

Bruno Pigott, Commissioner  
Indiana Department of Environmental Management  
100 North Senate Avenue  
Indianapolis, Indiana 46204

Dear Mr. Pigott:

The U.S. Environmental Protection Agency (EPA) would like to thank you for participating in our enforcement program review of the Clean Air, Clean Water, and Resource Conservation and Recovery Acts. We appreciate your staff's cooperation and assistance during this review.

Enclosed is the final enforcement review report, which contains an executive summary, as well as detailed findings and recommendations concerning Indiana Department of Environmental Management (IDEM) enforcement programs. We used an analysis of IDEM data and reviews of IDEM's case files, in addition to feedback from IDEM on the draft report, to develop this report.

If you have any questions, feel free to contact me at (312) 353-8894.

Sincerely,

Alan Walts, Director  
Region 5 Office of Enforcement and Compliance Assurance

Enclosure

**FINAL**  
**STATE REVIEW FRAMEWORK**

**Indiana**

**Clean Water Act, Clean Air Act, and  
Resource Conservation and Recovery Act  
Implementation in Federal Fiscal Year 2015**

**U.S. Environmental Protection Agency  
Region 5, Chicago**

**Final Report  
May 23, 2018**

# Executive Summary

## Introduction

EPA Region 5 enforcement staff (EPA) conducted a State Review Framework (SRF) enforcement program oversight review of the Indiana Department of Environmental Management (IDEM).

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

## Areas of Strong Performance

### *Clean Water Act- NPDES*

- EPA's review of IDEM's Office of Water Quality (OWQ) inspection reports indicates that IDEM provides sufficient documentation to verify and determine facility compliance, and the reports were completed within prescribed timeframes. OWQ inspections result in an inspection summary and/or violation letter that specifies whether or not any violations were observed. As a result, IDEM's inspection procedures and consistent field presence lead to resolving issues.

### *Clean Air Act Stationary Source*

- IDEM does an excellent job in conducting full compliance evaluations and the documentation in the Compliance Monitoring Reports (CMRs) was also well written. IDEM continues to meet and/or exceed their inspection commitment numbers in the Compliance Monitoring Strategy (CMS) plan submitted to EPA each federal fiscal year.
- EPA found IDEM's briefing memos and enforcement timelines in the case files very organized, comprehensive and helpful during the review.

### *Resource and Conservation Recovery Act Subtitle C*

- IDEM's RCRA program meets or exceeds each of the SRF elements. Of particular note, the average number of days to produce an inspection report was 30 days. Additionally, reviewed inspection reports were well written and highly detailed. EPA commends IDEM for its diligence and attention to detail in completing inspection reports in a timely manner.
- In all case files reviewed, IDEM carried out timely and appropriate enforcement.

## Most Significant CWA-NPDES Program Issues

### Background

EPA conducted a review of 35 facility files. As in previous SRF reviews, this included a cross-section of NPDES-regulated facilities such as Publicly Owned Treatment Works (POTWs) and Industrial Majors and Minors. The reviewed POTW files included eight municipal systems with Combined Sewer Overflows (CSOs). These reviews were also informative in evaluating IDEM's CSO implementation program, which affects over 100 Indiana communities. The reviews were extensive because most of these municipalities are implementing Long-Term Control Plans to eliminate and/or control CSOs over a period of several years.

The file reviews also included several facilities in the surface coal mining sector identified using the SRF selection targeting tool. This was useful to ensure the full spectrum of NPDES facilities were included in the review and provided useful information to further EPA's consideration of an open Petition to Withdraw Indiana's NPDES Program.

The Indiana Department of Natural Resources, Division of Reclamation (IDNR DOR) conducts inspections at surface coal mines to determine compliance with the Surface Mining Control and Reclamation Act (SMCRA). IDNR DOR and IDEM have a 2013 Memorandum of Understanding in which IDNR DOR is also responsible for checking compliance with NPDES permit regulations. Because of this arrangement, EPA included IDNR DOR quarterly inspection files as part of the file review. These inspections are identified in ICIS as compliance evaluation inspections for purposes of NPDES coverage.

In the findings below, EPA distinguishes between IDEM and IDNR DOR review findings.

- The Region's review of IDEM files found that required data was either missing, incomplete, or inaccurately reflected in the national data system. General Permits identified in the previous SRF as individual permits have not been correctly categorized. Administrative orders with compliance plans are sometimes identified in ICIS as 'penalty only' orders, which don't automatically resolve pending violations in the system. Compliance schedules associated with either judicial or administrative orders were missing, as well as records of judicial and administrative orders themselves.
- EPA found that most of IDNR DOR's quarterly inspection reports were inconsistent with NPDES inspection report standards, whether the inspections were partial or complete inspections. Most IDNR DOR inspections lacked clear documentation of NPDES noncompliance and IDNR DOR didn't consistently identify actions and time frames necessary to return to compliance. As a result, IDEM, as the NPDES authority, is unable to carry out consistent, appropriate enforcement.

## **Most Significant CAA Stationary Source Program Issues**

- EPA’s review identified a number of data deficiencies inaccurately reported to EPA for FY15 (Notices of Violation (NOVs), Full Compliance Evaluations (FCEs), Title V annual compliance certification (ACCs) data). Since that time, data deficiencies or issues are discussed on the bimonthly conference calls between EPA and IDEM. EPA recommends that IDEM QA/QC the data once reported to ICIS-Air and correct, as necessary.
- Enforcement Action Letters and Violation Letters are informal actions issued by IDEM to facilities informing them of alleged violations. These informal actions are equivalent to EPA’s NOV and should be reported to ICIS-Air as a Minimum Data Requirement (MDR).

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

- *None*

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# I. Background on the State Review Framework

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

- Clean Air Act Stationary Sources (Title V)
- Clean Water Act National Pollutant Discharge Elimination System
- 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:** FY 2015

**Key dates:**

- On-site file review conducted: October-December 2016
- Draft Report Date: October 3, 2017
- Report finalized: May 23, 2018

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

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### 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						
<b>Finding 1-1</b>	<b>Meets or Exceeds Expectations</b>					
<b>Summary</b>	IDEM's permit limit and DMR entry rates for majors are above the national goal and national average.					
<b>Explanation</b>	Permit limits and DMR entry rates for Majors exceed the national goal and national average. As a result, DMR violations are identified so that timely steps can be taken to correct noncompliance and ensure compliance with permit limit conditions.					
<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>
	1b1 Permit limit rate for major facilities	>= 95%	90.9%	192	192	100%
	1b2 DMR entry rate for major facilities	>= 95%	96.7%	1352 8	1354 2	99.9%
<b>State response</b>	IDEM continues and will continue to enter new and reissued permits and DMRs for major dischargers into ICIS accurately and on a timely basis.					
<b>Recommendation</b>						

CWA Element 1 — Data						
<b>Finding 1-2</b>	<b>Area for State Improvement</b>					
<b>Summary</b>	In only 20 of 35 (57%) files reviewed, data was accurately reflected in the national system (file review metric 2b).					
<b>Explanation</b>	Permits that were incorrectly categorized in the last SRF review were still not properly categorized during the period analyzed during this review.					

These include coal mining permits, which are incorrectly identified in ICIS as individual permits.

IDNR DOR (mining) inspections are incorrectly coded into ICIS as compliance evaluation inspections. For additional information see Element 2.

Enforcement action types are not consistently entered by IDEM in ICIS correctly.

IDEM inspections are not consistently coded into ICIS by inspection type and regulatory program code.

State Judicial Agreements were missing in ICIS, as well as the Long Term Control Plan (LTCP) implementation schedule milestones associated with the agreements. Agreed Orders with compliance plan milestones were entered as “penalty only” actions, and schedule milestones were missing.

Locational data (city name) in ICIS is not always consistent with locational data in state files.

EPA policy articulates that single-event violations discovered by the permitting authority and listed on the single-event violation table should be:

- (1) tracked as a single event violation,
- (2) linked to the inspection if applicable,
- (3) if a quarterly non-compliance status is needed, placed in RNC or SNC (by entering the RNC detection/resolution codes), and
- (4) resolved (pending) with either a formal enforcement action or penalty order (linked to the violation), and a compliance schedule (if appropriate).

Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
	2b Files reviewed where data are accurately reflected in the national data system	100%		20	35	57.1%
5b2 Inspection coverage of NPDES non-majors with general permits	100% of CMS	6.8%	0	0	0/0	

**State response**      **State response:** Of the 15 file records not meeting EPA's overall expectations, the deficiencies can be grouped into several broad categories,

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with a few other minor exceptions. Eleven of the 15 files found to be deficient were coal *mining* facilities, with the other four being POTWs. EPA's comments are responded to as follows:

- ICIS categorizes facilities with permit coverage under general permits-by-rule as individual permits. This categorization in ICIS cannot be changed. IDEM is currently in the process of transitioning from permits-by-rule to administrative general permits. Once this process is complete, the permits will be properly categorized in ICIS and these data discrepancies resolved.
- The Indiana Department of Natural Resources (IDNR), Division of Reclamation (DOR) inspections of coal facilities have been incorrectly coded into ICIS as CEIs. IDEM agrees with this assessment and has been working with IDNR to come up with a new inspection report form modelled after OWQ's form which is more thorough and provides a final compliance determination. IDNR has very recently begun using this new form for its thorough NPDES assessments, while it continues to use its old form (4899) for its SMCRA and more general NPDES evaluations. IDEM has begun to code the inspections it receives from DNR using the new forms as CEIs and inspections using the old forms as reconnaissance inspections.

The Huntington 2007 SJA (basis for LTCP implementation) which was not recorded in ICIS is now entered. The Auburn POTW 11/14 CSO audit which was not in ICIS was entered on 10-24-17. IDEM has reviewed several of the other unique data issues discovered by EPA (e.g., ALCOA Warrick AO compliance schedule not in ICIS; Dana POTW AO records not complete in VFC; Duke Cayuga 2014 inspection found no effluent violations while DMRs show 4; Kendallville inspection findings of improper BMPs and O&M SEVs should have been raised to SNC; Mooresville POTW SSOs not identified as SNC) and has made efforts to correct them. With a couple of exceptions, the identified items are generally isolated incidents and not reflective of any systemic deficiency in IDEM's processes. One example where the requested change could not be made is EPA's comment that the Town of Wolcottville POTW is incorrectly identified in ICIS as being located in Valentine. IDEM's research shows that, while Wolcottville is mostly in Noble County, the POTW is located in LaGrange County, and the closest town in LaGrange County is Valentine. As ICIS is currently established, it will not allow IDEM to enter LaGrange County as the location of the POTW because ICIS knows that Wolcottville is in Noble

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County. Therefore, when the POTW is recorded (accurately) in ICIS as being in LaGrange County, it is associated with Valentine (which does not have a POTW of its own).

IDEM is still not in complete accord with EPA on the issue of coding SSOs as SEVs. IDEM recognizes that all collection systems designed to transport sewage will have SSOs at some point, and only when these events become a chronic pattern do they rise to the level of a SEV or require further action from IDEM. In New Albany (pointed out here only because it was one of the files EPA reviewed, but not unique by any means) the community continues to perform work under a joint state/federal Consent Decree, thus IDEM questions EPA's assertion that additional enforcement action is needed.

- IDEM wishes to explain why the relevant metric for 5b2 was showing zero percent of inspection coverage with NPDES minor general permits. During the period covered by this evaluation, the several minor general permits-by-rule had not yet been converted to administratively-issued general permits in ICIS, and thus were still categorized in ICIS as individual permits. Subsequent to that time, all but the coal and storm water general permits have been converted to administratively-issued general permits, and reassigned in ICIS accordingly as general permits. Currently ECHO is showing (for FFY 2017 data, to date) that Indiana has 34.8% coverage in the category of inspection coverage at minor general permits, compared to the national average of 5.3%.
- IDEM is not sure what the reference to the Electronic Reporting Rule means, but IDEM is currently at 99% enrollment with NetDMR on individual permits and non-storm water general permits and is implementing the 2016 State Implementation Plan. IDEM believes that a number of processes have been updated and improved since the time when the data was evaluated, and no thus specific improvement plan is necessary.
- IDEM will review all communities working under SJAs for LTCP implementation to be sure that the SJAs are recorded into ICIS, even though it will be well after-the-fact. Neither LTCP nor Agreed Order schedules are or will be entered into ICIS because both managing programs have mechanisms in place for tracking schedule milestones, so entering them into ICIS would result in

	<p>inefficient, double entry of the same data. Additionally, IDEM does not believe that ICIS is the appropriate program for tracking these milestones.</p>
<p><b>Recommendation</b></p>	<ul style="list-style-type: none"> <li>• Within 30 days of the final SRF report, IDEM should identify for EPA when conversion of Permit-by-Rule permits for coal mines to general permits will take place.</li> <li>• Within 3 months of the final SRF report, Region 5 and IDEM will work together to clear up any data discrepancies on which EPA and the State disagree. IDEM should take note of the final NPDES Electronic Reporting Rule, Appendix A, which identifies the minimum set of NPDES data that authorized states, tribes, territories must enter or transfer to EPA’s national NPDES data system. It is important to note that information regarding narrative conditions, permit and compliance schedules linked to enforcement actions are recognized as required NPDES program data under the eRule. According to ICIS, the final compliance milestone date (i.e., the date by which the facility must achieve full compliance) must be in ICIS in order for RNC to be automatically resolved.</li> <li>• By the end of the first quarter FY 2020, IDEM will fully implement the recommendations in 1-2, as evidenced by: <ul style="list-style-type: none"> <li>--90% of all SSOs reported are recorded as SEV’s in ICIS;</li> <li>--90% of all permits by rule are entered in ICIS as general permits;</li> <li>and</li> <li>--90% of data flows for Appendix A data (i.e. narrative conditions, permit and compliance schedules linked to enforcement actions, and final compliance dates) are accurate in ICIS.</li> </ul> <p>EPA will work with IDEM to monitor progress via ECHO.gov, quarterly conference calls, and annual SRF data metric analyses.</p> </li> </ul>

**CWA Element 2 — Inspections**

<p><b>Finding 2-1</b></p>	<p><b>Meets or Exceeds Expectations (IDEM Files Only)</b></p>
<p><b>Summary</b></p>	<p>IDEM met or exceeded FY15 CMS commitments, and IDEM inspection reports were complete and sufficient to provide compliance determinations.</p>

**Explanation**

According to the IDEM’s FY15 end of year CMS report, all commitments (Metric 4a1 – 4a10) were met or exceeded. IDEM’s alternative CMS plan was incorporated into IDEM’s 2015 – 2017 Performance Partnership Agreement. To better compare the actual compliance monitoring activities with annual compliance monitoring commitments, Region 5 asks that CMS plans and end-of-year reports include additional commitment and result data. States are encouraged to enter all of their actual compliance monitoring activities into ICIS-NPDES so that the end-of-year reports can be generated through standard ICIS-NPDES reports that correspond to the CMS metrics. See Part 4 of the CMS for the ICIS-NPDES data entry quick reference tool. As part of this effort, Region 5 would also like to discuss sanitary sewer systems/SSO inspection commitments and reporting procedures.

The Region’s review of IDEM inspection reports (file metric 6a) found them complete and sufficient to provide a compliance determination. In addition, the inspection reports (file metric 6b) were completed within prescribed timeframes.

**Relevant metrics**

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
4a1 Pretreatment compliance inspections and audits	100% of CMS		9	9	100%
4a2 Significant Industrial User inspections for SIUs discharging to non-authorized POTWs	100% of CMS		133	86	154.6%
4a4 Major CSO inspections	100% of CMS		7	5	140%
4a5 SSO inspections	100% of CMS		341	29	1176%
4a7 Phase I & II MS4 audits or inspections	100% of CMS		55	20	275%
4a8 Industrial stormwater inspections	100% of CMS		103	60	172%
4a9 Phase I and II stormwater construction inspections	100% of CMS		399	200	199%
4a10 Medium and large NPDES CAFO inspections	100% of CMS		2	2	100%
5a1 Inspection coverage of NPDES majors	100% of CMS	55.3%	144	192	75%
5b1 Inspection coverage of NPDES non-majors with individual permits	100% of CMS	26.6%	975	1381	70.6%

	6a Inspection reports complete and sufficient to determine compliance at the facility (IDEM OWQ only)	100%	51	52	98%
	6b Inspection reports completed within prescribed timeframe (IDEM OWQ only)	100%	52	52	100%
<b>State response</b>	IDEM continues to systematically conduct inspections pursuant to the CMS and record them in ICIS, with the goal of achieving 100% inspection coverage over each PPA cycle. Concerning metric 4a5 (SSS inspections), during 2017 (subsequent to the time period addressed by this evaluation), IDEM and EPA did discuss the expectations for SSS/SSO inspections and came to a mutual understanding of what is expected. IDEM is currently developing and implementing a plan for conducting these inspections and managing the reports so that they meet expectations and are accurately recorded in ICIS.				
<b>Recommendation</b>					

## CWA Element 2 — Inspections

<b>Finding 2-2</b>	<b>Area for State Improvement (IDNR DOR Files Only)</b>
<b>Summary</b>	Based on review of IDNR DOR files, only 4 of 75 (5.4%) of IDNR DOR mining inspection reports were considered complete and contained sufficient information to determine compliance.
<b>Explanation</b>	<p>Based on federal inspection guidance and SRF review protocols, a NPDES compliance evaluation inspection report should consist of background information regarding the owner, operator, facility and applicable regulations; a description of facility operations and pollution control processes, a written account of the inspection activities conducted, and the inspector’s observations. It should provide a summary of inspection observations and identify areas of potential noncompliance.</p> <p>Based on EPA’s review of IDNR DOR files:</p> <ul style="list-style-type: none"> <li>-- State Form 4899 (the IDNR DOR inspection checklist) doesn’t have provisions for marking a facility as unsatisfactory in inspected areas.</li> <li>--State Form 4899 provides for some narrative in Item #16, “other Permit and Site Conditions,” but is not consistently used to document NPDES permit-related observations.</li> </ul>



--Most inspection reports don't provide background information or supplementary narrative that describes a facility's operations, including pollution control processes.

--IDNR DOR inspectors don't consistently document ongoing or chronic concerns and State Form 4899 has no provision for doing so, nor is there a provision for indicating whether previously documented non-compliance has been resolved.

-- With one exception, IDNR DOR inspectors did not draw conclusions about the facility's compliance with NPDES permit provisions.

**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 (IDNR)	100 %		5	74	6.8 %

**State response**

IDNR continues to conduct coal inspections, and IDEM continues to save an image of the DNR inspection reports in VFC and record the events in ICIS. Most DNR DOR inspections are generally focused on SMCRA compliance, but of necessity also include some portion of NPDES compliance. DNR does initiate administrative enforcement action under its own authority as circumstances require, and IDEM does the same for the inspections it conducts. The DNR enforcement actions are more timely than formal IDEM enforcement actions due to differences in the enabling administrative rules. IDEM does not disagree that these DNR coal inspection reports fail to meet the standard for Compliance Evaluation Inspections (CEIs), although many have been entered in ICIS as such. During 2017, IDEM and DNR coordinated to produce a new inspection form to focus on NPDES compliance. Inspections done using that form qualify as CEIs. Beginning in late 2017 and into the future, IDEM will record inspections completed using the new form into ICIS as CEIs, and inspections using the older form (4899) as reconnaissance inspections. IDEM will organize a joint training session with DNR staff to clarify the various points that need to be included in all of their inspections (such as an overall compliance determination). Because IDEM believes the significant issues raised by EPA over this matter have already been addressed, there is no need for an implementation plan. Additionally, because of these improvements, IDEM does not believe there is a need to reopen and renegotiate the MOU with DNR to ensure that surface mining

	inspections are conducted in a manner designed to determine NPDES permit compliance and that proper follow-up is conducted.
<b>Recommendation</b>	<ul style="list-style-type: none"> <li>• Within 30 days of the final SRF report, IDEM will provide EPA a copy of the revised complete NPDES inspection form for coal mines, and examples of completed inspection reports using this form. Within 120 days of the final SRF report, EPA will review selected reports and comment on the inspection examples provided.</li> <li>• Within 30 days of the final SRF report, IDEM will provide EPA with a copy of the current version of the MOU between IDEM and IDNR.</li> <li>• Within 30 days of the final SRF Report, IDEM will notify EPA of the planned date(s) for IDNR Inspector Training.</li> <li>• By the end of 2018 IDEM will provide training to IDNR inspectors.</li> <li>• By the end of 2019 IDEM will again provide training to IDNR inspectors to ensure that new staff are trained.</li> </ul>

### CWA Element 3 — Violations

<b>Finding 3-1</b>	<b>Area for State Attention (IDEM files only)</b>
<b>Summary</b>	In reviewing IDEM files, 20 of 23 or 87% SEV violations reviewed were accurately identified as SNC or non-SNC.
<b>Explanation</b>	<p>In the last SRF review (Round 2), the Region found that IDEM was not identifying or entering Single Event Violations (SEVs), and also not accurately identifying them as Significant Non Compliance (SNC) or non-SNC. During this review (Round 3), the Region found that IDEM is now generally identifying and entering SEVs into ICIS as required.</p> <p>Region 5 encourages IDEM to continue reviewing and following state and/or national guidance concerning identifying SEVs and determination of SEVs as SNC.</p>

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				
7d1	Major facilities in noncompliance		74.2%	145	192	75.5%
7e	Inspection reports reviewed that led to an accurate compliance determination (IDEM)	100%		49	52	94%
8b1	Single-event violations accurately identified as SNC or non-SNC	100%		20	23	87%
8a2	Percentage of major facilities in SNC		19.2%	23	192	11.9%
<b>State response</b>	IDEM plans to continue entering SEVs as identified through inspections and will review guidance on elevating them to SNC when appropriate.					
<b>Recommendation</b>						

### CWA Element 3 — Violations

<b>Finding 3-2</b>	<b>Area for State Improvement (IDNR DOR and IDEM)</b>
<b>Summary</b>	<p>The Region’s review of IDNR DOR inspections indicate that IDNR DOR failed to provide accurate compliance determinations, identify potential violations, or identify and elevate violations to SNC to ensure they are resolved.</p> <p>One of 4 or 25% of SEVs entered for majors were correctly identified as SNC.</p>
<b>Explanation</b>	<p>Based on file review of metric 8c, one of four SEVs (25%) that were identified as SNC at major facilities were reported in a timely manner. One SEV related to a SSO event was properly flagged as SNC. On the other 3 occasions, SEVs were identified for instances where SSOs occurred as a result of improper Best Management Practices and Operations and Maintenance. These SEVs appeared to be significant, but were not elevated to SNC.</p> <p>Region 5 recognized that in one instance, the State exercised enforcement discretion in not elevating SEVs because the violations were being addressed under an existing state enforcement order.</p> <p>EPA acknowledges IDEM’s ability to exercise enforcement discretion in responding to CWA violations, including SSOs, which were evaluated as part of this finding. However, identifying and recording SEVs are critical</p>

because they create a historic, electronic record of inspection or compliance monitoring findings. They also ensure that regulatory agencies have as complete and accurate of a record as possible so that all information is available when the agency is making a compliance determination. This is particularly important for SSOs, since it is difficult to establish a chronic pattern without documenting all SSOs. Adherence to the national guidance on identifying and recording SEVs is necessary.

In terms of SEVs, EPA policy articulates that single-event violations discovered by the permitting authority and listed on the single-event violation table should be:

- (1) tracked as a single event violation,
- (2) linked to the inspection if applicable,
- (3) if a quarterly non-compliance status is needed, placed in RNC or SNC (by entering the RNC detection/resolution codes), and
- (4) resolved (pending) with either a formal enforcement action or penalty order (linked to the violation), and a compliance schedule (if appropriate).

Based on file review Metric 7e, 4 of 74 or 5.4% of IDNR DOR inspections reports reviewed led to an accurate compliance determination. Without verifying permit compliance and establishing accurate compliance determinations, potential violations are not properly documented and significant violations resolved.

Relevant metrics	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%			5	74
7f1 Non-major facilities in Category 1 noncompliance						305
7g1 Non-major facilities in Category 2 noncompliance						445
8c Percentage of SEVs identified as SNC reported timely at major facilities	100%			1	4	25%

<b>State response</b>	As discussed above in the State Response to Finding 2-2, IDEM and IDNR continue to work together to improve systems and inspection documentation, and expect that the issues raised here have largely been addressed by this ongoing effort. IDEM does commit to organizing a training session with DNR within the next year to emphasize the
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	necessary elements in a NPDES inspection report. Regarding SEVs, IDEM agrees to elevate SSO-related SEVs, as identified in inspection reports, to SNC status, as appropriate. IDEM is not agreeing to enter all reported SSO events into ICIS, and will only record SSOs as SEVs when excessive SSO events are identified by inspection reports.
<b>Recommendation</b>	<p>EPA expects IDEM to implement the SEV policy as described in the Explanation section above.</p> <ul style="list-style-type: none"> <li>• Within 90 days of final SRF report, IDEM will identify to EPA all Single Event Violations relative to completed IDNR coal mine inspections, and shall document all such violations that rise to the level of significant noncompliance (SNC).</li> <li>• Within 180 days of the final SRF report, EPA will review and provide comment on identified SEVs and violations determined to be SNC.</li> <li>• EPA expects the SEV policy to be fully implemented by the end of Federal Fiscal Year 2020 and will run quarterly reports until such time to evaluate progress in consultation with IDEM.</li> </ul>

#### CWA Element 4 — Enforcement

<b>Finding 4-1</b>	<b>Area for State Improvement (IDEM and IDNR DOR)</b>
<b>Summary</b>	<p>IDNR DOR issued Formal NOV's for mining violations that were modified, terminated or vacated without returning facility to compliance or assessing or collecting penalties.</p> <p>Region 5 found that IDEM enforcement at non-mining facilities results in a return to compliance at major facilities, although the timing of some compliance happens outside of prescribed timeframes.</p>
<b>Explanation</b>	<p>The MOU between IDEM and IDNR DOR requires NPDES violations at mining facilities to be enforced by IDEM. In addition, IDNR has authority under SMCRA to conduct enforcement at mining facilities.</p> <p>Region 5 reviewed mining files at three facilities that were issued NOV's by IDNR DOR, which under SMCRA regulations may be subject to compliance and penalty review.</p> <p>For one facility, IDNR DOR didn't assess a penalty although the facility had a documented pattern of noncompliance. For another facility IDNR DOR issued several NOV's with assessed penalties that were not collected,</p>

and noncompliance continued. IDNR DOR issued a NOV at a third facility without assessing penalties and without a return to compliance.

For IDEM major facilities (non-mining) Metric 10a1 warrants additional explanation. Region 5 evaluated how timely and appropriate the enforcement actions were implemented for the 7 facilities identified. The review found that 6 of 7, or 85%, received an enforcement action to return to compliance. One facility was issued a formal administrative order (AO) prior to FY 2015; 3 facilities received informal actions; 2 facilities received formal actions after 2 or more quarters, and 1 facility returned to compliance within 2 quarters.

**Relevant metrics**

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
9a Percentage of enforcement responses that return or will return source in violation to compliance	100%		27	32	84.4%
10a1 Major facilities with timely action as appropriate	>=98%	11.8%	0	7	0%
10b Enforcement responses reviewed that address violations in an appropriate manner	100%		26	32	81.3%

**State response**

IDEM will continue to work with IDNR to inform them of the PPA and other policy expectations for appropriate enforcement action, as has been discussed above in the response to finding 2-2. For most IDNR inspections, NPDES compliance is assessed as a part of the primary objective of SMCRA compliance. However, when IDNR does deem formal enforcement to be appropriate it is generally very timely. Continued conversation with IDNR will include discussion of the basic mechanics of following through with enforcement actions and expecting a complete return to compliance. IDEM is aware of one IDNR case (outside this review period) where a facility was assessed significant penalties under both NPDES and SMCRA rules, but the facility was ultimately abandoned without collection of any penalty. DNR then proceeded with other available administrative remedies to resolve the matter.

IDEM will continue to pursue timely and appropriate enforcement case resolutions, within the boundaries set by state statute, administrative rules, legal interpretations, and agency policy.

IDEM will continue to work with IDNR in its administration of the program.

<b>Recommendation</b>	<p>IDEM’s 2015 MOU with IDNR states that IDEM “retains all of its authority to enforce all NPDES permit conditions for coal mines.” EPA expects IDEM to carry out enforcement actions against coal mines where significant NPDES violations occur.</p> <p>Within one year of the final SRF report, EPA will review ICIS data to confirm that SNC violations at mining facilities are resolved. Non-compliance will be resolved through:</p> <ul style="list-style-type: none"> <li>• Formal enforcement action, or</li> <li>• Verification that violations are resolved, either through field inspections or documented certification by the facility that violations are resolved.</li> </ul>
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**CWA Element 5 — Penalties**

<b>Finding 5-1</b>	<b>Area for State Attention (IDEM files only)</b>
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<b>Summary</b>	In IDEM files reviewed, zero of five, or 0% of penalty cases, consider and include gravity and economic benefit. In addition, tracking of civil penalties collected is incomplete in ICIS.
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<b>Explanation</b>	<p>State civil penalty worksheets do not include an Economic Benefit (BEN) value or explanation. If BEN is not applicable, either “0” or N/A should be indicated. Civil penalty calculations, including gravity and BEN, as well as documentation of receipt of penalties, is critical to fully assess this program performance element.</p> <p>Based on supplemental information provided by the state, all of the cases reviewed considered BEN, but 0 of 5 cases contained a value in the economic benefit field. In all of the cases, IDEM determined that any avoided or delayed costs were negligible, or the facility did not gain or realize any known savings of money as a result of the cited violations.</p> <p>Based on IDEM’s response below, we are not recommending actions beyond IDEM’s commitment to change internal procedures.</p>
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<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 consider and include gravity and economic benefit</td> <td>100%</td> <td></td> <td>0</td> <td>5</td> <td>0%</td> </tr> </tbody> </table>	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #	11a Penalty calculations reviewed that consider and include gravity and economic benefit	100%		0	5	0%
Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #								
11a Penalty calculations reviewed that consider and include gravity and economic benefit	100%		0	5	0%								

<b>State response</b>	<p>IDEM does regularly evaluate the inclusion of economic benefit penalties into all Agreed Orders that result in civil penalties. The spreadsheet that IDEM Enforcement uses to aid in the calculation of civil penalties has a line item identified for economic benefit. IDEM will change internal procedures to ensure that that section is always completed, either with penalties or N/A to show that this category has been considered. Concerning the 5 cases evaluated, we echo the statement made by U.S. EPA in the Explanation section:</p> <p style="padding-left: 40px;">"Based on supplemental information provided by the state, all of the cases reviewed considered BEN, but 0 of 5 cases contained a value in the economic benefit field. In all of the cases, IDEM determined that any avoided or delayed costs were negligible, or the facility did not gain or realize any known savings of money as a result of the cited violations."</p>
<b>Recommendation</b>	

**CWA Element 5 — Penalties**

<b>Finding 5-2</b>	<b>Meets or Exceeds Expectations (IDEM files only)</b>	
<b>Summary</b>	<p>In IDEM files reviewed, three of three, or 100% contained documentation of the difference between initial and final penalty and rationale. In addition, four of four, or 100% of the penalties assessed were collected.</p>	
<b>Explanation</b>	<p>Sufficient information was available to document the difference between initial and final penalty and rationale. IDEM’s system to track and collect penalties was practical and effective.</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>
	12a Documentation of the difference between initial and final penalty and rationale	100%		3	3	100%
	12b Penalties collected	100%		4	4	100%
<b>State response</b>	IDEM will continue to follow the policies and procedures used for civil penalty calculations and collection measures.					
<b>Recommendation</b>						

## Clean Air Act Findings

CAA Element 1 — Data																		
<b>Finding 1-1</b>	<b>Area for State Improvement</b>																	
<b>Summary</b>	IDEM has not met expectations for accurate and timely data reporting of MDRs.																	
<b>Explanation</b>	<p>14 of 30 reviewed files (46.7%) had accurate MDR data in ICIS-Air. Some data deficiencies identified include: 1) inaccurately listing the inspection date as the first day of the inspection rather than the last day; 2) site addresses in files differ from those in ICIS-Air; 3) Title V annual compliance certification dates in ICIS-Air list the date the document was received by IDEM rather than the date the document was reviewed; 4) the date enforcement documents were mailed was reported in ICIS-Air rather than the date the document was signed. Sometimes there was a month difference from the signature date to the date of mailing.</p> <p>688 of 1,566 compliance monitoring-related actions (43.9%) were reported to ICIS-Air within 60 days which is required under the Information Collection Request for the reporting of MDRs. 547 of 1,213 stack tests (45.1%) were reported and reviewed within 120 days of the stack test.</p> <p>Similar findings were noted in IDEM’s Round 2 SRF report.</p> <p>Also, EPA identified informal actions (Violation Letters (VLs) and Enforcement Action Letters (EALs)) issued to facilities that were not reported to EPA as required. IDEM does not have a mechanism to track Federally Reportable Violations (FRVs) that derive from such actions.</p> <p><b>NOTE:</b> FY15 was the first year the MDRs were required to be reported to ICIS-Air, EPA’s national database system of record. Some of the data issues identified may be due to the electronic data program newly developed by IDEM to transfer data from their internal system to ICIS-Air. EPA and IDEM continue to work together collaboratively in monitoring and ensuring all data is accurately reported in ICIS-Air.</p>																	
<b>Relevant metrics</b>	<table border="1"> <thead> <tr> <th>Metric ID Number and Description</th> <th>Natl Goal</th> <th>Natl Avg</th> <th>State N</th> <th>State D</th> <th>State % or #</th> </tr> </thead> <tbody> <tr> <td>2b Accurate MDR data in ICIS-Air</td> <td>100%</td> <td>N/A</td> <td>14</td> <td>30</td> <td>46.7%</td> </tr> </tbody> </table>						Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #	2b Accurate MDR data in ICIS-Air	100%	N/A	14	30	46.7%
Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #													
2b Accurate MDR data in ICIS-Air	100%	N/A	14	30	46.7%													

3b1 Timely reporting of compliance monitoring MDRs	100%	59%	688	1566	43.9%
3b2 Timely reporting of stack test dates and results	100%	45.1%	547	1213	45.1%

**State response**

IDEM OAQ has consistently listed the start dates of inspections in AFS and ICIS-Air since before 1994. Over 99% of the inspections are conducted in a single day so the start date and the Actual End Date are one and the same in most instances. Additionally, Indiana’s statute at Indiana Code 13-14-15 requires IDEM to provide a written summary of all inspections within 45 days. This is tracked and based on the start date of the inspections across the agency. IDEM’s Air Compliance and Enforcement System (ACES) database and reporting systems are not capable of capturing and reporting multiple days without substantial alteration and investment to modify the system or our processes. IDEM OAQ does not intend to modify ACES or our process for this data element for a relatively insignificant amount (<1%) of inspections. IDEM will continue to document the actual inspection date(s) on Inspection Reports including those inspections that involve multiple inspection dates. No further action is necessary.

Site addresses continue be an issue for all data systems and not just ACES or ICIS-Air as there is no consistent format for every data system. Some sources have multiple addresses for various locations at a large plant. ICIS-Air will always display the most current address from IDEM’s ACES database as of the last upload, so the addresses might be slightly different than the last inspection report on file subject to any recent updates, changes, or the associated timelines that data is updated. Additionally, IDEM has been transitioning over to TEMPO to maintain source contact and address information to ensure consistent source information (Agency Interest) across all IDEM programs. OAQ inspectors will continue verify the addresses during the inspections, update those addresses in ACES consistent with TEMPO, and upload any changes to ICIS-Air. No further action is necessary.

IDEM OAQ reports both the Submission Date and the Review Date for all Annual Compliance Certifications (ACC) that are uploaded to ICIS-Air. Prior to ICIS-Air (Legacy AFS), IDEM OAQ always reported two action types for each ACC; one for the ACC received (“CB” or “FD”, depending on facility type), and another one for the corresponding ACC review (“SR” or “FR”, depending on facility type). IDEM identified this issue during the data mapping and migration of AFS data to ICIS-Air. IDEM has been reporting the Submission Date and the Review Date for all Annual Compliance Certifications (ACC) that are uploaded to ICIS-Air. No further action is necessary.

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Notice of Violations (NOV) are entered into IDEM's Multimedia Enforcement Tracking Systems (METS) and ICIS-Air by the date the document was signed and sent. The date the NOV was sent is used to meet the statutory provision of the Indiana Code 4-21.5.3 that starts the time clock for a source's or interested party's ability to appeal the final decision. IDEM has always used the date the NOV was sent when reporting to AFS and ICIS-Air. IDEM has since revised our routing process such that the NOV signed date is closer to or actually the same as the date the NOV was sent. IDEM revised our reporting process on August 9, 2017 to be able to report the date the NOV was signed and is reporting that date to ICIS-Air. No further action is necessary.

IDEM OAQ believes the measurement (43.9%) for Timely Report of Compliance Monitoring MDRs reported to ICIS-Air within 60 days is not entirely accurate in that IDEM and EPA had identified several data issues during the development of ICIS-Air, mapping and migration of data from AFS to ICIS-Air, and in the reporting of the data. Both EPA and IDEM OAQ recognized these issues and continue to address data issues. IDEM reviewed our ACES database and found that Annual Compliance Certifications were reviewed within 49.5 days on average for FY 2015. Inspections reports were completed with an average of 31.3 days for FY 2015. IDEM uploads/updates Compliance Monitoring MDRs to ICIS-Air every 30 days. IDEM will continue to quality assure the data submitted to ICIS-Air is accurate and that data issues will be raised to EPA in a timely manner.

Prior to the SRF, IDEM OAQ had been working with the EPA Region 5 to address the timeliness issue of reporting stack test data within 120 days. IDEM modified its procedures in 2014 to increase the number of stack tests that were reported within 120 days of completion. NESHAP test reports continue to be an issue with a 60 day reporting period allowed for sources. Some of the issues with the timely reporting of stack tests have to do with IDEM OAQ's ACES database and the mechanism used to flag completed and quality assured data available for upload to ICIS-AIR. ACES was designed to be able to track performance of individual staff review of stack tests as well as report data to EPA. ACES was developed prior to EPA's revised ICR and would require substantial alteration and investment to modify the system or our processes to be capable of reporting all stack tests within 120 days. Additionally, the ICIS-Air data freeze for State Review Framework (typically 60 days after the end of the federal fiscal year) leaves out a number of stack tests since states have up to 120 days from the date the tests were completed until they need to be reported. IDEM

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OAQ will continue to work with EPA Region 5 to explore ways to improve the timeliness of reporting stack test data.

IDEM OAQ currently reports violations of the FRV applicable universe of sources as non-compliance in ICIS-Air. All FRVs that are HPV are reported to ICIS-Air. IDEM is not able to distinguish or report all the expected elements of informal actions (Violation Letters (VLs)) such as violation types (inspection, stack test, ACC review, etc.), applicable federal air program, implementing state/local regulation, and pollutants for FRVs unless they are also classified as an HPV. IDEM OAQ issues over 1000 VLs per year with only a portion of those being FRV reportable. Additionally, IDEM OAQ's ACES database was developed prior to EPA's revised ICR and FRV policy so the system does not have the capability to capture and report all elements of an FRV.

Capturing and reporting the required FRV data involves significant costs, development time, and resources to modify IDEM OAQ's current ACES database. This issue was previously raised as burdensome during the revised ICR comment period. IDEM OAQ has encumbered the added burden and added a staff position to capture and report FRV data from our current processes and databases, but will need to revise our VL, EAL, and HPV processes to identify, capture, track, and manually report FRVs to ICIS-Air. IDEM should be able to revise our process to capture and report FRV data within 180 days of the final recommendations. This will include revising our HPV identification process to include FRV and exploring ways to capture FRV data from our current databases. IDEM OAQ will continue to work with EPA Region 5 to identify explore ways to efficiently report FRV data.

Additionally, the **Explanation** noted 16 or 30 files (53.3%) has accurate MDR data in ICIS-Air, but the **Relevant metrics** noted 14 of 30 (46.7%). The final report needs to be revised to reflect the accurate data.

**Recommendation**

- Within 90 days of the final report, IDEM will review its current data entry and QA/QC procedures to reconcile issues identified in the review, as well as, provide new or updated written procedures for staff.
- Within 90 days, IDEM will report all EALs and VLs federally reportable to EPA.
- Progress will be monitored by EPA through bimonthly data retrievals from ICIS-Air and discussions with IDEM on data issues, if identified, during the scheduled conference calls.

## CAA Element 1 — Data

<b>Finding 1-2</b>	<b>Meets or Exceeds Expectations</b>					
<b>Summary</b>	IDEM met expectations for timely reporting of HPV determinations and enforcement MDRs.					
<b>Explanation</b>	37 of 38 HPV determinations (97.4%) were reported to ICIS-Air within 60 days. 130 of 134 enforcement actions achieved (97%) were reported to ICIS-Air within 60 days.					
<b>Relevant metrics</b>	<b>Metric ID Number and Description</b>	<b>Natl Goal</b>	<b>Natl Avg</b>	<b>State N</b>	<b>State D</b>	<b>State % or #</b>
	3a2 Timely reporting of HPV determinations	100%	99.6%	37	38	97.4%
	3b3 Timely reporting of enforcement MDRs	100%	56.4%	130	134	97%
<b>State response</b>	IDEM OAQ strives to identify and report all HPVs consistent with the HPV Policy and the minimum data requirements and will continue to report HPV determinations within 60 days.					
<b>Recommendation</b>						

## CAA Element 2 — Inspections

<b>Finding 2-1</b>	<b>Area for State Attention</b>					
<b>Summary</b>	IDEM has not met expectations for review of Title V annual certifications.					
<b>Explanation</b>	IDEM reviewed 533 of 603 Title V annual certifications (88.4%) of the active Title V universe for this review year. Region 5 recognizes that IDEM has made improvements in this metric over the prior five years from a low of 71.5%. Region 5 will continue to monitor IDEM's progress and is confident they will continue to improve in this area.					
<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 Title V annual compliance certifications	100%	64.6%	533	603	88.4%

<b>State response</b>	IDEM, OAQ disagrees with EPA’s findings. IDEM OAQ strives to review all Title V Annual Compliance Certifications (ACC) in a timely manner. Both IDEM and EPA Region 5 recognize this particular metric is misleading in that ACCs and submittal dates are based a calendar year and do not line up with the federal fiscal year on which this metric is measured and reviewed. Our internal data in ACES shows that 97% of the ACCs were reviewed in the calendar year 2015. This has been a long standing issue and IDEM will continue to work with EPA Region 5 to address the data issues based on the differing timeframes.
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<b>Recommendation</b>	
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**CAA Element 2 — Inspections**

<b>Finding 2-2</b>	<b>Meets or Exceeds Expectations</b>
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<b>Summary</b>	IDEM has met expectations for FCE coverage at Title V majors and SM80s facilities including documentation of FCE elements and compliance determinations.
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<b>Explanation</b>	<p>305 of 311 Title V majors with a 2-year frequency and mega-sites with a 3-year frequency (98.1%) received a FCE as required by the revised 2014 CMS policy. 160 of 161 SM80 facilities (99.4%) received an FCE within the 5-year frequency required by the policy.</p> <p>20 of 20 reviewed case files (100%) included documentation of all FCE elements and provided sufficient documentation to determine compliance at the facility.</p>
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<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>
5a FCE coverage: majors and mega-sites	100%	63.2%	305	311	98.1%
5b FCE coverage: SM-80s	100%	79.5%	160	161	99.4%
5c FCE coverage: minors and synthetic minors (non-SM 80s) that are part of CMS plan or alternative CMS Plan.	N/A	N/A	N/A	N/A	N/A
6a Documentation of FCE elements	100%	N/A	20	20	100%
6b Compliance monitoring reports (CMRs) or facility files reviewed that provide sufficient documentation to determine compliance of the facility	100%	N/A	20	20	100%

<b>State response</b>	IDEM OAQ strives to conduct Full Compliance Evaluations (FCE) beyond the minimum evaluation frequencies required by the July 14, 2014 CAA Compliance Monitoring Strategy to address State compliance, enforcement issues, and environmental impacts. In those years where an FCE is not conducted, partial compliance evaluations are completed including review of annual compliance certifications, review of quarterly deviation reports, review of emergency occurrence reports, review of the various emissions reports, review of stack test reports, review of Notifications of Compliance, and review of continuous emission monitoring system (CEMS) and continuous opacity monitoring system (COMS) reports to identify compliance issues.
<b>Recommendation</b>	

**CAA Element 3 — Violations**

<b>Finding 3-1</b>	<b>Area for State Improvement</b>
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<b>Summary</b>	IDEM did not meet expectations for timeliness of HPV identifications.
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<b>Explanation</b>	<p>28 of 37 (75.7%) were identified as HPVs within 90 days after the activity that first provides information a violation of a federally-enforceable requirement occurred.</p> <p><i>Note:</i> IDEM provided the following caveat for FY2015: “IDEM strives to ensure the CAA Compliance and Enforcement data that is posted in ECHO is timely and accurate, and IDEM is constantly working with EPA to assure the accuracy of the information that makes its way to ECHO. However, based on our current business practices and the development and gathering of evidence, timely entry of all enforcement data into the ICIS-Air database is not always possible.”</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>
	13 Timeliness of HPV Identification	100%	86.3%	28	37	75.7%

<b>State response</b>	<p>Twenty eight (28) of 37 (75.7%) <u>were</u> identified as HPVs within 90 days.</p> <p>IDEM OAQ reviewed the 9 cases that were not identified within 90 days. Five (5) of the cases were identified just 2 days beyond the 90 day expectation because of using 3 months instead of 90 days for identification. Additionally, 3 of the cases were part of an industrial</p>
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laundry initiative and part of a global settlement with one company having 3 separate sources. IDEM OAQ has revised its procedures and provided training to staff to assure HPVs are identified within 90 days and not within 3 months. The other 4 cases were identified beyond the 90 days due to incorrect processing of the HPV identification and have been addressed. No further action is necessary.

IDEM OAQ will continue to review the EPA bimonthly HPV reports and discuss HPV cases during bimonthly conference calls with EPA.

- Recommendation**
- Within 90 days of the final report, IDEM will review its current procedures for HPV determinations and provide updated written procedures and training to staff to resolve the timeliness issues.
  - Progress will be monitored by EPA through bimonthly data retrievals and discussions with IDEM during conference calls to review implementation of recommended actions.

**CAA Element 3 — Violations**

**Finding 3-2      Area for State Improvement**

**Summary**      IDEM has met expectations for accuracy of HPV determinations, but needs improvement in reporting accurate compliance determinations per the FRV policy.

**Explanation**      16 of 22 reviewed files (72.7%) documented accurate compliance determinations (FRVs).

15 of 16 reviewed files (93.8%) documented accurate HPV determination.

**Relevant metrics**

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
7a Accuracy of compliance determinations	100%	N/A	16	22	72.7%
8c Accuracy of HPV determinations	100%	N/A	14	15	93.3%

**State response**      As discussed in the State Response to Finding 1-1, capturing and reporting the required FRV data involves significant costs, development time, and resources to modify IDEM OAQ’s current ACES database. IDEM OAQ has encumbered the added burden and has added a staff position to capture and report FRV data from our current processes and

	<p>databases, but will need to revise our VL, EAL, and HPV processes to identify, capture, track, and manually report FRVs to ICIS-Air. IDEM should be able to revise our process to capture and report FRV data within 180 days of the final recommendations. This will include revising our HPV identification process to include FRV and exploring ways to capture FRV data from our current databases. IDEM OAQ will continue to work with EPA Region 5 to identify explore ways to efficiently report FRV data.</p> <p>IDEM OAQ agrees that the one file should have been reported as an HPV. The CCL Design violation should have been identified as HPV for record keeping violations (10/1/14, 12/1/14, 12/17/14, etc.) but was not reported to ICIS-Air as an HPV. This has been corrected and no further action is necessary.</p>
<b>Recommendation</b>	<ul style="list-style-type: none"> <li>• Within 90 days of the final report, IDEM will document accurate compliance determinations per the FRV policy.</li> <li>• Progress will be monitored by EPA through bimonthly data retrievals and discussions with IDEM during conference calls to review implementation of recommended actions.</li> </ul>

**CAA Element 4 — Enforcement**

<b>Finding 4-1</b>	<b>Meets or Exceeds Expectations</b>
<b>Summary</b>	<p>IDEM has met expectations for formal enforcement responses, timeliness of addressing HPVs, consistency with HPV policy, and HPV case development and resolution.</p>
<b>Explanation</b>	<p>16 of 17 reviewed files (94.1%) documented formal enforcement responses that included required corrective action that would return the facility to compliance in a specified time frame or the facility fixed the problem without a compliance schedule.</p> <p><i>NOTE: Metric 10a</i> - EPA and IDEM conduct bimonthly compliance, enforcement, data management and reporting conference calls. For all HPVs, both federal and state, the HPV Summary national standard report is retrieved from ICIS-Air and distributed to the States to review. The HPV cases are discussed on a continuous basis as to the resolution timeline in addressing the violation to bring the source back into</p>

compliance in a timely manner. As a result, EPA considers Metric 10a being met.

**NOTE: Metric 10b** - In December 2014 (before the shutdown of the previous reporting system, AFS), a final HPV report was retrieved for all Region 5 states. On a January 2015 conference call with the States, HPV cases in which the State is the lead were discussed. Decisions were made as to whether the current HPV cases should be considered resolved or will no longer apply due to the revised 2014 HPV Policy. For example, (1) the Consent Decree was entered in court by the judge; (2) the HPV designation be removed because it is unlikely that enough evidence can be developed to support the designation; (3) the HPV does not involve ongoing violations or an identifiable threat to the public; and (4) the expenditure of resources on oversight of the enforcement agency’s handling of the violation is not in the public interest. This process was necessary and required in order to remove HPV designations that no longer applied to the policy. As a result, EPA considers Metric 10b being met.

**NOTE: Metric 14** - EPA and IDEM conduct bimonthly compliance, enforcement, data management and reporting conference calls. For all HPVs, both federal and state, the HPV Summary report is retrieved and distributed to the States to review. Specifically, the review under the HPV detail with extra columns tab that contains the required policy elements. The HPV cases are discussed on a continuous basis as to the resolution timeline in addressing the violation to bring the source back into compliance in a timely manner. As a result, EPA considers Metric 14 being met.

**Relevant metrics**

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
9a Formal enforcement responses that include required corrective action that will return the facility to compliance in a specified time frame or the facility fixed the problem without a compliance schedule.	100%	N/A	16	17	94.1%
10a Timeliness of addressing HPVs or alternatively having a case development and resolution timeline in place.	100%	N/A	13	13	100%
10b Percent of HPVs that have been have been addressed or removed consistent with the HPV Policy.	100%	N/A	14	14	100%
14 HPV Case Development and Resolution Timeline in Place When Required that Contains Required Policy Elements	100%	N/A	15	15	100%

<b>State response</b>	One EPA comment noted that no information was found in the Agreed Order stating how the violation would be addressed by the facility or how the facility will return back into compliance. This was an expedited enforcement case where the source had already returned to compliance at the time of the inspection so no further action beyond the payment of the civil penalty was required.
<b>Recommendation</b>	

**CAA Element 5 — Penalties**

<b>Finding 5-1</b>	<b>Area for State Improvement</b>
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<b>Summary</b>	IDEM has not met expectations for documentation of gravity and economic benefit in regard to penalty calculations.
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<b>Explanation</b>	<p>10 of 17 reviewed penalties (58.8%) included documentation of gravity and economic benefit.</p> <p>Six of the penalties that were reviewed for documentation of gravity and economic benefit involved expedited settlement agreements in which the penalty does not involve any measurable economic benefit. However, the case files do not make it clear that the cases involved were expedited settlements, nor does IDEM’s expedited settlement policy make it clear that all cases that use expedited settlements are only ones in which there is not any measurable economic benefit.</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>
	11a Penalty calculations reviewed that document gravity and economic benefit	100%	N/A	10	17	58.8%

<b>State response</b>	<p>IDEM disagrees with the comments that case files do not make it clear that the cases involved were expedited settlements. The case files for expedited enforcement clearly identify that the cases involved are expedited settlements and the Cover Letter/Notice of Violation for each expedited enforcement case is a combined single document using the following language:</p> <p>“The alleged violations identified in the Notice of Violation are among those that IDEM has determined qualify for expedited enforcement. This means that the enclosed Agreed Order is non-</p>
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negotiable, and it represents IDEM's best settlement offer in this matter."

Furthermore, expedited enforcement Agreed Orders are formatted noticeably differently than those for non-expedited cases. The civil penalty in expedited settlements is a set amount (\$500) noticeably different than in non-expedited cases, and is a clear indicator of an expedited settlement. No further action is necessary to clearly document in the files when an action is an expedited settlement.

IDEM's Expedited Enforcement Guidance is used in conjunction with IDEM's Compliance and Enforcement Response Policy for determining the appropriateness and timeliness of IDEM's enforcement activities and the types of noncompliance that will be referred for enforcement. IDEM's Civil Penalty Policy is then used to determine a base civil penalty, adjustments for special factors and circumstances, and the consideration of economic benefit of noncompliance. Economic benefit of noncompliance in expedited enforcement cases is insignificant and those cases are not eligible for expedited enforcement. This is consistent with IDEM's Compliance and Enforcement Response Policy and IDEM's Civil Penalty Policy. A note has been added to IDEM's Expedited Enforcement Guidance that expedited enforcement cannot be used if there is any measurable economic benefit. No further action is necessary.

The economic benefit had been evaluated in all the cases reviewed except those that qualified for Expedited Enforcement. In the one instance noted, economic benefit was considered, but long lead time to obtain replacement parts and expenditures in excess of \$500,000 negated the need to include economic benefit in the penalty calculation.

**Recommendation**

- Within 90 days of the final report, IDEM will clearly document in files when an action is an expedited settlement, so that it is clear that there will not be an economic benefit component to the penalty.
- Within 90 days of the final report, IDEM will add narrative to its expedited settlement policy that states that any case that contains measurable economic benefit cannot use an expedited settlement to resolve the case.
- Progress will be monitored by EPA through bimonthly data retrievals and discussions with IDEM during conference calls to review implementation of recommended actions.

**CAA Element 5 — Penalties**

<b>Finding 5-2</b>	<b>Meets or Exceeds Expectations</b>						
<b>Summary</b>	Nine of 9 reviewed penalties (100%) included documentation of rationale for difference between initial penalty calculation and final penalty. Sixteen of 17 reviewed penalties (94.1%) included proof that penalty was collected.						
<b>Explanation</b>	Sufficient information was available to document the difference between initial and final penalty and rationale, and document collection of penalties.						
<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>
	12a Documentation of the difference between initial and final penalty and rationale		100%		9	9	100%
	12b Penalties collected		100%		16	17	94.1%
<b>State response</b>	The actual proof of receiving penalty payments resides with IDEM’s Accounts Payable Section in our Finance Division of the Office of Program Support. EPA did not review the Accounts Payable ledgers to verify that all penalty payments has been collected. The case managers verify that all penalty payments have been collected through the Accounts Payable Section, enter that data in METS, and make every attempt to obtain a copy of the screen shot of the payments for enforcement file purposes. All penalty payments for the 17 reviewed sources have been collected and documented in the Accounts Payable Section.						
<b>Recommendation</b>							

## Resource Conservation and Recovery Act Findings

RCRA Element 1 — Data						
<b>Finding 1-1</b>	<b>Meets or Exceeds Expectations</b>					
<b>Summary</b>	28 of 30 files (93.3%) contained data that was accurately reflected in RCRAInfo. 55 sites in RCRAInfo were in violation for greater than 240 days without being evaluated for re-designation as SNCs.					
<b>Explanation</b>	<p>2 of the 30 files reviewed were inaccurately reflected in ECHO. Both of these occurrences dealt with inconsistencies between the facility name recorded in RCRAInfo and that used on documents reviewed in the IDEM’s virtual file cabinet. IDEM has been made aware of the two sites and is working to correct the issue.</p> <p>In reference to the sites with long-standing secondary violations for greater than 240 days, IDEM continues to address these cases in accordance with the language for “Re-evaluation of Secondary Violators” included in the EMS. EPA is confident that IDEM will clean up the status of these sites in RCRAInfo.</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>
	2a Long-standing secondary violators	N/A	N/A	N/A	N/A	55
	2b Complete and accurate entry of mandatory data	100%	N/A	28	30	93.3%
	5a Two-year inspection coverage for operating TSDFs	100%	90.6%	17	17	100%
	5b Annual inspection coverage for LQGs	20%	18.3%	143	710	20.1%
	5c Five-year inspection coverage for LQGs	100%	52.5%	480	710	67.6%
	5d One-year inspection coverage for active SQGs	N/A	10.2%	688	955	72%
	5e1 Number of inspections at conditionally exempt SQGs	N/A	N/A	N/A	N/A	416
	5e2 Number of inspections at transporters	N/A	N/A	N/A	N/A	46
	5e3 Number of inspections at non-notifiers	N/A	N/A	N/A	N/A	0
	5e4 Number of inspections at facilities not covered by metrics 2c through 2f3	N/A	N/A	N/A	N/A	342
	7b Violations found during inspections	N/A	36.5%	150	339	44.2%
	8a SNC identification rate	N/A	2.2%	7	339	2.1%
	10a Timely enforcement taken to address SNC	80%	81.4%	22	22	100%

<b>State response</b>	No comments.
<b>Recommendation</b>	

**RCRA Element 2 — Inspections**

<b>Finding 2-1</b>	<b>Meets or Exceeds Expectations</b>
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<b>Summary</b>	IDEM has met the national inspection goals for TSDFs (2 years) and LQGs (1-year and 5-year). IDEM has met expectations for complete and timely inspection reports.
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<b>Explanation</b>	<p>IDEM conducted 17 of 17 inspections (100%) at TSDFs with operating permits. 143 of 710 inspections (20.1%) were completed at LQGs. Although IDEM is below the national goal for the 5-year average based on the data pull for this review, IDEM is consistently above the 20% annual inspection coverage goal for each of the previous 5 years. The 5-year average is affected by the changing universe. The LQG universe in Indiana has increased over 50% in 5 years. In FY11, the LQG universe consisted of 487 facilities while in FY15, the universe increased to 710 facilities. Due to the increase, the FY15 universe includes LQGs that are less than five years old and should be excluded from the calculation for the 5-year coverage. Based on IDEM’s consistent annual inspection coverage of at least 20% and factoring in the changes in the LQG universe, EPA considers IDEM to have achieved the national goal to inspect 100% of LQGs every 5 years.</p> <p>29 of 29 reviewed inspection reports (100%) were considered complete and provided sufficient documentation to determine compliance at the site. 28 of 29 reviewed inspection reports (96.6%) were completed in a timely manner.</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>
	5a Two-year inspection coverage of operating TSDFs	100%	90.6%	17	17	100%
	5b Annual inspection coverage of LQGs	20%	18.3%	143	710	20.1%
	5c Five-year inspection coverage of LQGs	100%	52.5%	480	710	67.6%
	5d Five-year inspection coverage of active SQGs	N/A	10.2%	688	955	72%
	5e1 Five-year inspection coverage of active conditionally exempt SQGs	N/A	N/A	N/A	N/A	416



5e2 Five-year inspection coverage of active transporters	N/A	N/A	N/A	N/A	46
5e3 Five-year inspection coverage of active non-notifiers	N/A	N/A	N/A	N/A	0
5e4 Five-year inspection coverage of active sites not covered by metrics 2c through 2f3	N/A	N/A	N/A	N/A	342
6a Inspection reports complete and sufficient to determine compliance	100%	N/A	29	29	100%
6b Timeliness of inspection report completion	100%	N/A	28	29	96.6%

**State response** No comments.

**Recommendation**

### RCRA Element 3 — Violations

**Finding 3-1** **Meets or Exceeds Expectations**

**Summary** IDEM finds violations and identifies SNCs at/above the national average. IDEM has met expectations for accurate compliance determinations and timely and appropriate SNC determinations.

**Explanation** According to ECHO, IDEM found one or more violations at 150 of the 339 sites with comprehensive inspections and 7 of these were designated as SNCs. The corresponding violations found rate of 36.5 % and SNC identification rate of 2.1% are at/above the national average.

30 of 30 reviewed files (100%) had accurate compliance determinations. 16 of 16 reviewed files (100%) had timely SNC determinations and 17 of 17 reviewed files (100%) had appropriate SNC determinations.

Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
	2a Long-standing secondary violators	N/A	N/A	N/A	N/A	55
7a Accurate compliance determinations	100%	N/A	30	30	100%	
7b Violations found during inspections	N/A	36.5%	150	339	44.2%	
8a SNC identification rate	N/A	2.2%	7	339	2.1%	
8b Timeliness of SNC determinations	100%	79%	16	16	100%	
8c Appropriate SNC determinations	100%	N/A	17	17	100%	

**State response** No comments.

<b>Recommendation</b>	
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**RCRA Element 4 — Enforcement**

<b>Finding 4-1</b>	<b>Meets or Exceeds Expectations</b>
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<b>Summary</b>	IDEM has exceeded expectations for enforcement responses that will return a site in SNC to compliance in a timely manner. All reviewed enforcement responses were found to be appropriate to address the violations.
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<b>Explanation</b>	22 of 22 reviewed enforcement responses (100%) were deemed appropriate to the violations. 22 of 22 reviewed enforcement responses (100%) returned violators to compliance and all were completed within 360 days of day zero. There were three additional enforcement responses still pending during this review period, so they were not included in these calculations.
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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>
	9a Enforcement that returns violators to compliance	100%	N/A	22	22	100%
	10a Timely enforcement taken to address SNC	80%	81.4%	22	22	100%
	10b Appropriate enforcement taken to address violations	100%	N/A	22	22	100%

<b>State response</b>	No comments.
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<b>Recommendation</b>	
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**RCRA Element 5 — Penalties**

<b>Finding 5-1</b>	<b>Meets or Exceeds Expectations</b>
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<b>Summary</b>	IDEM has met expectations for penalty calculation and collection.
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<b>Explanation</b>	14 of 14 reviewed penalty calculations (100%) included and considered, where appropriate, gravity and economic benefit. 14 of 14 reviewed penalties (100%) included documentation for reduction of penalty amounts. 2 penalties were still in the process of collection during this
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	review period, so 12 of 12 penalties (100%) were documented to have been collected.					
<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>
	11a Penalty calculations include gravity and economic benefit	100%	N/A	14	14	100%
	12a Documentation on difference between initial and final penalty	100%	N/A	14	14	100%
	12b Penalties collected	100%	N/A	12	12	100%
<b>State response</b>	No comments.					
<b>Recommendation</b>						