

STATE REVIEW FRAMEWORK

Iowa

Clean Water Act Implementation in Federal Fiscal Year 2018

**U.S. Environmental Protection Agency
Region 7**

**Final Report
February 12, 2020**

I. Introduction

A. Overview of the State Review Framework

The State Review Framework (SRF) is a key mechanism for EPA oversight, providing a nationally consistent process for reviewing the performance of state delegated compliance and enforcement programs under three core federal statutes: Clean Air Act, Clean Water Act, and Resource Conservation and Recovery Act. Through SRF, EPA periodically reviews such programs using a standardized set of metrics to evaluate their performance against performance standards laid out in federal statute, EPA regulations, policy, and guidance. When states do not achieve standards, the EPA will work with them to improve performance.

Established in 2004, the review was developed jointly by EPA and Environmental Council of the States (ECOS) in response to calls both inside and outside the agency for improved, more consistent oversight of state delegated programs. The goals of the review that were agreed upon at its formation remain relevant and unchanged today:

1. Ensure delegated and EPA-run programs meet federal policy and baseline performance standards
2. Promote fair and consistent enforcement necessary to protect human health and the environment
3. Promote equitable treatment and level interstate playing field for business
4. Provide transparency with publicly available data and reports

B. The Review Process

The review is conducted on a rolling five-year cycle such that all programs are reviewed approximately once every five years. The EPA evaluates programs on a one-year period of performance, typically the one-year prior to review, using a standard set of metrics to make findings on performance in five areas (elements) around which the report is organized: data, inspections, violations, enforcement, and penalties. Wherever program performance is found to deviate significantly from federal policy or standards, the EPA will issue recommendations for corrective action which are monitored by EPA until completed and program performance improves.

The SRF is currently in its 4th Round (FY2018-2022) of reviews, preceded by Round 3 (FY2012-2017), Round 2 (2008-2011), and Round 1 (FY2004-2007). Additional information and final reports can be found at the EPA website under [State Review Framework](#).

II. Navigating the Report

The final report contains the results and relevant information from the review including EPA and program contact information, metric values, performance findings and explanations, program responses, and EPA recommendations for corrective action where any significant deficiencies in performance were found.

A. Metrics

There are two general types of metrics used to assess program performance. The first are **data metrics**, which reflect verified inspection and enforcement data from the national data systems of each media, or statute. The second, and generally more significant, are **file metrics**, which are derived from the review of individual facility files in order to determine if the program is performing their compliance and enforcement responsibilities adequately.

Other information considered by EPA to make performance findings in addition to the metrics includes results from previous SRF reviews, data metrics from the years in-between reviews, multi-year metric trends.

B. Performance Findings

The EPA makes findings on performance in five program areas:

- **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, accuracy of compliance determinations, and determination of significant noncompliance (SNC) or high priority violators (HPV)
- **Enforcement** - timeliness and appropriateness of enforcement, returning facilities to compliance
- **Penalties** - calculation including gravity and economic benefit components, assessment, and collection

Though performance generally varies across a spectrum, for the purposes of conducting a standardized review, SRF categorizes performance into three findings levels:

Meets or Exceeds: No issues are found. Base standards of performance are met or exceeded.

Area for Attention: Minor issues are found. One or more metrics indicates performance issues related to quality, process, or policy. The implementing agency is considered able to correct the issue without additional EPA oversight.

Area for Improvement: Significant issues are found. One or more metrics indicates routine and/or widespread performance issues related to quality, process, or policy. A recommendation for corrective action is issued which contains specific actions and schedule for completion. The EPA monitors implementation until completion.

C. Recommendations for Corrective Action

Whenever the EPA makes a finding on performance of *Area for Improvement*, the EPA will include a recommendation for corrective action, or recommendation, in the report. The purpose of recommendations are to address significant performance issues and bring program performance back in line with federal policy and standards. All recommendations should include

specific actions and a schedule for completion, and their implementation is monitored by the EPA until completion.

III. Review Process Information

Clean Water Act (CWA)

Key dates:

- SRF Kickoff letter mailed to IDNR: April 5, 2019
- File selection list sent to IDNR: April 5, 2019
- Data Metric Analysis sent to IDNR: June 3, 2019
- Entrance interview conducted: June 4, 2019
- File review conducted: June 4-6, 2019
- Exit interview conducted: June 6, 2019
- Draft report sent to IDNR: November 20, 2019
- Final report issued: February 12, 2020

State and EPA key contacts for review:

- Kayla Lyon, IDNR, Director
- Ted Peterson, IDNR, Environmental Program Supervisor
- Seth Draper, EPA Region 7 Enforcement & Compliance Assurance Division (ECAD)
- Cynthia Sans, EPA Region 7 Enforcement & Compliance Assurance Division (ECAD)
- Stephen Pollard, EPA Region 7 Enforcement & Compliance Assurance Division (ECAD)
- Paul Marshall, EPA Region 7 Enforcement & Compliance Assurance Division (ECAD)
- Kevin Barthol, EPA Region 7 SRF Coordinator

Executive Summary

Areas of Strong Performance

The following are aspects of the program that, according to the review, are being implemented at a high level:

Clean Water Act (CWA)

- IDNR completeness of data entry of major and non-major discharge monitoring reports is above the national average and is meeting the national goal.
- Enforcement actions reviewed would return facility back into compliance.
- IDNR tracks and maintains nearly complete records of penalty actions.

Priority Issues to Address

The following are aspects of the program that, according to the review, are not meeting federal standards and should be prioritized for management attention:

Clean Water Act (CWA)

- IDNR did not enter any FY18 inspections into ICIS. IDNR's formal and informal enforcement actions are not accurate in the national database.
- IDNR did not enter any FY18 Single Event Violations (SEVs) into ICIS.
- IDNR did not meet its inspection goals for select CMS universes.
- Inspection reports did not contain comprehensive information to thoroughly document and determine compliance (Finding 2-3 and 3-1).
- Inspection reports do not consistently meet the 45-day deadline.

Clean Water Act Findings

CWA Element 1 - Data

Finding 1-1

Area for Attention

Summary:

IDNR completeness of data entry of major and non-major permit limits is below the national average and is not meeting the national goal.

Explanation:

EPA Enforcement Compliance History Online (ECHO) pulls data from EPA Integrated Compliance Information System (ICIS). Out of 1017 facilities that should have permit limit data entered, 155 facilities were missing permit limit data. EPA suggests that IDNR review the data and correct all missing data, such as, permit limits or any other missing Minimum Data Requirements (MDRs). IDNR should develop a methodology to ensure MDRs are entered into ICIS in the future and that the missing data in ICIS corrected.

Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State %
1b5 Completeness of data entry on major and non-major permit limits. [GOAL]	95%	90.6%	862	1017	84.8%

State Response:

Collaboration with EPA and Windsor Solutions is underway to correct the data transfer issues and ensure that all permit limits are represented correctly in ICIS. The ECHO eRule Readiness dashboard shows 210 facilities that do not have limits in ICIS and the 2019 SRF data metrics show 203 facilities that do not have limits in ICIS. These identified facilities are CAFO, MS4, and other permits that do not have effluent limitations. Efforts are being made to correctly transfer the permit data so ICIS is not expecting limits for these facilities.

State Action: Efforts are being made to correct the data transfer issues. The IDNR concurs with the recommendation that the IDNR can correct the issue without additional EPA oversight.

CWA Element 1 - Data

Finding 1-2

Meets or Exceeds Expectations

Summary:

IDNR completeness of data entry of major and non-major discharge monitoring reports is above the national average and is meeting the national goal.

Explanation:

IDNR data entry of discharge monitoring reports is above the national average and is meeting the national goal.

Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State %
1b6 Completeness of data entry on major and non-major discharge monitoring reports. [GOAL]	95%	93.3%	11468	12012	95.5%

State Response: None

CWA Element 1 - Data

Finding 1-3

Area for Improvement

Summary:

IDNR did not enter any FY18 inspections into ICIS. IDNR's formal and informal enforcement actions are not accurate in the national database.

Explanation:

EPA Enforcement Compliance History Online (ECHO) data pulls showed no inspections or SEVs were entered into ICIS in FY18. The IDNR directly reported enforcement actions to EPA for file selection. EPA compared the list submitted to the numbers reported in ECHO. ECHO data does not reflect the formal and informal actions taken by IDNR in FY18.

EPA Response to State comments: Due to timeframes and ongoing quarterly reporting, EPA amended the due date from June 1, 2020 to September 30, 2020 for this finding.

Relevant metrics:

2b Files reviewed where data are accurately reflected in the national data system [GOAL]	100%		0	43	0%

State Response:

The error in the data transfer that prevented inspection data from being entered into ICIS has been corrected. Although the 2018 data is not displayed in the data metrics in ECHO, the 2019 data indicates that 63 major and 307 non-major facilities with individual permits were inspected.

Single Event Violations (SEV) discovered during the inspection are documented by the field office inspectors as part of their inspection report. These are minor violations that are expected to be tracked by the regional office and final reports are completed, typically by a letter to the permittee. IDNR does track these minor violations in the agency Field Office Compliance Database. If the permittee fails to correct the minor violations in a timely manner, the regional field office will follow-up with the permittee and additional action, including formal enforcement action, will be considered.

Both the EPA and IDNR have had ongoing technical issues that contributed to the unsuccessful transfer of data, including informal and formal actions. IDNR is willing to continue the partnership with EPA (and Windsor Solutions) to find solutions to these data transfer issues.

State Action: IDNR will continue to meet regularly with EPA and Windsor Solutions to identify and remedy the breakdown in the federal/state data transfer pathway so that the minimum data requirements are met. IDNR concurs with the recommendation that the IDNR will report progress quarterly.

Recommendation:

Rec #	Due Date	Recommendation
1	09/30/2020	<p>IDNR should ensure that their compliance inspections, violations found (SEVs), and enforcement actions are accurately and timely entered into and reflected in the national database. Please respond to EPA with the following:</p> <ol style="list-style-type: none"> 1. Provide a written explanation for why the minimum data requirements are not being reported and an action plan to improve data quality 2. Report to EPA quarterly on the actions taken to address this finding; and, 3. If by September 30, 2020 EPA reviews IDNR data and finds that data entry is complete and accurate, this recommendation will be closed.

CWA Element 1 - Data

Finding 1-4

Area for Improvement

Summary:

IDNR did not enter any FY18 Single Event Violations (SEVs) into ICIS.

Explanation:

EPA Enforcement Compliance History Online (ECHO) data pulls showed no inspections or SEVs were entered into ICIS in FY18. The IDNR directly reported enforcement actions to EPA for file selection. EPA compared the list submitted to the numbers reported in ECHO. ECHO data does not reflect the formal and informal actions taken by IDNR in FY18.

EPA Response to State comments: Due to timeframes and ongoing quarterly reporting, EPA amended the due from June 1, 2020 to September 30, 2020 for this finding.

Relevant metrics:

7j1 Number of major and non-major facilities with single-event violations reported in the review year			0		0

State Response:

Due to data transfer errors in the past IDNR Leadership made the decision to discontinue entering SEVs to ICIS. Recently, significant progress has been made with successfully transferring state data to ICIS, and the IDNR Data Team will reevaluate the process of entering SEVs and determine if this action can now be completed without generating significant errors. State Action: The IDNR Data Team will reevaluate the process of entering SEVs and determine if this action can now be completed without generating significant errors. IDNR will continue to meet regularly with EPA and Windsor Solutions to identify and remedy the breakdown in the federal/state data transfer pathway so that the minimum data requirements are met. IDNR concurs with the recommendation that the IDNR will report progress quarterly.

State Action: The IDNR Data Team will reevaluate the process of entering SEVs and determine if this action can now be completed without generating significant errors. IDNR will continue to meet regularly with EPA and Windsor Solutions to identify and remedy the breakdown in the federal/state data transfer pathway so that the minimum data requirements are met. IDNR concurs with the recommendation that the IDNR will report progress quarterly.

Recommendation:

Rec #	Due Date	Recommendation
1	09/30/2020	<p>IDNR should ensure that the violations found (SEVs) are accurately and timely entered into and reflected in the national database. Please respond to EPA with the following:</p> <ol style="list-style-type: none"> 1. Provide a written explanation for why the minimum data requirements (MDRs) are not being reported and an action plan to improve data quality 2. Report to EPA quarterly on the actions taken to address this finding; and, 3. If by September 30, 2020 EPA reviews IDNR data and finds that data entry is complete and accurate for SEVs, this recommendation will be closed.

CWA Element 2 - Inspections

Finding 2-1

Meets or Exceeds Expectations

Summary:

IDNR met a majority of its CMS goals

Explanation:

The EPA compared the reported CMS end-of-year numbers from IDNR to annual commitments made at the beginning of the year in its CMS alternative plan. Based on the review, it was determined that the state met a majority of its inspection commitments, including inspections of major facilities, minor facilities with individual permits, and minor facilities with general permits.

Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State %
4a1 Number of pretreatment compliance inspections and audits at approved local pretreatment programs. [GOAL]	100% of commitments%		8	9	88.9%
4a7 Number of Phase I and II MS4 audits or inspections. [GOAL]	100% of commitments%		8	9	88.9%
4a9 Number of Phase I and Phase II construction stormwater inspections. [GOAL]	100% of commitments%		95	100	95%
5a1 Inspection coverage of NPDES majors. [GOAL]	100%	52.8%	59	63	93.7%
5b1 Inspections coverage of NPDES non-majors with individual permits [GOAL]	100%	22.6%	269	295	91.2%
5b2 Inspections coverage of NPDES non-majors with general permits [GOAL]	100%	5.6%	150	175	85.7%

State Response: None

CWA Element 2 - Inspections

Finding 2-2

Area for Improvement

Summary:

IDNR did not meet its inspection goals for select CMS universes.

Explanation:

The EPA compared the reported CMS end-of-year numbers from IDNR to annual commitments made at the beginning of the year in its CMS alternative plan. Based on the review, the state was found to have fallen short of meeting its commitments in four inspection categories.

The state's negotiated alternative plan goals fell short as shown below.

- 1.c.3 Onsite SIU Inspections
 - 2018 Goal = 50% of the universe
 - 2018 Results = 34% of the universe
- 2.c.1 MS4 Inspections
 - 2018 Goal = 20% of the universe
 - 2018 Results = 17% of the universe
- 2.c.2 Industrial Stormwater Sites*
 - 2018 Goal = 5% of the universe
 - 2018 Results = 4% of the universe
- 2.c.3 Construction Stormwater Sites*
 - 2018 Goal = 5% of the universe
 - 2018 Results = 3% of the universe

* The denominator in the relevant metrics section below represents a subset of the total universe.

EPA Response to State comments: EPA amended the recommendation language to remove the modification of the CMS goals, added state quarterly coordination with their field offices for progress updates, and amended the due date from June 1, 2020 to November 15, 2020 for this finding.

Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State %
4a10 Number of comprehensive inspections of large and medium concentrated animal feeding operations (CAFOs) [GOAL]	100% of commitments%		20	34	58.8%
4a2 Number of inspections at EPA or state Significant Industrial Users that are discharging to non-authorized POTWs. [GOAL]	100% of commitments%		52	84	61.9%
4a4 Number of CSO inspections. [GOAL]	100% of commitments%		0	2	0%
4a8 Number of industrial stormwater inspections. [GOAL]	100% of commitments%		55	75	73.3%

State Response:

The AFO Work Plan contributed to limited staffing resources in other program areas. Since completion of the AFO Work Plan in 2018 there is evidence of improvement. For example, in FFY19 all CMS inspection goals were met in this category, with the exception of SIUs and CAFOs. More emphasis will be placed on inspection coordination and more frequent updates on statewide inspection totals will be provided so that staff are aware of the progress. IDNR believes that the goals in the CMS are achievable without modifications.

State Action: Beginning January 2020, CMS Inspection Goal Progress will be a topic of discussion at least quarterly at relevant program (AFO, STW, WW) senior staff meetings and at field office supervisor's meeting.

Recommendation:

Rec #	Due Date	Recommendation
1	11/15/2020	<p>EPA recommends IDNR</p> <ol style="list-style-type: none"> 1. IDNR will coordinate quarterly with their field offices for progress updates. 2. Provide the annual FY21 CMS plan by June 1, 2020. 3. Provide EPA with the end-of-year CMS plan inspection numbers in accordance with the PPG deadlines. 4. If/when CMS plan inspection commitments are not met, provide a detailed explanation on why the CMS goal was missed.

CWA Element 2 - Inspections

Finding 2-3

Area for Improvement

Summary:

Inspection reports did not contain comprehensive information to thoroughly document and determine compliance.

Explanation:

The EPA reviewed 53 inspection reports. 26 inspection reports were missing photos and/or site diagrams. This information would have provided clarity to the narrative of the inspection. This is particularly true considering construction stormwater compliance depends on the operation and maintenance of stormwater BMPs installed. IDNR stated that the full file would likely have the photos taken during the inspection, however, inspection reports should stand on their own and either refer to supplemental information, like attachments, or be complete records.

EPA Response to State comments: EPA amended the recommendation language and removed the submitting of an inspection plan and quarterly progress discussions with EPA. The staff training referenced in the state comment was added.

Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State %
6a Inspection reports complete and sufficient to determine compliance at the facility. [GOAL]	100%		34	53	64.2%

State Response:

After further review, IDNR believes that for a portion of the inspection reports, the supporting information mentioned as missing was likely inadvertently not provided to EPA. These supporting documents were found with the reports in IDNR's record file, but not the electronic file provided to EPA for the purpose of the SRF. IDNR concurs that all inspection reports must be complete and should be reviewed as a standalone document for compliance determinations. If photos are taken during the inspection, it should be noted in the inspection report that photos are available and included in the report attachment(s).

State Action: Additional staff training will be provided at the 2020 Stormwater Program Meeting regarding photos, diagrams, attachments. In addition, there will be emphasis during peer review that the report must be reviewed as a standalone document for compliance determinations.

Recommendation:

Rec #	Due Date	Recommendation
1	09/30/2020	<p>IDNR should ensure inspection reports are complete and can be reviewed as a standalone document for compliance determinations. If photos are taken during the inspection, it should be noted in the inspection report that photos are available and included in the report attachment(s).</p> <ol style="list-style-type: none">1. IDNR will perform staff training at the 2020 Stormwater Program Meeting to emphasize inspection report completeness and compliance determinations.2. By the end of FY2020, EPA will review a selection of inspection reports to determine if they are complete with all necessary information. If it is found that the reports are complete, this recommendation will be closed.

CWA Element 2 - Inspections

Finding 2-4

Area for Improvement

Summary:

Inspection reports do not consistently meet the 45-day deadline.

Explanation:

EPA reviewed 53 inspection reports. The IDNR averaged 30 days for all 53, however, the percentage of inspection reports issued within in 45 days was only 66.7%.

Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State %
6b Timeliness of inspection report completion [GOAL]	100%		42	53	79.2%

State Response:

Efforts will be made to meet the 45-day timeline.

State Action: Make staff and supervisors aware of the expected timeframe. IDNR concurs with the recommendation that the IDNR will report progress quarterly.

Recommendation:

Rec #	Due Date	Recommendation
1	09/30/2020	<p>IDNR should ensure inspection reports are issued within 45 days.</p> <ol style="list-style-type: none"> 1. Submit a plan to EPA to address this finding by June 1, 2020. 2. Discuss quarterly with EPA on progress in implementing the plan. 3. By the end of FY2020, EPA will review a selection of inspection reports to determine if the 45-day timeline is being met. If it is found that the reports are being issued within that timeframe, this recommendation will be closed.

CWA Element 3 - Violations

Finding 3-1

Area for Improvement

Summary:

Missing data, as identified in finding 2-3, of evaluations of compliance unable to be replicated.

Explanation:

The EPA reviewed 53 inspection reports. However, 10 inspection reports were missing critical information that would help define the compliance status of the facility. These were inspections where photos would convey the status or condition of onsite BMPs, like construction stormwater, or when the narrative identifies operation and maintenance issues that would be better defined with photos. IDNR stated that the full file would likely have the photos taken during the inspection, however, inspection reports should stand on their own and either refer to supplemental information, like attachments, or be complete records.

Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State %
7e Accuracy of compliance determinations [GOAL]	100%		43	53	81.1%

State Response:

See finding 2-3/Inspections

State Action: See finding 2-3/Inspection

Recommendation:

Rec #	Due Date	Recommendation
1	09/30/2020	<p>IDNR should ensure inspection reports are complete and can be reviewed as a standalone document for compliance determinations. If photos are taken in the inspection, it should be noted in the inspection report that photos are available and included in the report attachment(s).</p> <ol style="list-style-type: none"> 1. Report to EPA quarterly on the actions taken to address this finding. 2. Submit a plan to EPA to address this finding by June 1, 2020.

CWA Element 4 - Enforcement**Finding 4-1**

Meets or Exceeds Expectations

Summary:

Enforcement actions reviewed would return facility back into compliance.

Explanation:

The EPA reviewed 18 enforcement actions. 17 of the 18 enforcement actions would return a facility into compliance.

Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State %
10b Enforcement responses reviewed that address violations in an appropriate manner [GOAL]	100%		16	17	94.1%
9a Percentage of enforcement responses that returned, or will return, a source in violation to compliance [GOAL]	100%		17	18	94.4%

State Response: None

CWA Element 5 - Penalties

Finding 5-1

Meets or Exceeds Expectations

Summary:

IDNR tracks and maintains nearly complete records of penalty actions.

Explanation:

EPA reviewed seven penalty actions. Nearly all of the records that must be maintained are kept by IDNR. The files contained a complete penalty calculation worksheet where gravity, economic benefit, initial and final penalty is documented.

Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State %
11a Penalty calculations reviewed that document and include gravity and economic benefit [GOAL]	100%		7	7	100%
12a Documentation of rationale for difference between initial penalty calculation and final penalty [GOAL]	100%		5	6	83.3%
12b Penalties collected [GOAL]	100%		7	7	100%

State Response: None

Appendix



IOWA DEPARTMENT OF NATURAL RESOURCES

GOVERNOR KIM REYNOLDS
LT. GOVERNOR ADAM GREGG
DIRECTOR KAYLA LYON

January 7, 2020

David Cozad, Director
Enforcement and Compliance Division
U.S. Environmental Protection Agency Region 7
11201 Renner Boulevard
Lenexa, Kansas 66219

Subject: NPDES State Review Framework FFY2018
Response to Findings

Dear Mr. Cozad:

Enclosed is the written response from Iowa Department of Natural Resources to the draft report received on November 20, 2019. The U.S. Environmental Protection Agency reviewed the IDNR's NPDES Compliance and Enforcement program using the State Review Framework on June 4 - 6, 2019. Although as a whole the IDNR's NPDES program meets or exceeds expectations, there were several findings identified during the review that prompted further evaluation. In accordance with your letter accompanying the report, this letter describes the actions the IDNR has taken or will take to improve Iowa's NPDES Compliance and Enforcement program in response to the performance findings contained in the EPA SRF draft report.

Several of the findings contained in the report have to do with the success rate of the data transfer between the state applications and ICIS. These data transfer impediments have been found to exist on both the state and federal side of the data pathway. Since April 2019 significant progress has been made in getting data to flow correctly to ICIS, which is then available to the public through ECHO. The recent success is a result of EPA, Windsor Solutions (EPA contractor), and IDNR staff meeting regularly and discussing the issues. IDNR is committed to this continued partnership with EPA in an effort to meet the minimum data reporting requirements.

We look forward to working with your office in utilizing the results of this evaluation to advance our shared objective of protection of public health and the environment in Iowa. If you have questions or would like additional information, please contact Ted Petersen at (515) 725-0274.

Sincerely,

A handwritten signature in black ink, appearing to read "Kayla Lyon", is written over a light blue horizontal line.

Kayla Lyon
Director
Iowa Department of Natural Resources

Enclosures

IDNR's Response to SRF Findings

CWA Element 1 - Data / Finding 1-1

Summary: IDNR completeness of data entry of major and non-major permit limits is below the national average and is not meeting the national goal.

State Response: *Collaboration with EPA and Windsor Solutions is underway to correct the data transfer issues and ensure that all permit limits are represented correctly in ICIS. The ECHO eRule Readiness dashboard shows 210 facilities that do not have limits in ICIS and the 2019 SRF data metrics show 203 facilities that do not have limits in ICIS. These identified facilities are CAFO, MS4, and other permits that do not have effluent limitations. Efforts are being made to correctly transfer the permit data so ICIS is not expecting limits for these facilities.*

State Action: *Efforts are being made to correct the data transfer issues. The IDNR concurs with the recommendation that the IDNR can correct the issue without additional EPA oversight.*

CWA Element 1- Data / Finding 1-3

Summary: IDNR did not enter any FY18 inspections into ICIS. IDNR's formal and informal enforcement actions are not accurate in the national database.

State Response: *The error in the data transfer that prevented inspection data from being entered into ICIS has been corrected. Although the 2018 data is not displayed in the data metrics in ECHO, the 2019 data indicates that 63 major and 307 non-major facilities with individual permits were inspected.*

Single Event Violations (SEV) discovered during the inspection are documented by the field office inspectors as part of their inspection report. These are minor violations that are expected to be tracked by the regional office and final reports are completed, typically by a letter to the permittee. IDNR does track these minor violations in the agency Field Office Compliance Database. If the permittee fails to correct the minor violations in a timely manner, the regional field office will follow-up with the permittee and additional action, including formal enforcement action, will be considered.

Both the EPA and IDNR have had ongoing technical issues that contributed to the unsuccessful transfer of data, including informal and formal actions. IDNR is willing to continue the partnership with EPA (and Windsor Solutions) to find solutions to these data transfer issues.

State Action: *IDNR will continue to meet regularly with EPA and Windsor Solutions to identify and remedy the breakdown in the federal/state data transfer pathway so that the minimum data requirements are met. IDNR concurs with the recommendation that the IDNR will report progress quarterly.*

CWA Element 1 - Data / Finding 1-4

Summary: IDNR did not enter any FY18 Single Event Violations (SEVs) into ICIS.

State Response: *Due to data transfer errors in the past IDNR Leadership made the decision to discontinue entering SEVs to ICIS. Recently, significant progress has been made with successfully transferring state data to ICIS, and the IDNR Data Team will reevaluate the process of entering SEVs and determine if this action can now be completed without generating significant errors.*

State Action: *The IDNR Data Team will reevaluate the process of entering SEVs and determine if this action can now be completed without generating significant errors. IDNR will continue to meet regularly with EPA and Windsor Solutions to identify and remedy the breakdown in the federal/state data transfer pathway so that the minimum data requirements are met. IDNR concurs with the recommendation that the IDNR will report progress quarterly.*

CWA Element 2 - Inspections / Finding 2-2

Summary: IDNR did not meet its inspection goals for select CMS universes.

State Response: *The AFO Work Plan contributed to limited staffing resources in other program areas. Since completion of the AFO Work Plan in 2018 there is evidence of improvement. For example, in FFY19 all CMS inspection goals were met in this category, with the exception of SIUs and CAFOs. More emphasis will be placed on inspection coordination and more frequent updates on statewide inspection totals will be provided so that staff are aware of the progress. IDNR believes that the goals in the CMS are achievable without modifications.*

State Action: *Beginning January 2020, CMS Inspection Goal Progress will be a topic of discussion at least quarterly at relevant program (AFO, STW, WW) senior staff meetings and at field office supervisor's meeting.*

CWA Element 2 - Inspections / Findings 2-3

Summary: Inspection reports did not contain comprehensive information to thoroughly document and determine compliance.

State Response: *After further review, IDNR believes that for a portion of the inspection reports, the supporting information mentioned as missing was likely inadvertently not provided to EPA. These supporting documents were found with the reports in IDNR's record file, but not the electronic file provided to EPA for the purpose of the SRF. IDNR concurs that all inspection reports must be complete and should be reviewed as a standalone document for compliance determinations. If photos are taken during the inspection, it should be noted in the inspection report that photos are available and included in the report attachment(s).*

State Action: *Additional staff training will be provided at the 2020 Stormwater Program Meeting regarding photos, diagrams, attachments. In addition, there will be emphasis during peer review that the report must be reviewed as a standalone document for compliance determinations.*

CWA Element 2 - Inspections / Findings 2-4

Summary: Inspection reports do not consistently meet the 45-day deadline.

State Response: *Efforts will be made to meet the 45-day timeline.*

State Action: *Make staff and supervisors aware of the expected timeline. IDNR concurs with the recommendation that the IDNR will report progress quarterly.*

CWA Element 3 - Violations / Finding 3-1

Summary: Missing data, as identified in finding 2-3, of evaluations of compliance unable to be replicated.

State Response: *See finding 2-3/Inspections*

State Action: *See finding 2-3/Inspection*

STATE REVIEW FRAMEWORK

Iowa

Region 7

**Resource Conservation and Recovery Act
Direct Implementation in Federal Fiscal Year 2019**

U.S. Environmental Protection Agency

**Final Report
November 18, 2021**

I. Introduction

A. Overview of the State Review Framework

The State Review Framework (SRF) is a key mechanism for EPA oversight, providing a nationally consistent process for reviewing the performance of state delegated compliance and enforcement programs under three core federal statutes: Clean Air Act, Clean Water Act, and Resource Conservation and Recovery Act. Through SRF, EPA periodically reviews such programs using a standardized set of metrics to evaluate their performance against performance standards laid out in federal statute, EPA regulations, policy, and guidance. When states do not achieve standards, the EPA will work with them to improve performance.

Established in 2004, the review was developed jointly by EPA and Environmental Council of the States (ECOS) in response to calls both inside and outside the agency for improved, more consistent oversight of state delegated programs. The goals of the review that were agreed upon at its formation remain relevant and unchanged today:

1. Ensure delegated and EPA-run programs meet federal policy and baseline performance standards
2. Promote fair and consistent enforcement necessary to protect human health and the environment
3. Promote equitable treatment and level interstate playing field for business
4. Provide transparency with publicly available data and reports

B. The Review Process

The review is conducted on a rolling five-year cycle such that all programs are reviewed approximately once every five years. The EPA evaluates programs on a one-year period of performance, typically the one-year prior to review, using a standard set of metrics to make findings on performance in five areas (elements) around which the report is organized: data, inspections, violations, enforcement, and penalties. Wherever program performance is found to deviate significantly from federal policy or standards, the EPA will issue recommendations for corrective action which are monitored by EPA until completed and program performance improves.

The SRF is currently in its 4th Round (FY2018-2022) of reviews, preceded by Round 3 (FY2012-2017), Round 2 (2008-2011), and Round 1 (FY2004-2007). Additional information and final reports can be found at the EPA website under [State Review Framework](#).

II. Navigating the Report

The final report contains the results and relevant information from the review including EPA and program contact information, metric values, performance findings and explanations, program responses, and EPA recommendations for corrective action where any significant deficiencies in performance were found.

A. Metrics

There are two general types of metrics used to assess program performance. The first are **data metrics**, which reflect verified inspection and enforcement data from the national data systems of each media, or statute. The second, and generally more significant, are **file metrics**, which are derived from the review of individual facility files in order to determine if the program is performing their compliance and enforcement responsibilities adequately.

Other information considered by EPA to make performance findings in addition to the metrics includes results from previous SRF reviews, data metrics from the years in-between reviews, multi-year metric trends.

B. Performance Findings

The EPA makes findings on performance in five program areas:

- **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, accuracy of compliance determinations, and determination of significant noncompliance (SNC) or high priority violators (HPV)
- **Enforcement** - timeliness and appropriateness of enforcement, returning facilities to compliance
- **Penalties** - calculation including gravity and economic benefit components, assessment, and collection

Though performance generally varies across a spectrum, for the purposes of conducting a standardized review, SRF categorizes performance into three findings levels:

Meets or Exceeds: No issues are found. Base standards of performance are met or exceeded.

Area for Attention: Minor issues are found. One or more metrics indicates performance issues related to quality, process, or policy. The implementing agency is considered able to correct the issue without additional EPA oversight.

Area for Improvement: Significant issues are found. One or more metrics indicates routine and/or widespread performance issues related to quality, process, or policy. A recommendation for corrective action is issued which contains specific actions and schedule for completion. The EPA monitors implementation until completion.

C. Recommendations for Corrective Action

Whenever the EPA makes a finding on performance of *Area for Improvement*, the EPA will include a recommendation for corrective action in the report. The purpose of recommendations is to address significant performance issues and bring program performance back in line with

federal policy and standards. All recommendations should include specific actions and a schedule for completion, and their implementation is monitored by the EPA until completion.

III. Review Process Information

Clean Water Act (CWA)

Clean Air Act (CAA)

Resource Conservation and Recovery Act (RCRA)

Kick-off occurred on March 9, 2020; the DMA and file selection were completed by June 16, 2020; and opening conference occurred on July 17, 2020 with Regional and HQ representatives: Arlene Anderson, Adam Klinger, Elizabeth Walsh, and Reggie Barrino. Region 7 members were Rebecca Wenner, RCRA staff lead, and Kevin Barthol, SRF Coordinator. During this meeting HQ representative, Arlene Anderson discussed the 35 files that were selected:

- 7 penalty files from 2019
- Facilities with a high number of violations with no formal enforcement action
- Facilities that received informal enforcement actions (but were not Significant Non-Compliance (SNC))
- Facilities identified as SNCs
- Facilities with inspections with no informal or formal enforcement action

Executive Summary

Areas of Strong Performance

The following are aspects of the program that, according to the review, are being implemented at a high level:

Resource Conservation and Recovery Act (RCRA):

- The Region performed well in ensuring the inspection reports were accurate and provide appropriate documentation to support the findings and compliance determination.
- The Region consistently made accurate compliance determinations.
- Appropriate enforcement was taken to address violations.
- The Region consistently and successfully collects penalties.

Priority Issues to Address

The following are aspects of the program that, according to the review, are not meeting federal standards and should be prioritized for management attention:

Resource Conservation and Recovery Act (RCRA):

- Region did not meet inspection coverage goals for active LQGs.
- Timeliness of inspection report completion.
- Timely enforcement taken to address SNC.

Region 7 Iowa SRF comparison between Round 3 and Round 4 Area for Improvement Metric Findings:

Metric	Round 3	Round 4
5b1- annual inspection coverage for active LQGs	Meets or exceeds expectation	Area for improvement
6b- timeliness of inspection reports completion	Meets or exceeds expectation	Area for improvement *
9a- enforcement that returns violators to compliance	Meets or exceeds expectation	Meets or exceeds expectation
10a Timely enforcement taken to address SNC	Area for improvement	Area for improvement
10b- appropriate enforcement taken to address violations	Meets or exceeds expectation	Meets or exceeds expectation
11a- penalty calculation include gravity and economic benefit	Meets or exceeds expectation	Meets or exceeds expectation
12a- documentation of difference between initial and final penalty	Meets or exceeds expectation	Meets or exceeds expectation

***Although the comparison standard for timeliness changed for inspections that occurred after June 2018**, a drop in performance is still observed across these two SRF rounds that is not attributable to this change in policy. While the average time shifted slightly (from 41 days to 45 days), there were more outliers (>60 days) in Round 4.

Resource Conservation and Recovery Act Findings

RCRA Element 1 - Data

Finding 1-1

Area for Attention

Recurring Issue:

No

Summary:

EPA observed that 81.8% of the files reviewed had mandatory data that was accurately reflected in RCRAInfo, the national database for the RCRA program.

Explanation:

Metric 2b measures the data accuracy and completeness of data in RCRAInfo with information in the facility files. 27 out of 33 files (81.8%) reviewed were found to have accurate data elements in RCRAInfo. There were errors in the data entry with detailed facility reports (DFRs) with several missing minimum data requirements (MDRs) and some enforcement actions/CAFOs not recorded in RCRAInfo. Some data entries were not clear and there was some duplication of entered penalty actions. The region should take action to ensure that improvements are made to accurately enter data into the national database of record.

Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State Total
2b Accurate entry of mandatory data [GOAL]	100%		27	33	81.8%

Regional Response:

To assist in the timeliness and accuracy of the data entered into the RCRAInfo database, the EPA R7 RCRA program has implemented the use of a Compliance, Monitoring, and Evaluation Log (CMEL). EPA R7 RCRA compliance officers are required to complete a CMEL for all documented RCRA violations and enforcement actions (i.e., SNC determinations, compliance determinations, correspondence, orders, etc.) completed in Iowa and our other EPA R7 states. The CMEL is provided to the EPA R7 RCRAInfo database coordinator for the data to be timely and accurately entered.

RCRA Element 2 – Inspections

Finding 2-1

Area for Improvement

Recurring Issue:

No

Summary:

The Region did not meet the national annual inspection coverage goal of 20% for active Large Quantity Generators (LQGs). No alternate CMS was identified for this time period. The inspection report timeliness is inconsistently meeting the 60-day timeframe.

Explanation:

Metric 5b1 measure the percentage of the percentage of large quantity generator (LQG) universes, that had a Compliance Evaluation Inspection (CEI) during the one-year periods of review. The FY 2019 data metrics for LQG inspection coverage indicated that only 6.2% of the universe had been inspected (10 of 161 LQGs).

Metric 6b measures the percentage of inspection reports completed in a timely manner. Region 7 depends upon trained contractors who conduct the inspections on behalf of Region 7 and forward all documentation to the Regional Enforcement Officers for a completeness and compliance determination process. These inspectors are trained to follow the Inspector Training Manuals and Guidance, the Field Operation Guidance (FOG) and are federally credentialed. The enforcement staff determines if there's enough evidence with photos, checklists, manifests, field notes, and preliminary findings to make a compliance determination, or if more information should be requested from the facility.

On June 29, 2018, OECA issued the final Interim Policy on Inspection Report Timeliness and Standardization (Interim Inspection Report Policy), which reduced the timeframe for finalizing RCRA inspection reports from 150 days to 60 days. The effective date of the Interim Inspection Report Policy was based on a phased-in approach, depending on the region and the media program. The 60-day timeframe became effective for Region 7 for RCRA Subpart C facilities beginning July 1, 2018.

The Region 7 process does not currently meet the timeframe identified by this Interim policy. Although the total average of time for completing inspection reports for Iowa was 45 days, completion ranged from 8 days to 94 days for the 20 inspection reports reviewed. Six inspections conducted by the contractor were finalized several months after the inspection date. A total of 14 out of 20 met the 60-day timeframe.

Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State Total
5b1 Annual inspection coverage for active LQG [GOAL]	20%	10%	10	161	6.2%
6b Timeliness of inspection report completion [GOAL]	100%		14	20	70%

Regional Response:

Due to the Regional realignment and a new management team for the Division, EPA Region 7 was unable to determine the specifics on why it did not meet the annual inspection coverage for active LQG facilities in Iowa during FY2019. We do use contractor support to conduct most of the LQG inspections in Iowa. In FY2019, there was a delay in contract approval till summer 2019 which may have influenced this. The Region realizes that this metric was also not met during FY2020 due to the Covid-19 pandemic. In late 2020, a new inspection targeting coordinator was named. This person will assure that the annual inspection coverage for active LQG facilities is met. The EPA R7 RCRA program has determined that it met its annual inspection coverage metric required for active LQGs during FY2021. The Region inspected 52 LQGs in Iowa from a LQG universe of 157. In addition, the EPA R7 RCRA program will meet this metric during FY2022 as it has selected an appropriate number of active LQG facilities which it is planning to inspect in Iowa. The Region has targeted 43 LQGs in Iowa for inspection from a LQG universe of 168. The Region is not interested in an Alternative CMS at this time, and we select the CMS option of inspecting at least 20% of the LQG universe.

The final Interim Policy on Inspection Report Timeliness and Standardization (Interim Inspection Report Policy) states that in 2019, Phase II will expand the pilots nationally to all programs and there will be a goal of having 75% of all inspection reports meeting the 60-day timeframe. Region 7 acknowledges we were at 70% for FY2019. In 2020 after Regional realignment, a permanent Branch Chief and Section Chief were named. In FY2021, the new ECAD management team made it a priority to correct inspection report completion timeliness. This issue has been corrected using the ELMS process, reviewing monthly Bowling Chart metrics, and a monthly business review meeting.

Recommendation:

Due Date	Recommendation
12/31/21	HQ will monitor by performing a DMA to evaluate appropriate inspection coverage. If the region is following the CMS or an Alt. CMS, as appropriate, and achieving appropriate coverage 85% of the time, then HQ will close out this recommendation. If not, then a review of inspections in the future will be used to evaluate completion of this recommendation.
11/30/21	EPA HQ will monitor the progress by reviewing 3 to 10 files of completed inspections in FY 2021 for timeliness and finds the region performing at an 85% or greater metric finding, HQ will close the recommendation

RCRA Element 2 – Inspections

Finding 2-2

Meet or Exceeds

Recurring Issue:

No

Summary:

The Region did meet the national two-year inspection coverage goal of 100% for operating TSDFs. No alternate CMS was identified for this time period. The inspection report timeliness is inconsistently meeting the 60-day timeframe.

Explanation:

Metric 5a measure the percentage of the treatment, storage, and disposal facility (TSDF) and the percentage of large quantity generator (LQG) universes, that had a Compliance Evaluation Inspection (CEI) during the two-year. The FY 2019 data metrics for TSDFs inspection coverage indicated that 100% of the universe had been inspected (4 of 5 TSDFs) were CEI and the last one was an FCI, which was not included in the select logic of the RCRA 5a metric.

Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State Total
5a Two-year inspection coverage for operating TSDFs [GOAL]	100%	95.5%	5	5	100%

Regional Response:

None

RCRA Element 2 – Inspections

Finding 2-3

Meets or Exceeds Expectation

Recurring Issue:

No

Summary:

Inspection reports reviewed were complete and sufficient to determine compliance.

Explanation:

Metric 6a measures the percentage of on-site inspection reports reviewed that are complete and provide sufficient documentation to determine compliance. Generally, the inspection reports provided checklists, photographs, site drawings, and manifests when necessary to document site conditions at the time of the inspection. Some files had appendices with other pertinent documentation that support preliminary findings by the contractor and were evaluated by the regional staff to make compliance determinations. Some files had appendices with other pertinent documentation that support preliminary findings by the contractor and were evaluated by the regional staff to make compliance determinations.

Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State Total
5d One-year count of SQGs with inspections [GOAL]	100% of commitments	-	55	-	55
5e5 One-year count of very small quantity generators (VSQGs) with inspections	100% of commitments	-	69	-	69
5e6 One-year count of transporters with inspections	100% of commitments	-	N/A	NA	N/A
5e7 One-year count of sites not covered by metrics 5a - e6 with inspections	100% of commitments	-	16	-	16
6a Inspection reports complete and sufficient to determine compliance [GOAL]	100% of commitments	-	18	20	90%

Regional Response:

None

RCRA Element 3 – Violations

Finding 3-1

Meets or Exceeds Expectations

Recurring Issue:

No

Summary:

The Region made accurate compliance determinations 95.2% of the time and made timely SNC determinations 100% of the time.

Explanation:

Metric 7a measures whether accurate compliance determinations were made based on a file review of inspection reports and other compliance monitoring activity (i.e., record reviews). The Region was able to accurately determine compliance 20 out of 21 files reviewed.

Metric 8b measures the percentage of SNC determinations made within 150 days of the first day of inspection (Day Zero). Only one SNC violation was available to determine the timeliness of SNC determination from inspection reports.

Metric 8c measures the percentage of files reviewed in which significant noncompliance (SNC) status was appropriately determined during the year reviewed. The region did appropriate SNC determination. Although the Region was consistent with SV determination, it didn't reclassify them in a timely manner (after 240-days) when return to compliance wasn't achieved, as required by Enforcement Response Plan (ERP).

Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State Total
7a Accurate compliance determinations [GOAL]	100%		20	21	95.2%
8b Timeliness of SNC determinations [GOAL]	100%	39.6%	1	1	100%
8c Appropriate SNC determinations [GOAL]	100%		18	21	85.70%

Regional Response:

None

RCRA Element 4 - Enforcement**Finding 4-1**

Meets or Exceeds Expectation

Recurring Issue:

No

Summary:

The Region's enforcement action and compliance schedules are appropriately within the RCRA ERP, and consistently to returning facilities to compliance.

Explanation:

Metric 9a measures the percentage of enforcement responses that returned, or will return, sites in SNC or SV to compliance. A total of twenty-six (26) files were reviewed that included informal or formal enforcement actions. A total 84.60% (22 of 26) of the enforcement responses returned the facilities to compliance or were on a compliance schedule to return the facilities back into compliance with the hazardous waste requirements.

Metric 10b measures the percentage of files with enforcement responses that are appropriate to the violations. Out of a total of 26 reviewed files with enforcement actions, 22 had appropriate enforcement that followed the guidelines within the RCRA ERP (84.60%).

Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State Total
9a Enforcement that returns sites to compliance [GOAL]	100%		22	26	84.60%
10b Appropriate enforcement taken to address violations [GOAL]	100%		22	26	84.60%

Regional Response:

None

RCRA Element 4 - Enforcement

Finding 4-2

Area for Improvement

Recurring Issue:

No

Summary:

The Region's enforcement actions are not timely. The Region was inconsistent with SNC determinations for Secondary Violations (SVs) and violations found during inspections. The Region isn't reclassifying the SV to SNC in the appropriate timeframe or returning the violation to compliance.

Explanation:

Review indicator metrics 2a (Long standing secondary violations); 7b (violations found during CEI and FCI inspections); and 8a (SNC identifications rate at sites with CEI and FCI) do not have goals associated with them. Such indicators were evaluated for contextual information to assess metric 10a.

Metric 10a measures the percentage of SNC violations addressed with a formal action or referral during the year reviewed and within 360 days of Day Zero. The data metric analysis (DMA) indicated that only 33% the FY 2019 actions (1 of 3) met the Hazardous Waste Enforcement Response Policy (ERP) timeline to take enforcement within 360 days.

Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State Total
2a Long-standing secondary violators					74
7b Violations found during CEI and FCI inspections		45.4%	113	151	74.8%
8a SNC identification rate at sites with CEI and FCI		2.1%	1	256	0.4%
10a Timely enforcement taken to address SNC [GOAL]	80%	28%	1	3	33.3 %

Recommendation:

Due Date	Recommendation
4/31/2022	HQ will assess and review a Data Metric Analysis (DMA) to evaluate the regions progress in returning SVs to compliance or reclassifying the SVs (74 in 2019) to SNCs.
5/30/2023	HQ will select and review a random 3 to 10 files containing FY 2022 enforcement actions to ensure that the procedures for achieving timely and appropriate enforcement have been pursued and have resulted in a return to compliance. If the review indicates that Region 7 has demonstrated improvements in the metric of 85% or greater, the recommendation will be closed.

Regional Response:

Region 7 identified that staffing resources was a root cause issue. In order to correct case timeliness, the RCRA program has implemented and is currently using the ELMS process, which includes monthly Bowling Chart metrics, monthly business review meetings, and bi-weekly RCRA near/past ELMS target milestone case meetings to discuss past target, near target, and certain other long-term or post-settlement monitoring of RCRA cases.

The EPA R7 RCRA program has implemented the use of a Compliance, Monitoring, and Evaluation Log (CMEL) to assist in the identification of SVs and SNCs. EPA R7 RCRA compliance officers are required to complete a CMEL for all documented RCRA violations and enforcement actions (i.e., SNC determinations, compliance determinations, correspondence, orders, etc.) completed in Iowa and our other EPA R7 states. CMELs accompany the enforcement document during peer and management review to ensure that SNCs are appropriately and timely identified. Once the document is finalized, the CMEL is provided to the EPA R7 RCRAInfo database coordinator for data entry.

The 360-day timeline stems from the 2003 Hazardous Waste Enforcement Response Policy which is a guidance document. At that time, EPA would file complaints before negotiating with the respondent. Today, we take a proactive approach in negotiating before filing, resulting in super CAFOs that both initiate and conclude enforcement simultaneously. We believe this to be more effective because we work with the facility to return to compliance sooner, allow them to provide information that we may not be aware, and reduce the likelihood of facilities repeating violations. Region 7 set an achievable ELMs goal of 420 days to file or refer to DOJ based on an extensive review of the typical negotiation process that acknowledges the time that is mandated to allow a facility to provide Ability to Pay information as well as review additional compliance information. Of the cases evaluated for this SRF, 2 of the 3 met 420 days. In the other case, we believed that the situation warranted extra time to settle the matter.

HQ Response to comment:

According to the 2003 Hazardous Waste Civil Enforcement Response Policy, it states that the agency should consider redesignating SVs as SNC if the violator does not return to compliance in 240-days. EPA should review the list of violators that do not return to compliance in 240-days to determine whether data entry problems, SNC designations issues, or SVs unaddressed by enforcement issues under Element 3, and unaddressed SVs under Element 4. Additionally, if enforcement responses for SVs that don't return sites to compliance, the SRF plain language suggests a discussion with region and prepare recommendation under Element 4. As for timeliness, the 2003 Hazardous Waste Civil Enforcement Response Policy states that warning letters or other appropriate notification of violations should be made by day 150. By day 240, EPA requires SVs to return to compliance. By Day 360, the implementing agency should make a referral to the Department of Justice, or enter into a final order with the violator. If agency is failing to do this, address under Element 4.

RCRA Element 5 - Penalties

Finding 5-1

Meets or Exceeds Expectation

Recurring Issue:

No

Summary:

The Region implemented the BEN Model consistently with all the enforcement actions with penalties reviewed. All the penalty files reviewed by EPA had documentation of penalties collected.

Explanation:

Additional documentation submitted during 2021 that wasn't available in 2020 provided appropriate documentation. HQ reviewed these documents and verified that documents met the requirements.

Metric 11a measures the percentage of penalty calculations reviewed that document, where appropriate, gravity and economic benefit. Metric 11a indicated that Region 7 considered gravity and economic benefit in 100% (5 of 5) of the penalty calculations reviewed. Gravity and economic benefit were listed in the penalty spreadsheet calculation form for most files reviewed, but most files didn't have an economic benefit calculation in this form. The Region supplied the memo and evaluation documentation of enforcement penalty calculation demonstrating the rationale for lack of economic benefit (economic benefit was calculated and assessed to determine if there was an impact). There was a calculation or rationale to justify the reduction of economic benefits for specific violations.

Metric 12a measures the percentage of penalties reviewed that document the rationale for the final value assessed when it is lower than the initial calculated value. Metric 12a indicated that

Region 7 documented the difference between the initial and final penalty assessed in 100% (4 of 4) of the penalty calculations reviewed. The memos and emails provide explained why the initial penalty calculations were reduced in the final penalty amount collected.

Metric 12b measures the percentage of enforcement files reviewed that document the collection of a penalty. The Region provided documentation of the penalty payments via canceled checks, emails, financial warehouse verification, or direct deposit for all 7 files reviewed.

Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State Total
11a Gravity and economic benefit [GOAL]	100%		5	5	100%
12a Documentation of rationale for difference between initial penalty calculation and final penalty [GOAL]	100%		4	4	100%
12b Penalty collection [GOAL]	100%		7	7	100%

Regional Response:

None