaii is having difficulty in timely notifying sources of the HPVs. In accordance with the HPV Policy, Hawaii should advise the source of the violation no more than 45 days after Day Zero. Hawaii does not seem to be meeting the 45 day timeframe requirement. Due to administrative issues, notifications are often not timely sent out. Many NOVs are drafted but are not finalized by the administrative staff and sent out promptly. The notifications often sit in the office for months after being drafted.</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>State N</b>	<b>State D</b>	<b>State % or #</b>
	Metric 7a – Accurate Compliance Determinations	100%		24	30	80.0%
	Metric 8a – HPV Discovery Rate at Majors		3.1%	8	132	6.1%
	Metric 8c – Accuracy of HPV Determinations	100%		14	17	82.4%
<b>State Response</b>	<ul style="list-style-type: none"> <li>• The HDOH is updating a July 27, 1999 version of the inspection and investigation (I&amp;I) guidelines and will have a final version completed by the end of 2015. The updated version of the I&amp;I guidance has stressed the FRV and HPV policies, which contain revised reporting process to meet timely data input into ICIS-Air.</li> <li>• All violations including Informal NOV's and Field Citations will be reported as required by the FRV and HPV policies.</li> </ul>					
<b>Recommendation</b>	<p>Hawaii should provide copies of the HPV and FRV policies to all relevant managers/staff (e.g., inspectors, case developers, section chiefs) and have training to ensure managers/staff are familiar and knowledgeable of the policies. The training should take place by 240 days following the final SRF report being completed. The Region will provide assistance with the training, as needed.</p> <p>Hawaii should ensure that all enforcement responses (Formal Notice &amp; Finding of Violation; Field Citation; and Informal NOV's) are reported in to ICIS-Air as required in the ICR. Currently, Hawaii does not report informal NOV's to EPA. The State indicated that they would begin to report such data.</p> <p>Region IX and Hawaii have already commenced quarterly calls to discuss potential HPV's (as well as any issues concerning FRV's and CMS implementation).</p> <p>The Region will be reviewing FRV/HPV determinations/reporting throughout FY 2016 and if the Region sees that such determinations/reporting is accurate, the Recommendation will be deemed completed at the end of FY 2016.</p>					

Within 365 days following completion of the final SRF Report, Hawaii should revise their processes for ensuring timely notification of HPVs. The revised processes should be sent to the Region for review. If notifications are timely throughout FY 2016, this Recommendation would be considered completed.

**Element 4 — Enforcement**

<b>Finding 4-1</b>	<b>Area for State Improvement</b>
<b>Summary</b>	HDOH’s enforcement actions, in more instances than not, did not return the facility to compliance and fell below the measure for appropriate response.
<b>Explanation</b>	<p>EPA reviewed twelve formal enforcement actions and only five returned facilities to compliance. Many of the repeat violators, however, appeared to be small crushing operations on outer islands that may be incorrectly coded as Title V major sources. When HDOH revises their CMS universe, the percentage of facilities returning to compliance should rise sharply.</p> <p>There have been efforts to improve communication between inspectors and the enforcement section. Previously, inspectors would develop informal NOVs and send over potential violations to the C&amp;E section. However, they may not have been informed of what happened and whether a source was determined to be in violation. This had a negative impact on their future evaluations. To address this issue, Hawaii has now instituted the following processes:</p> <ul style="list-style-type: none"> <li>• All informal NOVs drafted by the inspectors are scanned and put on the CAB server. The C&amp;E section will follow-up with an e-mail to the inspectors letting them know when NOVs have been issued. This effort began in November 2014 and has been working well. Thus, Hawaii will begin implementing such a notification process for their inspectors for all enforcement actions. Inspectors will be able to search for violations at a particular source via their computers.</li> </ul>

Metric 10a is designed to evaluate the extent to which the agency takes timely action to address HPVs. HDOH did not adhere to the 1998 HPV Policy. Metric 10b is designed to evaluate the extent to which the agency takes appropriate enforcement responses for HPVS. HDOH has less than 50% for this metric.

**Relevant metrics**

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
9a – Formal Enforcement Returns Facilities to Compliance	100%		5	12	41.7%
10a – Timely Action Taken to Address HPVs	73.2%		2	2	100%
10b – Appropriate Enforcement Responses for HPVs	100%		6	13	46.2%

**State Response**

The HDOH is currently going through the rule change process to incorporate notification, reporting and fee violations into the Field Citation enforcement action program. Currently, an Informal NOV and Formal NOV are the two (2) enforcement actions which can address these types of violations. The HDOH believes facilities will more likely come into compliance when issuing a Field Citation with a monetary penalty as opposed to an Informal NOV (no monetary penalty) on a first violation. In addition, the HDOH has recently updated (November 2014) the Formal NOV penalty calculation worksheets to increase penalties approximately 30%. The HDOH believes this increase in penalties will be sufficient to encourage facilities to come into compliance.

**Recommendation**

Hawaii should ensure that all enforcement responses (Formal Notice & Finding of Violation; Field Citation; and Informal NOVs) return facilities to compliance and are sufficient to be an appropriate response.

Region IX and Hawaii have already commenced quarterly calls to discuss enforcement response.

Within 365 days following completion of the final SRF Report, Hawaii should revise their processes for ensuring facilities come into compliance after actions. The revised processes should be sent to the Region for review. If facilities return to compliance throughout FY 2016, this Recommendation would be considered completed.

## Element 5 — Penalties

<b>Finding</b>	<b>Area for state attention</b>																													
<b>Summary</b>	Hawaii has a penalty policy similar to EPAs and HDOH should increase penalty amounts, as appropriate, to ensure penalties serve as a deterrent to future violations and that enforcement is handled somewhat consistently from state to state with similar penalties for the same violation.																													
<b>Explanation</b>	<p>The File Review indicated that the penalties HDOH assesses are too low. For example, an outer island utility failed a source test and submitted late Title V reports. A penalty using the EPA penalty policy would have calculated at least a 27,500 penalty. HDOH settled the violations for less than \$4,000.</p> <p>Reviewers checked on the two penalties that were not collected and HDOH said the payments were due to their office shortly.</p> <p>Metric 11a is designed to evaluate whether the penalty calculations include gravity and economic benefit and in all five calculations reviewed, HDOH included documentation for both. Metric 12a is designed to evaluate the extent to which the agency documents the rationale for the difference between initial and final penalty. In 50% of the cases reviewed, reviewers could not find such documentation. HDOH should write a memo to the file for each case in which there is a difference between initial and final penalty and include a brief rationale.</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 Reviewed that Document Gravity and Economic Benefit</td> <td>100%</td> <td></td> <td>5</td> <td>5</td> <td>100%</td> </tr> <tr> <td>12a – Documentation of Rationale for Difference Between Initial and Final Penalty</td> <td>100%</td> <td></td> <td>3</td> <td>6</td> <td>50%</td> </tr> <tr> <td>12b – Penalties Collected</td> <td>100%</td> <td></td> <td>3</td> <td>5</td> <td>60%</td> </tr> </tbody> </table>						Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #	11a – Penalty Calculations Reviewed that Document Gravity and Economic Benefit	100%		5	5	100%	12a – Documentation of Rationale for Difference Between Initial and Final Penalty	100%		3	6	50%	12b – Penalties Collected	100%		3	5	60%
Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #																									
11a – Penalty Calculations Reviewed that Document Gravity and Economic Benefit	100%		5	5	100%																									
12a – Documentation of Rationale for Difference Between Initial and Final Penalty	100%		3	6	50%																									
12b – Penalties Collected	100%		3	5	60%																									
<b>State Response</b>																														
<b>Recommendation</b>	None required.																													

# **STATE REVIEW FRAMEWORK**

## **Hawaii**

### **Resource Conservation and Recovery Act Implementation in Federal Fiscal Year 2014**

**U.S. Environmental Protection Agency  
Region 9, San Francisco**

**Final Report  
March 29, 2016**

# Executive Summary

## Introduction

EPA Region 9 enforcement staff conducted a State Review Framework (SRF) enforcement program oversight review of the Hawaii Department of Health (HDOH).

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

The HDOH has focused on the following, leading to strong performances as noted in the report: Core inspection coverage, completeness and accuracy of inspection reports and compliance determinations (except SNC), appropriate enforcement actions returning facilities to compliance, and penalty collection. The hazardous waste inspectors have focused on completion of inspections and enforcement; staffing in data management (planner) position has seen high vacancy and turnover in the last several years; which may account for some of the RCRAInfo data quality issues.

## Priority Issues to Address

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

- Incomplete and inaccurate entry of mandatory data into RCRAInfo;
- Timeliness of inspection report completion;
- Not documenting SNC determinations; and
- Economic benefit calculations not included in penalties.

## Resource Conservation and Recovery Act Findings

RCRA Element 1 — Data						
<b>Finding 1-1</b>	<b>Area for State Improvement</b>					
<b>Summary</b>	EPA’s review of HDOH inspection and enforcement files found that 46.7% (14 of 30) of the minimum data requirements were actually being entered completely and accurately into the national data system (RCRAInfo).					
<b>Explanation</b>	A total of 30 files were reviewed. Sixteen of the files contained data entry errors: 1) Three of the Significant Non-Complier (SNC) determinations were not identified in RCRAInfo; 2) Six of the data errors involved not documenting when written inspection reports were finalized for “No Violation” inspections; and 3) Seven inspection date entries or incorrect violations were entered into RCRAInfo.					
<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>
	2b Complete and accurate entry of mandatory data	100%	N/A	14	30	46.7
	Choose an item.					
	Choose an item.					
	Choose an item.					
	Choose an item.					
<b>State response</b>	Several inspectors’ meetings held subsequent to the State Review identified gaps in inspector training and knowledge regarding required data entry elements and how to enter this data. We developed a Standard Operation Procedures (SOP) document for the most common data entry processes by 8/20/15, to be fully implemented by 10/1/15. The SOP includes timeliness of data entry, adding new evaluations, entering violations, entering information enforcements (including 145 written inspection report for no violations found), linking violations, return to compliance, and standardizing dates. Future SOPs will include entering formal enforcements, SNC determinations, penalties and payments. The					



	Hazardous Waste Planner will also begin doing quarterly checks of data quality.
<b>Recommendation</b>	EPA recommends that HDOH develop and distribute a policy for establishing consistent guidelines for entering all inspection and enforcement data into RCRAInfo. HDOH has begun that process, as reflected in State Comments. EPA recommends completion and distribution of future SOPs by 12/21/2016.

## RCRA Element 2 — Inspections

<b>Finding 2-1</b>	<b>Meets or Exceeds Expectations</b>																								
<b>Summary</b>	HDOH completed core coverage for TSDs (two-year coverage) and LQGs (one-year coverage). HDOH did not meet the five-year coverage for LQGs.																								
<b>Explanation</b>	<p>Element 2-1 is supported by Metrics 5a, 5b, and 5c. The OECA National Program Managers (NPM) Guidance outlines the core program inspection coverage for TSDs and LQGs. HDOH met the 2-year TSD inspection requirement (Metric 5a), despite what has been reported for the TSD universe in the 2013/2014 inspection period. RCRAInfo identifies 3 operating TSD facilities in the state of HI. However, the third TSD facility is no longer operating. As such, HDOH has met the 2-year TSD inspection requirement by inspecting 100% (2 of 2) of the State’s inspection universe.</p> <p>HDOH has inspected 25.8% of the Annual LQG inspections universe (Metric 5b) and inspected 90.3% of the LQG universe during the 5-year period (Metric 5c). The 5-year inspection coverage for LQGs is above the national average of 67.1%, but does not meet the 100% national goal. The 100% national goal is often difficult to meet due to the constantly changing universe of LQGs.</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>5a Two-year inspection coverage of operating TSDFs</td> <td>100</td> <td>88.4</td> <td>2</td> <td>2</td> <td>100</td> </tr> <tr> <td>5b Annual inspection coverage of LQGs</td> <td>20</td> <td>20.1</td> <td>8</td> <td>31</td> <td>25.8</td> </tr> <tr> <td>5c Five-year inspection coverage of LQGs</td> <td>100</td> <td>67.1</td> <td>28</td> <td>31</td> <td>90.3</td> </tr> </tbody> </table>	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #	5a Two-year inspection coverage of operating TSDFs	100	88.4	2	2	100	5b Annual inspection coverage of LQGs	20	20.1	8	31	25.8	5c Five-year inspection coverage of LQGs	100	67.1	28	31	90.3
Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #																				
5a Two-year inspection coverage of operating TSDFs	100	88.4	2	2	100																				
5b Annual inspection coverage of LQGs	20	20.1	8	31	25.8																				
5c Five-year inspection coverage of LQGs	100	67.1	28	31	90.3																				

	Choose an item.		
	Choose an item.		
<b>State response</b>	As noted, the LQG universe is constantly changing. We believe the 10% of LQGs not inspected in the last 5 years are those that have notified within the last 1-2 years. This may also include a few facilities whose status remains LQG although they are not regular generators; such as Del Monte, which is a superfund site managed by the Hazard Evaluation and Emergency Response (HEER) office.		
<b>Recommendation</b>	No further action is recommended.		

## RCRA Element 2 — Inspections

<b>Finding 2-2</b>	<b>Area for State Attention</b>
<b>Summary</b>	HDOH inspection reports were complete with adequate supporting documentation. However, nearly 50% of the inspection/enforcement data was not entered into RCRAInfo in a timely manner.
<b>Explanation</b>	<p>All of the completed inspection reports reviewed (27) were written in a standardized format that included the following report elements: facility name, date of inspection, inspection participants, facility/process description, observations, photographs, and documents and files that were reviewed. Three of the reports were incomplete at the time of the review.</p> <p>A general guideline of 45 days to complete an inspection report after the inspection was used for the purposes of this review. HDOH completed 53.3% of the State’s inspection reports within 45 days of the inspection. The report completion average for the period reviewed is 49.6 days. This number takes into account that three of the inspections evaluated for FY14 were not complete at the time of the SRF review.</p> <p>EPA suggests that HDOH develop a streamlined report for inspections where no formal enforcement action will be taken. In addition, EPA recommends that HDOH develop and implement a formal training or credentialing program to train its inspectors in the proper regulating and enforcement of the RCRA hazardous waste requirements. EPA will follow up on DOHS progress during periodic teleconferences.</p>

Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
	6a Inspection reports complete and sufficient to determine compliance	100	N/A	27	30	90.0
6b Timeliness of inspection report completion	100	N/A	16	30	53.3	
	Choose an item.					
	Choose an item.					
	Choose an item.					

**State response**

The SRF notes only 53.3% reports completed within 45 days. However, this statistic includes 6 missing data points where enforcement code 145 written inspection report was not entered for sites with no violation found. These reports were very likely completed within 45 days.

Some of the inspectors were unaware of the timeliness goal, which has now been remedied. Beginning in August 2015, we implemented monthly RCRAInfo runs by the section planner and update/distribute “open case” lists for inspectors to do a timely follow-up.

In the state’s response, HDOH indicated they concur and recognize the value of HDOH having formal inspector training to attract qualified inspectors across the Environmental Management Division. To that end, the 3 HDOH program supervisors are working to initiate and develop a standardized training curriculum that will eventually lead to a testing and credentialing program. This is discussed more fully in the Air and Water SRF reports which accompany this RCRA report.

**Recommendation**

No formal recommendations are required for Areas of State Attention; however, suggested improvements are noted above, and addressed more fully in the recommendations included in the Air and Water SRF reports. EPA will follow up with DOHS on progress during periodic teleconferences.

**RCRA Element 3 — Violations**

**Finding 3-1**      **Area for State Improvement**

<b>Summary</b>	HDOH makes accurate compliance determinations based on inspection reports reviewed, but does not make accurate SNC determinations in a timely manner in RCRAInfo.
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<b>Explanation</b>	<p>File review metric 7a assesses whether accurate compliance determinations were made based on the inspections conducted. Of the 28 completed files reviewed 92.9% (26 of 28) of inspection case files contained accurate compliance determinations, compared to 95% of the accurate compliance determinations in FY09. The remaining two case files did not include all RCRA violations in the reports documented and observed during the inspection, or they did not have any file information or RCRAInfo data entries.</p> <p>Metric 8c is a review indicator that evaluates appropriate SNC determinations conducted during the year. In the data metric analysis, HDOH identified four case files in FY14 that resulted in formal actions. However, only one case file was properly entered as a SNC in RCRAInfo (25%). HDOH’s SNC determinations were last evaluated in 2009, and were found to be equivalent to the National Goal of 100% entry.</p> <p>SNC identification is an important part of an effective inspection and enforcement program. This information is used to track potential enforcement actions, as well as by the public to identify problematic facilities within their community. For this reason, EPA is identifying SNC determinations as an area that HDOH should pay particular attention to ensure that appropriate and timely SNCs are recorded into RCRAInfo.</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>State N</b>	<b>State D</b>	<b>State % or #</b>
	7a Accurate compliance determinations	100	N/A	26	28	92.9
	8c Appropriate SNC determinations	100	N/A	1	4	25
	Choose an item.					
	Choose an item.					
	Choose an item.					

<b>State response</b>	<p>[Note: these comments reflect conversation with DOHS subsequent to submittal of formal written comments].</p> <p>The poor data entry for SNCs (25%) reflects two different problems we had:</p> <ul style="list-style-type: none"> <li>○ Lack of clarity regarding when a SNC designation is appropriate, stemming from Region 9 and HQ guidance conflicts and our lack of local inspector training. This was addressed in discussions at the SRF outbrief. HDOH will follow Region 9 guidance; our current understanding is SNC designations start on the date of an inspection identifying significant violations for which the program pursues formal enforcement action, and ends on the date the final penalty payment is received.</li> <li>○ Lack of data entry skills.</li> </ul> <p>HDOH will check RCRAInfo quarterly to meet the SNC requirements.</p>
<b>Recommendation</b>	<p>All SNC determinations should be well documented and tracked in RCRAInfo. EPA will review HDOH’s SNCs quarterly to determine if the state has met the national goal of 100% SNC determinations for the year.</p>

**RCRA Element 4 — Enforcement**

<b>Finding 4-1</b>	<b>Meets or Exceeds Expectations</b>
<b>Summary</b>	HDOH’s enforcement actions returned violators to compliance.
<b>Explanation</b>	<p>Metric 9a measures the enforcement responses that have returned or will return facilities with SNCs or SV violations to compliance. Of the 25 files that had completed enforcement actions 22 of 25 (88%) of the HDOH files contained well documented return to compliance information. Each return to compliance submission by the facility is entered into RCRAInfo by HDOH.</p> <p>Metric 10b assesses the appropriateness of enforcement actions for SVs and SNCs. In the files reviewed, 100% (4 of 4) of the facilities with major violations had an appropriate enforcement response.</p>

Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
	9a Enforcement that returns violators to compliance	100		22	25	88
	10b Appropriate enforcement taken to address violations	100		4	4	100
	Choose an item.					
	Choose an item.					
	Choose an item.					
State response						
Recommendation	No further action is recommended.					

## RCRA Element 5 — Penalties

<b>Finding 5-1</b>	<b>Area for State Improvement</b>																																									
<b>Summary</b>	Differences between initial and final penalty assessed not well documented.																																									
<b>Explanation</b>	<p>A total of four RCRA penalty case files were reviewed as a part of HDOH's FY14 State Review Framework (SRF). Only 50% (2 of 4) of the case files included detailed penalty calculations and justification memorandums to explain the difference between initial and final penalties.</p> <p>The penalty calculation process includes a gravity component, an economic benefit component, and any adjustments (e.g., history of non-compliance). A total of four (100%) of the enforcement case files included documentation supporting that penalties had been collected (e.g., copy of the check or RCRInfo record entry).</p>																																									
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<b>State response</b>	<p>[Note: these comments reflect conversations with DOHS subsequent to submittal of formal written comments.]</p> <p>HDOH will include penalty calculations and justification in memorandum in the files. HDOH will also include an explanation between the initial and final penalties.</p> <p>As a matter of record, HDOH does include the penalty calculation worksheet with the Notice of Violation and Order (NOVO) along with the justification memo. With respect to the initial and final penalties, the Deputy Attorney General documents the changes in the Consent</p>																																									

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	<p>Agreement along with an explanation of the penalty changes. In the future, HDOH will attach all necessary documents in the files.</p> <p>December 31, 2015 may be an unrealistic date to have HDOH demonstrate use of economic benefit. The formal NOVOs should be evaluated on a case by case basis, at which time the need to do economic benefit is considered. In general, HDOH assesses economic benefit for large corporations that may do equipment upgrades. Most of our facilities are small businesses that may/may not have an economic advantage for noncompliance. Any adjustment to the gravity based penalty is included in the adjustment factors, such as history of noncompliance, good faith, and degree of willfulness. These factors are generally used to increase or decrease a penalty during enforcement negotiations.</p>
<b>Recommendation</b>	EPA recommends that HDOH include complete and detailed penalty calculations and justification memorandums into the State’s enforcement case files and input the settlement dates into RCRAInfo. By June 30, 2016, HDOH should demonstrate that it is capturing, when appropriate, economic benefit of non-compliance.

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## RCRA Element 5 — Penalties

<b>Finding 5-2</b>	<b>Area for State Improvement</b>																																			
<b>Summary</b>	HDOH’s penalties do not include an Economic Benefit of Non-compliance (EBN) calculation component.																																			
<b>Explanation</b>	<p>A total of four FY14 penalty case files were reviewed [Pacific Commercial Services, Philip Services Hawaii (two locations), and Pacific Environmental Corporation] as a part of EPA’s SRF. The inspections for these four case files took place between FY12 - FY14.</p> <p>The penalty worksheet utilized by HDOH includes an EBN component. However, HDOH did not have any justification in the file as to why EBN was not included in the final penalty calculation in the 4 completed enforcement actions reviewed.</p>																																			
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