

STATE REVIEW FRAMEWORK

Mississippi

**Clean Air Act, Clean Water Act, & Resource Conservation
& Recovery Act Implementation in Federal Fiscal Year 2019**

**U.S. Environmental Protection Agency
Region 4**

**Final Report
June 1, 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, 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

Key Dates:

- May 20, 2020: kick off letter sent to state
- September 21-30, 2020, remote file review for CAA
- September 15-30, 2020, remote file review for CWA
- September 21-28, 2020, remote file review for RCRA

State and EPA key contacts for review:

	Mississippi Department of Environmental Quality (MDEQ)	EPA Region 4
SRF Coordinator	Michelle Clark, P.E., BCEE Division Chief Environmental Compliance and Enforcement Division MDEQ Mark Williams, Chief Waste Division MDEQ	Reginald Barrino, SRF Coordinator
CAA	Jay Barkley, Air Program Manager Environmental Compliance & Enforcement Division MDEQ	Denis Kler, Policy, Oversight & Liaison Office Roselyn Hughes-Fairley, Air Enforcement Branch
CWA	Michelle Clark, P.E., BCEE Division Chief Environmental Compliance and Enforcement Division MDEQ	Andrea Zimmer, Policy, Oversight & Liaison Office Becky Garnett, Policy, Oversight & Liaison Office Ahmad Dromgoole, Water Enforcement Branch
RCRA	Krista Caron, Chief Hazardous Waste Branch Waste Division MDEQ	Reginald Barrino, Policy, Oversight & Liaison Office Raj Aiyar, Chemical Safety & Land Enforcement Branch

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 Air Act (CAA)

MDEQ met the timely reporting of minimum data requirements (MDRs) for compliance monitoring activities, stack tests and stack test results, and enforcement actions entered in ICIS-Air.

MDEQ met the negotiated frequency for inspection of Title V and SM-80 sources, reviewed Title V Annual Compliance Certifications, provided the necessary documentation for Full Compliance Evaluations (FCEs), and provided the necessary documentation for the Compliance Monitoring Reports (CMRs).

MDEQ made timely identification of HPVs, accurate compliance determinations, and accurate HPV determinations based on the information contained in the files.

MDEQ had formal enforcement actions that required corrective action that would return the facility to compliance or compliance was achieved prior to the issuance of an order, addressed HPVs in a timely manner, took appropriate enforcement actions of HPVs, and developed case development and resolution timelines for enforcement actions requiring additional time.

MDEQ provided penalty calculation worksheets that address both gravity and economic benefit, provided rationale for the difference between the initial penalty calculation and the final penalty amount, and provided documentation that the penalties were collected.

Clean Water Act (CWA)

MDEQ exceeded the National Goals for the entry of key data into the national database for NPDES major and non-major facilities.

MDEQ's inspection reports were well written, complete, and provided sufficient documentation to determine compliance.

MDEQ's inspection reports consistently documented accurate compliance determinations.

MDEQ consistently documented any differences between the initial penalty calculation and the final assessed penalty as well as the collection of penalties.

Resource Conservation and Recovery Act (RCRA)

MDEQ's hazardous waste program inspection reports reviewed were complete, provided appropriate documentation to determine compliance at the facility and the timeliness of inspection report met the 60-day timeline outlined in the MDEQ Waste Division Compliance Inspection Manual for The Resource Conservation and Recovery Act Subtitle C Hazardous Waste Program.

MDEQ made accurate hazardous waste compliance determinations. In addition, significant noncompliance (SNC) determinations were timely and appropriate.

MDEQ consistently issues enforcement responses that have returned or will return a facility in significant noncompliance (SNC) or secondary violation (SV) to compliance.

MDEQ considered gravity and economic benefit when calculating penalties and documented the differences between initial and final penalty assessments.

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 Air Act (CAA)

High Priority Violation (HPV) determinations were not timely entered in ICIS-Air.

Clean Water Act (CWA)

None

Resource Conservation and Recovery Act (RCRA)

None

Clean Air Act Findings

CAA Element 1 - Data

Finding 1-1

Meets or Exceeds Expectations

Recurring Issue:

No

Summary:

MDEQ met the timely reporting of minimum data requirements (MDRs) for compliance monitoring activities, stack tests and stack test results, and enforcement actions entered in ICIS-Air.

Explanation:

Data Metrics 3b1 (99.6%), 3b2 (89.8%), and 3b3(90.2%) indicated that MDEQ was timely in reporting of the MDRs for compliance monitoring activities, stack tests and stack test results, and enforcement actions into ICIS-Air.

Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State Total
3b1 Timely reporting of compliance monitoring MDRs [GOAL]	100%	85.7%	452	454	99.6%
3b2 Timely reporting of stack test dates and results [GOAL]	100%	69.4%	500	557	89.8%
3b3 Timely reporting of enforcement MDRs [GOAL]	100%	74.4%	46	51	90.2%

State Response:

CAA Element 1 - Data

Finding 1-2

Area for Attention

Recurring Issue:

No

Summary:

The file review identified data discrepancies between the file materials and the data entered in ICIS-Air.

Explanation:

File Review Metric 2b indicated that only 75.0% of the files reviewed reflected accurate entry of all MDRs into ICIS-Air. The remaining seven files had one or more discrepancies between the information contained in the file and the data entered in ICIS-Air. Some of the discrepancies consisted of informal enforcement actions not being entered in ICIS-Air, or data entry errors. Incorrect data has the potential to hinder the EPA's oversight and targeting efforts and may result in inaccurate information being released to the public.

Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State Total
2b Files reviewed where data are accurately reflected in the national data system [GOAL]	100%		21	28	75%

State Response:

CAA Element 1 - Data

Finding 1-3

Area for Improvement

Recurring Issue:

Recurring from Round 3

Summary:

High Priority Violation (HPV) determinations were not timely entered in ICIS-Air.

Explanation:

Data Metric 3a2 (0.0%) indicated that MDEQ was not timely in reporting of HPV determinations into ICIS-Air in FY 2019. The data in ICIS-Air indicated that nine FRVs were identified in FY 2019 but only one was identified as an HPV. MDEQ provided information and confirmed that there was only one HPV identified in FY 2019. The HPV determinations are discussed during routine conference calls with the EPA and are verified through file metric 8c.

Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State Total
3a2 Timely reporting of HPV determinations [GOAL]	100%	42.1%	0	1	0%

State Response:

Recommendation:

Rec #	Due Date	Recommendation
1	04/29/2022	Data Metric 3a2: By September 30, 2021, MDEQ should identify the root causes for late data entry of HPVs, certify in writing to the EPA what measures and/or procedures have been implemented to ensure timely entry of MDRs into ICIS-Air, and provide to the EPA a written description or copy of any such measures or procedures. By April 29, 2022, following data verification, the EPA will review data metric 3a2 to ensure timely reporting of HPVs. Once data metric 3a2 indicates a 71.0% or greater improvement for timely entry of HPVs, then this recommendation will be considered complete.

CAA Element 2 - Inspections

Finding 2-1

Meets or Exceeds Expectations

Recurring Issue:

No

Summary:

MDEQ met the negotiated frequency for inspection of Title V and SM-80 sources, reviewed Title V Annual Compliance Certifications, provided the necessary documentation for Full Compliance Evaluations (FCEs), and provided the necessary documentation for the Compliance Monitoring Reports (CMRs).

Explanation:

Data Metrics 5a (98.5%) and 5b (100%) indicated that MDEQ provided adequate inspection coverage for Title V and SM-80 sources during the FY2019 review year by ensuring that all major sources were inspected at least every 2 years, and each SM-80 source was inspected at least every 5 years.

In addition, Data Metric 5e (95.10%) indicated that MDEQ completed reviews of the Title V annual compliance certifications.

File Review Metrics 6a (100%) and 6b (100%) confirmed that all elements of an FCE and CMR required by the Clean Air Act Stationary Source Compliance Monitoring Strategy (CMS Guidance) were addressed in the facility files reviewed.

Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State Total
5a FCE coverage: majors and mega-sites [GOAL]	100%	87%	131	133	98.5%
5b FCE coverage: SM-80s [GOAL]	100%	93%	66	66	100%
5e Reviews of Title V annual compliance certifications completed [GOAL]	100%	86.1%	250	263	95.1%
6a Documentation of FCE elements [GOAL]	100%		18	18	100%
6b Compliance monitoring reports (CMRs) or facility files reviewed that provide sufficient documentation to determine compliance of the facility [GOAL]	100%		18	18	100%

State Response:

CAA Element 3 - Violations

Finding 3-1

Meets or Exceeds Expectations

Recurring Issue:

No

Summary:

MDEQ made timely identification of HPVs, accurate compliance determinations, and accurate HPV determinations based on the information contained in the files.

Explanation:

Data Metric 13 (100%) indicated that MDEQ had entered the HPVs information into ICIS-Air within the 90-day time requirement.

File Review Metrics 7a (100%) and 8c (100%) indicated that MDEQ made accurate compliance determinations in the files reviewed and made accurate HPV determinations in the files reviewed.

Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State Total
13 Timeliness of HPV Identification [GOAL]	100%	90.6%	1	1	100%
7a Accurate compliance determinations [GOAL]	100%		28	28	100%
8c Accuracy of HPV determinations [GOAL]	100%		24	24	100%

State Response:

CAA Element 4 - Enforcement

Finding 4-1

Meets or Exceeds Expectations

Recurring Issue:

No

Summary:

MDEQ had formal enforcement actions that required corrective action that would return the facility to compliance or compliance was achieved prior to the issuance of an order, addressed HPVs in a timely manner, took appropriate enforcement actions of HPVs, and developed case development and resolution timelines for enforcement actions requiring additional time.

Explanation:

File Review Metrics 9a (92.3%), 10a (100%), 10b (100%) and 14 (100%) indicated that MDEQ was able to return facilities to compliance, to address HPVs in a timely manner or develop a case development and resolution time, and took appropriate enforcement actions for HPVs. Several sources with HPV addressing actions exceeded the required timeframe to resolve, but MDEQ worked with the EPA and developed a case development and resolution timelines for the enforcement actions that required additional time to resolve.

Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State Total
10a Timeliness of addressing HPVs or alternatively having a case development and resolution timeline in place	100%		9	9	100%
10b Percent of HPVs that have been addressed or removed consistent with the HPV Policy [GOAL]	100%		8	8	100%
14 HPV case development and resolution timeline in place when required that contains required policy elements [GOAL]	100%		5	5	100%
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 [GOAL]	100%		12	13	92.3%

State Response:

CAA Element 5 - Penalties

Finding 5-1

Meets or Exceeds Expectations

Recurring Issue:

No

Summary:

MDEQ provided penalty calculation worksheets that address both gravity and economic benefit, provided rationale for the difference between the initial penalty calculation and the final penalty amount, and provided documentation that the penalties were collected.

Explanation:

File Review Metrics 11a (100%), 12a (100%) and 12b (100%) indicated that MDEQ considered gravity and economic benefit in the penalty calculations, provided rationale for differences between the initial penalty calculation and the final penalty, and provided documentation that the penalties were collected.

Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State Total
11a Penalty calculations reviewed that document gravity and economic benefit [GOAL]	100%		8	8	100%
12a Documentation of rationale for difference between initial penalty calculation and final penalty [GOAL]	100%		8	8	100%
12b Penalties collected [GOAL]	100%		8	8	100%

State Response:

Clean Water Act Findings

CWA Element 1 - Data

Finding 1-1

Meets or Exceeds Expectations

Recurring Issue:

No

Summary:

MDEQ exceeded the National Goals for the entry of key data into the national database for NPDES major and non-major facilities.

Explanation:

MDEQ exceeded the National Goals and national averages for the entry of key Data Metrics (1b5 and 1b6) for major and non-major facilities. For the FY19 period of review, MDEQ entered 100% of their permit limits and 97.1% of DMRs for NPDES major and non-major facilities.

Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State Total
1b5 Completeness of data entry on major and non-major permit limits. [GOAL]	95%	93.5%	1160	1160	100%
1b6 Completeness of data entry on major and non-major discharge monitoring reports. [GOAL]	95%	92.3%	6080	6259	97.1%

State Response:

CWA Element 1 - Data

Finding 1-2
Area for Attention

Recurring Issue:
No

Summary:
The accuracy of data between files reviewed and data reflected in the national data system needs attention.

Explanation:
Metric 2b indicated that 75% (30/40) of the files reviewed reflected accurate data entry of minimum data requirements (MDR) for NPDES facilities into the Integrated Compliance Information System (ICIS). Minor discrepancies observed between ICIS and the State’s files were primarily related to missing or incorrect dates for inspections or Notices of Violations. MDEQ promptly corrected these discrepancies once brought to the State’s attention. The minor discrepancies observed were not systemic and the State can address without EPA oversight. EPA commends MDEQ on the increased data entry of Single Event Violations since Round 3. However, file reviews indicated several instances of SEVs noted during inspections but not entered in ICIS; EPA recommends continued attention to accurate data entry procedures for SEVs.

Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State Total
2b Files reviewed where data are accurately reflected in the national data system [GOAL]	100%		30	40	75%
7j1 Number of major and non-major facilities with single-event violations reported in the review year			29		29

State Response:

CWA Element 2 - Inspections

Finding 2-1
Meets or Exceeds Expectations

Recurring Issue:

No

Summary:

MDEQ met or exceeded most of its FY19 CMS Plan and CWA §106 Workplan commitments.

Explanation:

Element 2 includes metrics that measure planned inspections completed (Metrics 4a1 - 4a10) and inspection coverages (Metrics 5a1, 5b1, and 5b2) for NPDES majors and non-majors. The National Goal for these Metrics is for 100% of state specific CMS Plan commitments to be met. The FY19 inspection commitments listed in the table below are from the CWA §106 Workplan end of year report (EOY). Based on review of the MDEQ CWA §106 Workplan EOY, the State met its CMS inspection commitments in FY19 for construction storm water (Metric 4a9) and concentrated animal feeding operations (Metric 4a10). The State exceeded its CMS commitments in FY19 for SSO inspections (metric 4a5), MS4 Phase II inspections or audits (Metric 4a7), and industrial storm water inspections (Metric 4a8). The State fell short of its inspection commitments for Significant Industrial Users (SIU) (Metric 4a2). The EOY report indicated that inspections were attempted at all SIUs; the State was unable to conduct inspections where a permit had been terminated, the facility was no longer operating or had not been constructed, or the facility was not discharging at the time of the inspection. Based on review of the EOY, the state met its CMS commitment for inspection coverage for major permits (Metric 5a1) and exceeded the commitment for inspection coverage for minor facilities (Metric 5b). The Region combined the NPDES minor individual and general permits inspections and universes into one commitment for FY19. Therefore, separate inspection coverages for Metrics 5b1 and 5b2 could not be ascertained from the FY19 CWA §106 Workplan EOY report. During FY19, the state had an alternative CMS for inspections of industrial storm water at mining facilities, employing a joint effort with the state's Office of Geology. MDEQ met its commitment for the alternative CMS.

Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State Total
4a10 Number of comprehensive inspections of large and medium concentrated animal feeding operations (CAFOs) [GOAL]	100% of commitments%		10	10	100%
4a2 Number of inspections at EPA or state Significant Industrial Users that are discharging to non-authorized POTWs. [GOAL]	100% of commitments%		189	192	98.4%
4a5 Number of SSO inspections. [GOAL]	100% of commitments%		20	17	117.6%
4a7 Number of Phase I and II MS4 audits or inspections. [GOAL]	100% of commitments%		9	8	112.5%
4a8 Number of industrial stormwater inspections. [GOAL]	100% of commitments%		226	202	111.9%
4a9 Number of Phase I and Phase II construction stormwater inspections. [GOAL]	100% of commitments%		100	100	100%
5a1 Inspection coverage of NPDES majors. [GOAL]	100%	52.9%	44	44	100%
5b Inspections coverage of NPDES non-majors (individual and general permits) [GOAL]	100%		544	517	105.2%

State Response:

CWA Element 2 - Inspections

Finding 2-2

Meets or Exceeds Expectations

Recurring Issue:

No

Summary:

MDEQ’s inspection reports were well written, complete, and provided sufficient documentation to determine compliance.

Explanation:

Metric 6a requires that inspection reports are complete and sufficient to determine compliance at a facility. Each of MDEQ’s inspection reports reviewed (32/32, 100%) were found to be well written, complete, and sufficient. Field observations noting compliance issues were also included in inspection reports and/or cover letters, where appropriate.

Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State Total
6a Inspection reports complete and sufficient to determine compliance at the facility. [GOAL]	100%		32	32	100%

State Response:**CWA Element 2 - Inspections****Finding 2-3**

Area for Attention

Recurring Issue:

No

Summary:

MDEQ’s inspection reports were not consistently completed in a timely manner.

Explanation:

Metric 6b indicated that 81.3% (26/32) of MDEQ’s inspection reports were completed in a timely manner. The National Goal for this metric is 100% of inspection reports completed in a timely manner. After Round 3, MDEQ’s updated their EMS to include a 60-day timeline to complete and transmit inspection reports to the facility. Considering all inspections, the average number of days

to complete inspection reports was 49 days, with a range of 4-188 days. For the 26 inspection reports completed within 60 days, the average was 35 days, with a range of 4-59 days. For the 6 inspection reports that were not timely, the average was 114 days, with a range of 63-188. Timeliness of inspections reports was an Area for State Improvement in Round 3. Although the majority of the State’s inspection reports were completed in a timely manner, the national goal of 100% was not met. Timeliness of inspection reports does not appear to be systemic, therefore this will be an Area for Attention for Round 4.

Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State Total
6b Timeliness of inspection report completion [GOAL]	100%		26	32	81.3%

State Response:

CWA Element 3 - Violations

Finding 3-1

Meets or Exceeds Expectations

Recurring Issue:

No

Summary:

MDEQ’s inspection reports consistently documented accurate compliance determinations.

Explanation:

Metric 7e indicated that 87.5% (28/32) of the inspection reports reviewed consistently documented an accurate compliance determination for each facility. MDEQ’s inspection report and cover letter is used effectively for documenting inspection field observations and making clear and accurate compliance determinations. File reviews indicated that inspection reports accurately documented SEVs as non-compliance. There were, however, a few instances in which the noted violation was not entered in ICIS as an SEV. This is a data accuracy issue and is addressed in Finding 1-2.

Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State Total
7e Accuracy of compliance determinations [GOAL]	100%		28	32	87.5%

State Response:

CWA Element 4 - Enforcement

Finding 4-1

Area for Attention

Recurring Issue:

No

Summary:

The State generally takes appropriate Enforcement Responses (ERs) which promote a Return to Compliance (RTC).

Explanation:

The file review indicated that the State generally takes appropriate ERs which promote a return to compliance. File metric 9a indicated that 27 of the 34 ERs reviewed (79.4%) returned or were expected to return a facility to compliance. File metric 10b indicated that 27 of the 34 files (79.4%) had an appropriate ER. Data Metric 10a1 indicated that two of eight (25%) major facilities in SNC during FY19 received a timely formal ER. During the file review, three of the major facilities in SNC without a timely response were reviewed. It was observed that the State had taken steps (one informal action; two formal action) in FY20 to address the SNC violations at those facilities. Of the remaining three facilities, two have RTC and the State is addressing pretreatment issues at the third. Timely and appropriate ERs which promote a RTC was an Area for State Improvement in Round 3. In response to the Round 3 recommendation, MDEQ updated their EMS in 2016. Given the progress made in this area and MDEQ's ongoing close coordination with EPA for facilities in SNC, this will be an Area for Attention.

Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State Total
10a1 Percentage of major NPDES facilities with formal enforcement action taken in a timely manner in response to SNC violations		14%	2	8	25%
10b Enforcement responses reviewed that address violations in an appropriate manner [GOAL]	100%		27	34	79.4%
9a Percentage of enforcement responses that returned, or will return, a source in violation to compliance [GOAL]	100%		27	34	79.4%

State Response:

CWA Element 5 - Penalties

Finding 5-1

Meets or Exceeds Expectations

Recurring Issue:

No

Summary:

The CWA program consistently documents adequate rationale for the gravity and economic benefit component in penalty.

Explanation:

Metric 11a indicated that 10 of the 10 files (100%) reviewed contained either economic benefit (EB) calculations, documentation that it was considered, or an adequate rationale for not including EB. The State’s EMS outlines criteria to determine civil penalties which includes both gravity and EB. MDEQ updated their penalty calculation forms to emphasize the need to consider and assess economic benefit for each violation. Additionally, the state conducted training for staff on gravity, economic benefit, and the revised penalty forms.

Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State Total
11a Penalty calculations reviewed that document and include gravity and economic benefit [GOAL]	100%		10	10	100%

State Response:

CWA Element 5 - Penalties

Finding 5-2

Meets or Exceeds Expectations

Recurring Issue:

No

Summary:

MDEQ consistently documented any differences between the initial penalty calculation and the final assessed penalty as well as the collection of penalties.

Explanation:

Metric 12a indicated that 9 of 9 files (100%) reviewed included adequate documentation of differences between the initial penalty calculation and the final assessed penalty.

Metric 12b indicated that 10 of 10 files (100%) reviewed included adequate documentation of penalty payment collection by MDEQ.

Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State Total
12a Documentation of rationale for difference between initial penalty calculation and final penalty [GOAL]	100%		9	9	100%
12b Penalties collected [GOAL]	100%		10	10	100%

State Response:

Resource Conservation and Recovery Act Findings

RCRA Element 1 - Data

Finding 1-1

Meets or Exceeds Expectations

Recurring Issue:

No

Summary:

Explanation:

MDEQ's RCRA Minimum Data Requirements for compliance monitoring and enforcement activities were complete in RCRAInfo and ECHO.

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%		25	27	92.6%

State Response:

RCRA Element 2 - Inspections

Finding 2-1

Meets or Exceeds Expectations

Recurring Issue:

No

Summary:

MDEQ met national goals for both TSDF and LQG inspections.

Explanation:

Metric 5a and 5b1 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 and one-year periods of review, respectively. MDEQ met the national goal and exceeded the national average for two-year inspection coverage of TSDFs and the met the national goal and exceeded the national average for annual LQG inspections.

Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State Total
5a Two-year inspection coverage of operating TSDFs [GOAL]	100%	85%	5	5	100%
5b1 Annual inspection coverage of LQGs using RCRAinfo universe [GOAL]	20%	9.9%	28	134	20.9%

State Response:

RCRA Element 2 - Inspections

Finding 2-2

Meets or Exceeds Expectations

Recurring Issue:

No

Summary:

MDEQ's hazardous waste program inspection reports reviewed were complete, provided appropriate documentation to determine compliance at the facility and the timeliness of inspection report met the 60-day timeline outlined in the MDEQ Waste Division Compliance Inspection Manual for The Resource Conservation and Recovery Act Subtitle C Hazardous Waste Program.

Explanation:

Metric 6a measures the percentage of on-site inspection reports reviewed that are complete and provide sufficient documentation to determine compliance. All twenty-three (23) onsite inspection reports reviewed were complete and provided sufficient documentation to determine compliance.

Metric 6b measures the percentage of inspection reports reviewed that are completed in a timely manner per MDEQ’s 60-day inspection report timeliness standard. Metric 6b indicated 87% (20 of 23) of MDEQ’s onsite inspection reports reviewed were completed in a timely manner.

Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State Total
6a Inspection reports complete and sufficient to determine compliance [GOAL]	100%		23	23	100%
6b Timeliness of inspection report completion [GOAL]	100%		20	23	87%

State Response:

RCRA Element 3 - Violations

Finding 3-1

Meets or Exceeds Expectations

Recurring Issue:

No

Summary:

MDEQ made accurate hazardous waste compliance determinations. In addition, significant noncompliance (SNC) determinations were timely and appropriate.

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 file review indicated that twenty-one of twenty-two (21 of 22) files reviewed (95.5%) had accurate compliance determinations. Each of the files reviewed had accurate and complete descriptions of

the violations observed during the inspection and had adequate documentation to support MDEQ's compliance determinations.

Metric 8b measures the percentage of SNC determinations made within 150 days of the first day of inspection (Day Zero). The data metric analysis (DMA) indicated that MDEQ met the national goal of 100%.

Metric 8c measures the percentage of files reviewed in which significant noncompliance (SNC) status was appropriately determined during the review period. The file review indicated that fourteen of fifteen (14 of 15) of the files reviewed (93.3%) had appropriate SNC determinations.

Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State Total
7a Accurate compliance determinations [GOAL]	100%		22	23	95.7%
8b Timeliness of SNC determinations [GOAL]	100%	76.5%	6	6	100%
8c Appropriate SNC determinations [GOAL]	100%		14	15	93.3%

State Response:

RCRA Element 4 - Enforcement

Finding 4-1

Meets or Exceeds Expectations

Recurring Issue:

No

Summary:

MDEQ consistently issues enforcement responses that have returned or will return a facility in significant noncompliance (SNC) or secondary violation (SV) to compliance.

Explanation:

Metric 9a measures the percentage of enforcement responses that have returned or will return sites in SNC or SV to compliance. A total of fifteen (15) files were reviewed that included informal or formal enforcement actions. 100% (15 of 15) 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 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 100% of the FY 2019 cases (2 of 2) met the Hazardous Waste Enforcement Response Policy (ERP) timeline of 360 days. MDEQ exceeded the national goal (80%) for this metric.

Metric 10b measures the percentage of files with enforcement responses that are appropriate to the violations. A total of sixteen (16) files were reviewed with concluded enforcement responses. 100% (16 of 16) of the files reviewed contained enforcement responses that were appropriate to the violations.

Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State Total
10a Timely enforcement taken to address SNC [GOAL]	100%	87.7%	2	2	100%
10b Appropriate enforcement taken to address violations [GOAL]	100%		16	16	100%
9a Enforcement that returns sites to compliance [GOAL]	100%		15	15	100%

State Response:

RCRA Element 5 - Penalties

Finding 5-1

Meets or Exceeds Expectations

Recurring Issue:

No

Summary:

MDEQ considered gravity and economic benefit when calculating penalties and documented the differences between initial and final penalty assessments.

Explanation:

Metric 11a measures the percentage of penalty calculations reviewed that document, where appropriate, gravity and economic benefit. Metric 11a indicated that MDEQ considered gravity and economic benefit in 100% (7 of 7) of the penalty calculations reviewed. 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 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 MDEQ documented the difference between the initial and final penalty assessed in 100% (6 of 6) of the penalty calculations 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%		7	7	100%
12a Documentation of rationale for difference between initial penalty calculation and final penalty [GOAL]	100%		6	6	100%

State Response:

RCRA Element 5 - Penalties

Finding 5-2

Meets or Exceeds Expectations

Recurring Issue:

No

Summary:

MDEQ included documentation in the files that all final assessed penalties were collected.

Explanation:

Metric 12b measures the percentage of enforcement files reviewed that document the collection of a penalty. There was documentation verifying that MDEQ had collected penalties assessed in 100% (7 of 7) of the final enforcement actions reviewed.

Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State Total
12b Penalty collection [GOAL]	100%		7	7	100%

State Response:
