

WASHINGTON
STATE REVIEW FRAMEWORK REPORT

WASHINGTON DEPARTMENT OF ECOLOGY
and

PUGET SOUND CLEAN AIR AGENCY
NORTHWEST CLEAN AIR AGENCY
OLYMPIC REGION CLEAN AIR AGENCY
SOUTHWEST CLEAN AIR AGENCY
SPOKANE REGIONAL CLEAN AIR AGENCY
YAKIMA REGIONAL CLEAN AIR AUTHORITY
BENTON CLEAN AIR AUTHORITY

January 2008

EXECUTIVE SUMMARY

Introduction

The Environmental Protection Agency's (EPA) Office of Enforcement and Compliance Assurance (OECA) and the Environmental Council of States (ECOS) have jointly developed a method to assess state performance in the enforcement and compliance monitoring program. This report reflects Region 10's review of the programs in Washington. The State Review Framework (SRF) assessment provides a consistent process for EPA regions to use in overseeing the core inspection and enforcement programs for Clean Air Act (CAA) (Stationary Source Program), Resource Conservation and Recovery Act (RCRA) Subtitle C (Hazardous Waste) and Clean Water Act (CWA) National Pollution Elimination Discharge Program (NPDES). The review consists of 12 elements which compare state compliance monitoring and enforcement work activity, as well as the associated reporting to the respective national systems, with applicable EPA national policies and guidance.

OECA recently issued a Guide to Writing SRF Reports (Interim Final April 12, 2007), in part to facilitate their review and comment on draft reports. The Region 10 review teams have strived to follow the SRF guidelines, including preparing this draft report in accordance with the April 2007 guidelines. The Region 10 review teams also wish to acknowledge and thank the Washington Department of Ecology (Ecology) and the local air pollution control agency staff and managers for their support and cooperation during this process.

Scope of Review

Federal Fiscal Year 2005 (October 1, 2004 – September 30, 2005)

RCRA: Ecology RCRA Subtitle C Hazardous Waste Program

CWA NPDES: Ecology CWA NPDES point source program.

CAA: Ecology and seven local air agency CAA Stationary Source Programs

Puget Sound Clean Air Agency (PSCAA)

Northwest Clean Air Agency (NWCAA)

Olympic Regional Clean Air Agency (ORCAA)

Southwest Clean Air Agency (SWCAA)

Spokane Regional Clean Air Agency (SCAPCA)

Yakima Regional Clean Air Authority (YRCAA)

Benton Clean Air Authority (BCAA)

A concurrent CAA Compliance Monitoring Strategy (CMS) review was conducted in response to the OECA National Program Manager Guidance that each EPA region conducts an in-depth review of at least one CMS program each year. Region 10 gathered information for CMS evaluation purposes concurrent with the SRF, and the results of the CMS evaluation are included in the CAA discussion of relevant compliance monitoring SRF data and file metrics. The six major CAA

sources located in Indian Country subject to EPA jurisdiction under Part 71 were not included in this review.

Agency Structure

The RCRA Hazardous Waste and CWA NPDES programs are implemented by Ecology. CAA programs are implemented by Ecology and seven (7) local agencies. A copy of Ecology's organizational chart is attached.

Ecology's compliance assurance program is largely implemented by three (3) Environmental Program Managers (Air Quality, Water Quality and Hazardous Waste and Toxics Reduction Program) through staff located in regional offices. Two other Ecology Environmental Program Managers have compliance program responsibilities for certain sources. The Industrial Section Solid Waste and Financial Assistance Program is responsible for multi-media permitting and compliance for certain large industrial sources (e.g., pulp mills, aluminum smelters). The Waste Management Section of the Nuclear Waste Program is responsible for multi-media permitting, compliance and clean-up program work related to the U.S. DOE Hanford facility and other nuclear and mixed waste facilities. The four Ecology regional offices are located in Bellevue (Northwest), Lacey (Southwest), Yakima (Central) and Spokane (Eastern). The Industrial Section is located in Lacey and the Waste Management Section is located in Richland.

Program Section managers located in the regional offices generally manage both permitting and compliance programs; they report to the respective Environmental Program Manager in Ecology's headquarters' office in Lacey. These Sections, the Industrial Section and the Waste Management Section are responsible for implementing the respective media compliance assurance programs including assistance, compliance monitoring, informal and formal enforcement.

Within Ecology for the Water and Waste programs there are cross-office management team and staff groups to help coordinate and ensure consistency among the implementing organizations. For example, the Water Quality section managers have weekly meetings and periodic longer day meetings; several staff workgroups focus on certain functions or sectors. The RCRA section managers meet periodically; there is also a standing RCRA compliance network to discuss compliance/enforcement related matters. Within Ecology, to coordinate among the programs and regions with respect to enforcement matters, Ecology relies on an Enforcement Workgroup and use of the Agency's Compliance Assurance Manual.

The Washington Department of Agriculture is responsible for administering and managing the compliance and enforcement aspects of the NPDES Animal Feeding Operations (AFO) through separate Memoranda of Agreement with Ecology and EPA. Ecology retains authority to issue NPDES permits for AFOs. These programs were not reviewed as part of the SRF.

The Attorney General's Office (AG) is actively engaged in Ecology administrative (civil) enforcement. Where cases are appealed, the AG is the primary point of contact between the

parties.

The Pollution Control Hearings Board (PCHB) is an independent, quasi-judicial state agency created by the Washington legislature which is entirely separate from any other state, regional or local unit of government. Its function is to hear and act on appeals to orders or decisions (including enforcement orders or penalty assessments) made by Ecology or the local air agencies.

Clean Air and Local Air Agencies (LAA)

The local agencies were authorized by the 1968 Clean Air Washington Act. Most of the agencies have been in operation since shortly after passage of the Act. They are responsible for enforcing federal, state and local air pollution standards. Each operates under a Board of Directors and Agency Director. Ecology does not exercise oversight over local agency compliance and enforcement programs. Along with the Ecology Air Quality Program Manager, the Directors of the local air agencies work collaboratively on the full range of air quality matters in the state through the Washington Air Quality Managers group (WAQM). This group is comprised of the director level of the local air agencies and regional managers from Ecology. Compliance and enforcement matters are only one of the group's focus. The group meets monthly to discuss issues ranging from rule-makings to voluntary programs. The Air Quality Compliance Forum and the Permit Engineers Forum provide avenues for staff level discussions among all the agencies responsible for delivery of the clean air program in Washington.

The primary mechanisms within the State of Washington for cross-agency discussion of Title 5 compliance and enforcement issues are the high priority violator (HPV) calls with EPA and the annual collaborative planning meeting with EPA.

Program Overview

Ecology's Compliance Assurance Manual provides Ecology's enforcement principles and procedures for informal and formal enforcement. It includes general and program-specific guidelines and program specific civil penalty calculation and documentation guidelines. It discusses the AG's role and appeals to the PCHB, preparation of a Referral for Enforcement (RFE), consideration of gravity and economic benefit in penalty assessments and guidelines for settlement, penalty collection, and publicizing enforcement actions. Penalty actions are tracked in a state-wide enforcement database; the Enforcement Workgroup collects information and prepares the annual enforcement report.

Section Managers have authority to issue administrative penalty actions up to a certain dollar amount (e.g., \$20,000-\$25,000); larger penalty actions are issued by the respective Program Managers.

Through the review, we obtained copies of several local air agency civil penalty matrices which also describe how to consider gravity and economic benefit. Although they take different forms, most local agencies also have written policies which outline the procedures for FCEs, enforcement actions, etc. Most of the local agency enforcement actions are administrative, although on occasion,

they do pursue judicial actions.

Data Management Approaches for Populating National Systems

RCRA: Ecology uses and was using in FY 05 a translator to convert required “handler” data elements from the State’s system to RCRAInfo. Ecology was doing in FY 05 and is still doing direct input of compliance monitoring and enforcement information into the RCRAInfo database.

CWA: Historically, EPA Region 10 entered all of Washington’s required data into PCS based on information received from the State. In August 2004, EPA stopped entering this data. Ecology has been uploading its Water Quality Permit Life Cycle System (WPLCS) data into PCS since January 2006. There have been linkage problems between the systems. The data does not include all program aspects; for example, it does not include inspections or enforcement actions.

CAA: Among 11 jurisdictions (seven local air agencies (LAA) and four Ecology Programs), eight do direct data entry into AFS (often in addition to populating their own systems); one agency uses the universal interface (UI) to report the minimum data requirements (MDRs) from that agency’s data management system to AFS. For the two smallest LAAs, EPA Region 10 receives information from the agency and does the data entry into AFS.

Process for Review

An introductory letter announcing the SRF project was sent to the Ecology Director on November 8, 2005 and a kick-off meeting with Ecology’s Executive Team was held on November 20, 2006. Communication occurred with the local air agencies through the WAQM and the annual Northwest Air Directors’ meeting and with the Hazardous Waste Program through quarterly compliance meetings and the annual RCRA all-states meeting. EPA and Ecology each have a single point of contact for general communication as well as media specific contacts. The respective EPA and State contacts worked out the details for review of program data and files. Once each media program completed the file reviews, preliminary data and file review metric findings were shared informally with the state/local program counterparts to seek feedback on accuracy or completeness as well as to begin the process of developing understanding on the scope of key recommendations to be included in the draft report. A draft report was provided to Ecology, the local air agencies, and EPA Headquarters for their review and comment. Region 10 received all comments by November 13, 2007, reviewed them and made various clarifications and changes to the final report in response to these comments.

The individual media sections of the report provide a chronology of the key dates for each program. Key dates for major elements of the process include:

Data Metrics shared: December 2006-February 2007

On-site reviews conducted: May-June 2007

Preliminary Data and file review findings shared: August 2007

Key issues, findings discussed: August-September 2007

Draft Report – September 28, 2007

Comments received – October 30-November 13, 2007

State Compliance Assurance Program Priorities and Accomplishments

Through the performance partnership agreement (PPA), Washington identifies its strategic priorities as well as core program activities and outputs, including the compliance assurance aspects of the programs. Federal Fiscal Year 2005 was primarily covered by the 2004-2006 PPA (July 1, 2003 – June 30, 2005), which was completed in July 2003. Compliance program directions and outputs are captured as part of the respective media program sections.

Summary of Findings

EPA has identified a number of positive performance aspects which include:

- Documented enforcement program procedures and guidelines
- Programs generally meet or exceed expectations for inspection frequency
- Programs generally complete inspection reports in a timely manner
- Programs generally issue timely informal enforcement actions
- CAA and RCRA data in national systems is mostly complete and accurate

The most significant concerns are highlighted here (not all the findings and recommendations from each of the media program chapters are listed).

Cross-program: Penalty calculations and documentation (Elements 7 and 8)

- Inconsistent consideration and documentation of economic benefit of non-compliance
- Inconsistent documentation to support penalty decision-making

Discussion: Lack of economic benefit (EB) in penalty actions was an identified weakness in Region 10's 2003 review of CAA programs and 2005 review of the RCRA hazardous waste program. Since those reviews, we have seen some offices or jurisdictions improve in how they identify and consider economic benefit of non-compliance. In this review, we continued to see variability in the degree to which economic benefit was considered and factored into penalty decisions.

There were files without discussion of economic benefit, including cases where file information indicates economic benefit might have accrued; further analysis would have been warranted. In other files, there was a qualitative statement that economic benefit possibly or probably accrued, without further analysis. The penalty worksheets generally call for economic benefit to be quantified and included only when a qualitative determination is made that such benefit definitely accrued.

It is not clear to what extent the agencies have clear policy statements affirming capture of economic benefit as a fundamental principle of the enforcement program. The Ecology Compliance Manual identifies economic benefit as a factor that may be considered. Through the CAA Compliance

Assurance Agreement, Ecology and LAA air programs have made a commitment to recovering economic benefit in penalties for high priority violators (HPV).

EPA is making a number of recommendations to ensure clear policy statements, to make changes in practices about the threshold for analyzing economic benefit and for improving documentation of decisions. We are recommending Ecology conduct an evaluation across the three programs reviewed to identify what contributes to the successful approaches to economic benefit, impediments where it isn't successful, and develop an action plan to share with EPA. There are examples among Ecology programs where economic benefit is being appropriately identified and considered. We are also aware of expressed reservations and concerns about capturing economic benefit. As part of the action plan, EPA is recommending that for a specific period of time for the kinds of cases EPA is most interested in (e.g., SNC or HPV), agencies submit to EPA copies of their economic benefit evaluations.

EPA is willing to engage in cross-program and/or media-specific training or discussions to help identify ways to overcome the barriers (e.g., share experience about what kind of information can be gathered relatively easily to support economic benefit determinations). EPA did not specifically evaluate the impact of SEP considerations on the adequacy of final penalties or the extent to which SEPs were applied in accordance with Ecology's guidelines. EPA welcomes the opportunity to further explore with Ecology and the LAAs this aspect of the State's enforcement program.

RCRA Timely reporting of Significant Non-compliers (SNC) (Element 4)

- Significant Non-compliers not reported until issuance of formal enforcement action

Discussion: Historically, the RCRA program reported finding SNCs at or near the time the formal addressing action was issued. As a follow-up to Region 10's prior review and carried forward as a recommendation in this review, Ecology will complete its evaluation of program practices in order to report a more representative date of SNC determination to improve accuracy and transparency of data in the national system.

NPDES Data and the National System (Elements 4, 6, 10, 11, 12)

- Limited data in the national data system (PCS and ICIS-NPDES)

Discussion: EPA was unable to make a determination of the adequacy of Ecology's program with respect to several of the metrics, including identification and response to Significant Non-compliers (SNC) because of missing data in the national system. Linkage and update problems from the State's system to the national system persist. Additional data elements need to be reported to meet minimum reporting requirements. We are recommending Ecology and EPA (including OECA) begin discussions to identify the issues and options for ensuring complete reporting for the CWA NPDES compliance program.

CAA: Identification of HPVs – Element 4 and appropriate response (element 7, 8c)

- High Priority Violators not identified and not reported

- Lack of appropriate response to HPV

Discussion: The majority of the 11 jurisdictions (7 locals, 4 Ecology offices) did not report HPVs for time period reviewed. In files reviewed, violations were found that should have been identified as HPV or at minimum should have been evaluated with respect to the HPV criteria. We are comfortable that most agencies reviewed were appropriately identifying HPVs, but identified four jurisdictions where some level of follow-up will be appropriate (Ecology-ERO, Ecology-Industrial, NWCAA and ORCAA). In addition to not identifying or reporting HPVs, we also found situations where HPVs were not addressed in accordance with expectations in the Timely and Appropriate Guidance. We are recommending the affected jurisdictions review their procedures to determine why HPVs are not being appropriately flagged, reported and in some cases, not appropriately responded to.

MEDIA SPECIFIC CHAPTERS

The rest of the report consists of the three media-specific chapters which provide additional details about each review and the findings, conclusions and recommendations. Follow-up actions to address recommendations are as specific and measurable as possible. To the extent possible, such milestones have been included in the report.

ECOLOGY ORGANIZATION CHART

See electronic file: WA Ecology orgchart.pdf

HAZARDOUS WASTE PROGRAM REVIEW

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A. BACKGROUND INFORMATION

Structure

The RCRA compliance assurance program is organized within the Hazardous Waste and Toxics Reduction Program (HWTR); inspection, enforcement, and technical assistance work is largely carried out by staff and managers located in the four regional offices (NWRO, SWRO, CRO and ERO). The Industrial Section (IND) in the Solid Waste and Financial Assistance Program has multi-media inspection and enforcement staff who focus on facilities in certain sectors (refineries, aluminum, pulp and paper). Multi-media compliance and enforcement work (including RCRA) for the U.S. DOE Hanford facility is carried out by the Compliance Section in the Nuclear Waste Program (NUC). The Compliance Network is made up of HWTR compliance unit managers and team leads from all of the regional offices, Nuclear Waste Program, Industrial Section, managers for the Policy and Permitting Unit and the Information Management Unit at headquarters, and a representative from EPA. This group meets monthly to discuss rule interpretations, compliance related program policies and other compliance issues. They then make recommendations to the Program Management Team (HWTR program manager and section managers) which makes final decisions on the issues. The EPA RCRA unit managers and the Ecology HWTR Section Managers (including representation from Industrial Section and Nuclear Waste) meet quarterly to discuss a wide range of topics including RCRA compliance issues.

Authorities

Ecology initially received final authorization to implement the bulk of the federal Hazardous Waste regulations January 31, 1986. The authorization has been updated frequently since that time to incorporate rule changes and was last updated effective December 29, 2006. The most significant portion of the Federal Hazardous Waste regulations that Ecology has chosen to not seek authorization for is the regulations regarding burning of hazardous waste in boilers and industrial furnaces. EPA implements this portion of the Hazardous Waste program in Washington.

Source Universe

Washington's regulated universe of hazardous waste handlers included 15 operating Treatment, Storage and Disposal (TSD) facilities and 430 Large Quantity Generators (LQG). Washington's regulations classify handlers that generate between 200 and 2000 pounds per month as Medium Quantity Generators which corresponds to EPA's definition of Small Quantity Generator (SQG).

Ecology tracked this generator count separately in the State's database; the 2005 universe was 698. Hazardous waste generators may change status from month to month as their production and waste

management processes change; however, this was not a factor in the review.

Corrections

The OTIS pull for LQG was 880; Washington provided revised data, correlated with the 2005 Biennial Report data, which showed an active LQG universe of 430. Region 10 and Ecology agreed this is more representative of the universe in Washington.

B. REVIEW PROCESS

Key Dates

The Washington Review was based on data pulled for Federal Fiscal Year 2005, starting October 1, 2004. The data was pulled from the national database on January 31, 2007.

The Deputy Regional Administrator sent a letter to the Ecology Director in November 2005. A management level kick-off meeting was held November 2006. The data pull for the metrics was shared with the State counterpart in February 2007. The file selection protocol and proposed list of files to be reviewed was communicated to the State in early May, at least two weeks prior to the scheduled on-site visits.

Region 10's RCRA team conducted file reviews of six Ecology offices between May 25 and June 13, 2007. On August 14, 2007, Region 10 informally shared preliminary file and data findings with the Ecology contact for the enforcement program managers to provide early indication of the findings and to provide opportunity for the State to identify incorrect information.

Review Process

The file review team of Jack Boller and Cheryl Williams, accompanied by RCRA SRF team lead, Betty Wiese, conducted file reviews in Ecology's NWRO on May 25, 2007. Cheryl Williams and Jack Boller reviewed files at SWRO and IND on May 29, 2007. Cheryl Williams reviewed files in the ERO office in Spokane on June 4, and Jack Boller reviewed files at CRO in Yakima on June 12 and NUC in Richland on June 13.

C. FILE SELECTION PROCESS

Universe

Handlers with EPA ID numbers with a compliance inspection or enforcement action date during the review period (listed in reports R12B and R12F); Handlers with inspection activity = 249 (report R12B) plus Handlers with enforcement activity = 12 (report R12F1), of these, eight were included in the 2005 inspection list of 249 and were taken out of the total. Total number of files (handlers) in universe = $249 + 12 - 8 = 253$.

Categories of activities used to select files were: inspections, TSD, LQG, other handlers, Violations, NOV's, new SNC, enforcement and penalty.

Selection

Range of files selected for review (from the SRF guideline) = 15 to 30

The following factors affected the number of files to select: (1) Data metrics were mostly above average, (2) we previously reviewed FY2000-2002 files, and Washington is already addressing those review recommendations, (3) in order to proportionally sample all four regional offices and two special focus offices, a sample of 30 files was selected. Files were randomly selected.

Dividing the 30 files among the regional offices in roughly the same proportion as the office's share of the total inspections weighted the selection toward the NWRO and SWRO. Therefore, we reduced the number from NWRO to add files from other offices. However, the samples from the smaller regions and focused offices are still small and may not constitute a representative sample of those offices. Ecology also noted that this redistribution caused an overemphasis on formal enforcement actions in eastern Washington. Approximately one-half of the files were enforcement related.

File Maintenance

In most of the Ecology offices, the review team struggled with being able to locate the relevant documents. It did not appear that related types of materials were filed together; materials seemed to have been largely placed in "general correspondence" files even though they related to a subject area (e.g., inspection). It appears documents are largely filed in a chronological manner by facility. At the NWRO, the manager had pulled together the relevant elements of the files to facilitate the review. In other offices, the degree of assistance in accessing the relevant files varied. The team's ability to locate and review appropriate files may explain a few situations where Ecology subsequently clarified the facts of a case after the team's file review findings reported lack of file information.

D. ELEMENT-BY-ELEMENT DESCRIPTION

1. Degree to which state program has completed the universe of planned inspections (addressing core requirements and federal, state, and regional priorities).

Discussion and Analysis

Note: Regarding generator universes, Region 10 believes the State's information more appropriately represents the respective universes which correlate to the higher of the two percentage figures. We understand there continue to be issues with RCRAInfo not properly translating Ecology's handler status flags ("active", "inactive") such that counts of generators from OTIS include both active and inactive handlers. The biennial report information is more representative of the generators actual status, but universes for SRF were not pulled from the biennial report data.

a. Inspection Coverage for Operating Treatment, Storage and Disposal Facilities 93%

Washington was one short of the goal for inspecting each of the 15 operating facilities at least once in the two years ending September 30, 2005. Washington conducted multiple inspections at the large, complex TSD facilities with a total of 49 inspections entered into RCRAInfo over the two year

period for which data was pulled. The missing TSD, Framatome ANP, was last inspected in July 2000. Ecology subsequently inspected the facility on June 13, 2007, after the review identified a lack of inspection.

b. Annual Inspection Coverage for Large Quantity Generators 23 % or 11%

The State Review Framework data pulled from OTIS included a universe of 880 LQG handlers, of which 99 were inspected, producing an 11% coverage rate. Washington provided revised data, correlated with the 2005 Biennial Report data, which showed an active LQG universe of 430. Ecology exceeded the 20% goal for the LQG universe as the revised data produced a 23% inspection rate for fiscal year 2005.

c. Five Year Inspection Coverage of Large Quantity Generators 83% or 41%

Washington had inspected 357 of the 880 LQG (41%) handlers in the SRF data in the 5 years ending September 30, 2005. While well below the national goal, it was equal to the national average, which was calculated with similarly inflated universe numbers due to the limits of the SRF select logic. Ecology provided revised data for the 2005 LQG universe of 430 which resulted in an 83% five year coverage rate, almost double national average of 42%.

d. Five Year Inspection Coverage for Small Quantity Generators 42% or 24%

This is an informational measure, and Washington's 24% coverage rate was consistent with the Performance Partnership Agreement goals for prioritizing SQG handler inspections. Washington's regulations classify handlers that generate between 200 and 2000 pounds per month as Medium Quantity Generators. In the five years ending September 30, 2005, Ecology inspected 291 of the 1200 handlers with Medium Quantity status in January 2007. Ecology tracked the generator count separately in HWTRInfo, and the universe in 2005 was 698, raising the coverage rate to 42%

e. Five Year Inspection Coverage at Handlers other than those Listed above 771

This is an informational metric that shows Washington had inspected 771 other handlers in the five years ending September 30, 2005. The SRF Metrics will be modified in the future to calculate percentages of other handlers inspected for a more meaningful informational measure. Washington's regulations classify handlers that generate between 200 and 2000 pounds per month as Medium Quantity Generators. Washington's regulations classify handlers that generate less than 200 pounds per month as Small Quantity Generators. Ecology places a high priority on inspections in this category, particularly for new notifiers and complaint responses. They inspected more of these and other handlers (771) over five years than the Medium, Large and TSD handlers combined (663).

In addition, Washington conducted compliance assistance visits (CAV) at 51 handlers that did not get counted in this compliance inspection measure but increased the State's presence in the hazardous waste handler universe. Washington could evaluate their compliance assistance program under metric 13 for recognition or other credit but Ecology has opted out of this process.

f. Percent of planned inspections completed. Regions can track yearly commitments, or multi-year

plans. Reserved for inspection plan targets negotiated between the Region and State 100%
Washington Ecology completed 100% of the planned inspections in the 2005 Performance Partnership Agreement work plan. Additional details are included in Metric 9, below.

Findings:

Washington met or exceeded the data metrics for completing the universe of planned inspections.

Recommendations:

There are no recommendations for Metric 1.

Citation of Information Reviewed:

OTIS data pull for Federal Fiscal Year 2005 and Ecology comments on the data

2. Degree to which inspection reports and compliance reviews document inspection findings, including accurate description of what was observed to sufficiently identify violations. (File Review)

Discussion and Analysis

a. Percentage of inspection reports that are adequately documented in the files 87%

Inspection reports at 22 facilities were reviewed (some facilities included more than one inspection event/report). Ecology does not typically include checklists as part of inspection documentation; the narrative and photographic/other documentation are expected to provide sufficient description of the inspection and of the findings. Where the SRF review team found inspection report narrative and other supporting documentation provided sufficient information to describe the scope of the inspection and to identify violations, the review team considered them adequately documented. We found the following evaluations reported as one type when the review team believes a different evaluation type is more appropriate.

McFarland (Cascade) – reported as CEI; FCI more appropriate (Ecology agreed and has changed the entry).

WA DOC – reported as FCI; no on-site visit, so NRR might be more appropriate

Hanford (various) – reported as CEI when looking at specific areas; FCI probably more appropriate. (Because facility is mega site, Ecology, R10 and HQ should discuss this.) (Ecology agreed and has changed the entry.)

Eighteen (18) of 21 reviewed were considered adequately documented. The review team saw some good examples of inspection report elements (Box Canyon-ERO facility background description, ColorTech-NWRO description of walk-through, Laucks Lab-NWRO description of what inspector specifically looked at). While deemed adequate, several reports would have been better with more specific information about the basis for the inspector’s findings. Examples include: Colortech – NWRO – basis for statement inspections lapsed to monthly, Stowe Woodward-SWRO, and Univar-

NWRO: provide more specificity about who provided information or what the inspector observed.

Of the three reports not considered adequate, the review team identified two reports that did not provide documentation sufficient to identify violations (Resource Recovery- SWRO and Shell-IND.). Ecology subsequently informed EPA that no violations had been discovered in the July 2005 inspection. For one file (SWRO -Maranatha Plating), there was no documentation in the file to indicate what had transpired – which was that the inspector arrived to conduct an inspection, but the facility was not operating. Documenting the file in this regard would have been helpful. A final file reviewed, (Aim Aviation-NWRO), the review team found the report consisted of only a narrative (no other supporting documentation) and it was not possible to determine if the description of what was observed was adequate to sufficiently identify violations. Ecology disagrees with this assessment of the adequacy of the file information, noting the file contains a photo log with the narrative which they believe is sufficient documentation. Since it would be difficult to reconstruct what we saw in the files during the review in order to further explore perspectives with the State, we excluded this report from the calculations for this metric.

Findings:

While the majority of inspection reports were adequately documented, and we are not making specific recommendations for follow-up in this regard, we encourage the State to look at the examples identified through this evaluation to identify opportunities for improvement in how inspection reports are documented.

There were some instances where we believe a different inspection type was more appropriate than the one reported (e.g., something other than a CEI was conducted but reported as CEI). Because so much of the focus of the national reporting and oversight is based on CEIs, we are recommending Ecology look at its current guidelines and practices to ensure inspections reported as CEIs meet that threshold. With respect to the mega-facility at Hanford, inspection coverage is achieved over time through a series of focused inspections, but at some point in time it will be important to document that a full compliance evaluation of the facility has occurred. Any change in practice in how inspections at such large facilities are recorded should be done in consultation with EPA headquarters.

Recommendations for Metric 2:

Ecology should review its procedures and guidelines to ensure inspections reported as CEIs rise to that level, and share findings with EPA Region 10.

Ecology, R10 and OECA should discuss how best to satisfy CEI inspection coverage at extremely large, complex facilities.

SRF Milestone(s): Ecology's Compliance Network will review the various inspections types available and discuss them with field staff by June 2008

Citation of Information Reviewed

SRF File Review metrics guide, state inspection files and RCRAInfo data dictionary.

3. Degree to which inspection reports are completed in a timely manner, including timely identification of violations.

(File Review)

Discussion and Analysis

a. Percentage of compliance monitoring and inspection reports in which potential violations are identified in the file within a given time frame established by the Region and State

95%

Region 10 used the Enforcement Response Policy guideline of 150 days for issuing an informal enforcement action as the expectation for timeliness. Not including the Maranatha Plating file noted above, out of 21 reports viewed, 20 reports were completed in a timely manner (18 reports were completed in 90 days or less) The only untimely one was NWRO-Towne Paint (9 months, no violations identified)

Findings:

Ecology was timely in most of the inspection reports reviewed.

Recommendations:

None for Metric 3

Citation of Information Reviewed

SRF file review metrics guide, RCRA Enforcement Response Policy and State files reviewed

4. Degree to which significant violations (e.g., significant noncompliance) and supporting information are accurately identified and reported to EPA national databases in a timely and accurate manner.

a. Significant Non-Complier (SNC) identification rate 3.2%

Washington designated eight SNC violators of the 249 handlers inspected in 2005. This was consistent with the national rate of 3.3%. Region 10 had the lead for an additional SNC violator and the combined rate was 3.4% while the national combined average was 3.7%.

b. Timely SNC determinations 63%

The Framework Metrics report is not able to automatically calculate this measure until the fiscal year 2007 state review cycle. However, we pulled custom reports that showed when Washington met the framework goal of identifying SNC violators within 150 days of their inspections. Five of the eight SNC designations Washington made in 2005, 63%, were made within 150 days. There was no national benchmark for this measure.

c. No activity indicator - new SNC determinations NA

The "no activity indicator" was not applicable to Washington for 2005, since Ecology identified eight new SNC violators.

d. SNC reporting indicator (enforcement actions receiving SNC designation) 92%

Washington data showed 11 of the 12 formal enforcement actions in 2005 were for designated SNC violators. The national average was 54%. Washington's level was well above the national average for this review benchmark, and demonstrated that Ecology was consistently making SNC designations when referring cases for formal state enforcement actions.

The Enforcement Response Policy requires that all SNC violators be addressed with formal enforcement actions but not that states take formal actions only at SNC violators. Washington has chosen to focus formal enforcement cases on Significant Non-Compliers consistent with the RCRA ERP.

e. Percentage of SNC and secondary violator determinations that are reported in a timely manner
(File Review)

Discussion and Analysis

Region 10 does not believe there is an expectation to formally designate violators as Secondary Violator those that don't rise to SNC. Rather, the expectation is to identify violations in RCRA info and, as appropriate, make determinations (and report as such) those violators that rise to the level of SNC. Those not SNC are secondary by definition. If a secondary violator does not return to compliance, then it should be evaluated for classification as SNC.

Secondary Violators: Timely (100%)

For purposes of this review metric, we determined violators were reported in a timely fashion for non-SNC (secondary violators) if action to inform the violator was issued (and reported in RCRAInfo) within 150 days of inspection. Eleven (11) facilities with violations identified were identified as SVs – all of which were reported in a timely fashion (e.g., by date of NOV in file and database).

Significant Non-Compliers

As noted above in data metric 4b, SNY occurred within 150 days of inspection at 63% of SNCs. As noted in metric 11a.1, six violators were SNC-determined on the same day as the formal action taken to address the violation. EPA's concern is that while 150 days after inspection is identified as an acceptable maximum timeframe for determining SNC, it should be determined and reported as early as possible.

During the time period reviewed (FY 05), Ecology generally identified violators in SNC at the time a formal enforcement action was issued. In the Region 10 RCRA state program reviews for activities in the 2000-2002 timeframe (report was finalized June 2005), R10 identified concerns about this practice, noting decisions about seriousness of the violation are typically identified at a point in the enforcement process prior to issuance of the formal enforcement. One of the follow-up actions from that review included Ecology looking at their practice in order to report a more representative date of the SNC determination date (date for SNY) to improve accuracy and transparency of the RCRA Info data. In the files reviewed for this SRF review (activities which pre-date the recent R10-Ecology discussions), the files frequently show sufficient information was available for Ecology to report a SNC determination prior to issuance of the formal action.

f. Percentage of SNC determinations that are accurately reported 95%
(File Review)

Discussion and Analysis

We found 18 out of 19 files, which included violations, accurately reported the SNC classification: Eleven were secondary violators and seven were reported as SNC. We did not find paperwork showing how classifications were made for secondary violators and presumed them to be accurate if review team agreed the circumstances of the matter didn't rise to SNC.

There was one violator out of the 19 files reviewed that met the SNC criteria and which was addressed with formal enforcement, but was not designated SNC in RCRAInfo (Valley Fruit- CRO). This would affect Metrics 4a and 4d above. This was a coordinated action with the State Department of Agriculture; Ecology has indicated they will update RCRA Info with an SNY.

Not considering the file above and the two files with incomplete inspection reports, EPA did not identify any situations where we believed SNC determinations had not been accurately determined. Despite the incomplete inspection reports in two of the files, EPA was able to conclude through review of the reports and conversations with staff that these were not SNCs.

The Hanford facility is a significant, complex facility where State and EPA RCRA and clean-up programs are involved. It has been and will likely be in SNC for some time. Multiple inspections (of specific areas) are conducted each year. In the three reviewed as part of the SRF, one (CSE) identified a violation which was addressed with an NOV; one (T-Plant) lead to a letter identifying concerns, but not violations (apparently in light of agreements in the Tri-Party agreement); and, one (Tank) file identified assessment issues, but not violations (apparently in light of agreements in the Tri-Party agreement). As was the case throughout the review, the scope of this review focused only on the quality of compliance monitoring and follow-up actions, not sufficiency or enforceability of underlying permit or other obligations.

Findings:

Ecology is appropriately identifying and classifying secondary violators and significant non-

compliers. In one file we noted an SNC addressed with formal enforcement, but no SNY action in RCRAInfo which we pointed out to the State so that RCRAInfo could be corrected. Secondary violators are consistently reported to RCRAInfo in a timely manner (i.e., 150 days or less after an inspection).

SNCs were typically reported at the same time as the formal enforcement action addressing it, rather than at the time the SNC was determined. The expectation is SNCs are reported when a determination has been made but no later than 150 days after the inspection. As a follow-up to the prior Region 10 review, Ecology has been evaluating their practices in order to report a more representative date of the SNC determination date (date for SNY) to improve accuracy and transparency of the RCRA Info data.

Recommendation for Metric 4 and Potential SRF Milestone(s)

Ecology should complete its evaluation concerning timeliness of SNC reporting and report the results to Region 10 by March 2008 (date).

Citation of Information Reviewed

SRF File review metrics guide, RCRA Enforcement Response Policy, Region 10 2005 RCRA program review and state files

5. The degree to which state enforcement actions include required corrective actions (injunctive relief) that will return facilities to compliance in a specific time frame:

a. Percentage of formal State enforcement actions that contain an appropriate compliance schedule of required actions or activities designed to return the source to compliance. This can be in the form of injunctive relief or other complying actions 62% - 87%

Note: Not all formal actions (e.g., penalty-only actions) require a schedule of required actions as the violation may have already been corrected.

(File Review)

Discussion and Analysis:

Eight (8) formal enforcement actions were reviewed: five (5) with compliance orders (three of which also included penalties). The three other formal actions were penalty only actions.

The five compliance orders (Janicki, B&G, Specialty, Centralia and Road Products) appear to require appropriate correction for the violations cited in the orders. Road Products case was appealed to PCHB which led to an amended order. Files for two of the penalty-only actions (WHW and Valley Fruit) indicate action to correct the violation had already occurred. For the BEI action (penalty only) it was unclear from the file to what extent violations had been corrected such that compliance order was unnecessary to achieve compliance. Ecology subsequently reported the penalty action required modifications to the Waste Analysis Plan and the Training Plan which were submitted through permit modifications and are documented in the permit files.

b. Percentage of actions or responses other than formal enforcement that return source to compliance 90% (timely)

Discussion and Analysis:

Eleven (11) files reviewed were for facilities where violations were identified that were appropriately not SNC, that were addressed with informal enforcement (warning letter or letter of noncompliance). Of the 11 facilities, 10 returned to compliance within 240 days of the inspection. The one that took longer (about one month longer) was Univar. It is a standard practice in Ecology to use a Compliance Certification form whereby the facility provides information to identify when and how they addressed the violations. In most cases, reviewers saw file documentation to support RCRAInfo RTC. Two files were not well documented with respect to return to compliance information: For the Hanford August 22, 2005, informal enforcement, there was no compliance date in the file or in RCRAInfo; in the Sound Refining file (IND), there was no clear information in the file about return to compliance. Ecology subsequently informed us that due to unique circumstances regarding this case (violations corrected via a multi-media audit as part of water quality enforcement action), the compliance certificate was not used.

Ecology Regions sometimes issue letters of immediate action (informal enforcement) to identify actions the facility is asked to begin correcting as quickly as possible (before issuance of a formal enforcement action). These letters also have the effect of correcting some violations at facilities which are subsequently subject to formal enforcement.

Findings:

Ecology is appropriately addressing secondary violator non-compliance through informal enforcement (90% documented return to compliance). Sixty two percent (62%) of the formal actions contained compliance schedules; an additional two actions appropriately did not need to include a compliance schedule (87%). In one action reviewed, the review team was unable to determine whether or not compliance actions were needed.

Suggestions for improvement: Ecology offices not using the Compliance Certification template are encourage to consider using it as a way to improve tracking and documenting return to compliance. SWRO is encouraged to review its file documentation practices in light of the BEI file review findings.

Recommendations:

No recommendations for Metric 5.

Citation of Information Reviewed

SRF file review guide, State files, discussion with State staff

6. Degree to which a state takes timely and appropriate enforcement actions, in accordance

with policy relating to specific media.

a. Timely action taken to address SNC violators (100%)

The Framework Metrics report is not able to automatically calculate this measure until the fiscal year 2007 state review cycle. However, we pulled custom reports that showed the time elapsed between inspection and formal enforcement action at the eight SNC violators in 2005. Our data showed that Washington exceeded the Enforcement Response Policy guideline of 80% SNC violators addressed within 360 days of inspection. All eight actions were completed in less than 360 days.

b. No activity indicator - formal actions NA

This indicator is not applicable to Washington as they completed 15 formal enforcement actions at 12 violators in 2005.

c. Percentage of enforcement actions taken in a timely manner
(File Review)

Discussion and Analysis

Informal enforcement actions (within 150 days from inspection)	90%
Secondary violators that return to compliance (within 240 days from inspection).	82%
Formal Enforcement (Orders, penalties) within 240 days of inspection	50 %
Formal Enforcement (Orders, penalties) within 360 days of inspection	100%

Eleven (11) files were reviewed for SVs addressed with informal enforcement. Ten were timely. The untimely one was Sound Refining (IND). Letter was issued 9/22/05 for inspection conducted 5/21/2003.

Of the same 11 files, nine SVs returned to compliance in a timely manner. Two did not. (Sound Refining as noted above and Univar, where RTC was about one month over the benchmark)

EPA's Enforcement response policy calls for issuance of initial action within 240 days (~ 8 months) and issuance of final action within 360 days. Ecology's process does not call for a two-stage enforcement process. Eight (8) formal actions were reviewed, using the 240 days as the timeliness benchmark. Four actions were considered timely (Road Products, WHW, BEI, and Speciality. The four that were not (Janicki, B&G, Valley Fruit, Centralia), were issued within 1-2 months of the target timeframe and in all cases, less than 360 days from inspection.

d. Percentage of addressing actions that are appropriate to the violations
(File Review)

Discussion and Analysis:

Where informal action was taken, the review team agreed the action was appropriate to the violation. In files reviewed, all SNCs were addressed with formal enforcement – a mix of orders only,

penalties only and penalty and order actions. In the two cases where no penalty was assessed, the review team believes appropriate response would have also included consideration of penalties (in addition to compliance orders). (See discussion in Metric 7 below.)

The compliance orders for Janicki, B&G, Specialty, Centralia and Road Products appear to require appropriate correction for the violations cited in the orders (Road Products was appealed to PCHB which led to an amended order). Files for WHW and Valley Fruit cases (penalty only) indicate action to correct the violation had already occurred. As noted in the discussion in Metric 5a, for BEI penalty only action, it was unclear from the file to what extent violations had been corrected such that compliance order was unnecessary to achieve compliance.

Findings:

With two exceptions, the formal and informal actions taken were appropriate to the violations. The majority of informal actions were issued in a timely manner. While 50% of the formal actions were not within the 240 day benchmark for initial action, they were issued within 360 days. EPA is not concerned about the timeliness of Ecology’s formal enforcement actions.

In two situations where no penalties were calculated or considered, EPA believes penalties would have been an appropriate response. These are discussed more fully in Metrics 7 and 8c.

Recommendations:

See Metrics 7 and 8

Potential SRF milestone(s)

See Metrics 7 and 8

Citation of Information Reviewed

SRF file review metrics guide, state files

7. Degree to which a state includes both gravity and economic benefit calculations for all penalties using the BEN model or a similar state model (where in use and consistent with national policy.) {R10 recognizes this element and element 8c below relate to similar information – degree to which initial and final penalties conform to expectations, and degree to which files adequately document penalty decision-making}

Discussion and Analysis

a. Percentage of formal enforcement actions that include calculation for gravity and economic benefit consistent with applicable policies 25 %

Of eight formal enforcement actions reviewed, six included penalties. The two formal actions without penalties were Road Products–ERO and Port of Centralia-SWRO. In both of these cases, EPA believes penalties should have been calculated and then adjusted as appropriate (e.g., ability to

pay considerations) rather than upfront decision not to penalize because of facility size (small “mom and pop”) or nature of business (public entity).

Two penalty actions did include consideration of EB (Janicki-NWRO and B&G Farms-ERO) which is a positive finding. The files documented the agency’s decision-making with respect to these penalties. In both cases, the review team believes a more representative estimate of EB would be appropriate by considering additional factors -- for example, generator fees not paid, length of time the handler should have been in compliance, costs to produce documents. It is also not clear in the B&G Farms matter how the penalty calculation might have been different had the approach been more consistent with what we understand is Ecology’s general guideline (Compliance Manual guideline page 9). That is, add the amount of economic benefit to the otherwise calculated penalty. It appears in B&G the approach was to determine whether the gravity amount calculated was at least equal to the estimated amount of EB. NWRO and ERO both expressed interest in continued dialogue with Region 10 about the kind of factors and considerations to include when estimating economic benefit of non-compliance.

The other four penalty actions did not include discussion or calculation of economic benefit (BEI & Speciality Products – SWRO, Valley Fruit and WHW–CRO).

Findings:

Ecology addresses gravity in their penalty actions. However, lack of consideration of EB in penalty actions was identified as an issue in most recent R10 RCRA review (for period FY 2000-2002, completed in June 2005). As a result of that review, the July 2005 PPA indicates Ecology will work toward capturing economic benefit accrued to business through non-compliance, as guided by EPA’s BEN model and by other means.

We were pleased to see the effort made to factor EB into the two cases. As noted in other media chapters, we are recommending steps throughout the State of Washington to be more diligent in estimating economic benefit, documenting basis for decisions when economic benefit is not included, and incorporating information that would make the estimates more representative of the benefit accrued.

Recommendation:

Ecology recommendation for all three reviewed programs:

EPA is recommending Ecology (1) either affirm it has a definitive policy statement that economic benefit should be recovered in civil penalties as a matter of routine practice or develop such a policy statement, (2) conduct internal evaluations to identify what contributes to the successful approaches to economic benefit, identify impediments where it isn’t successful, and develop an action plan to share with EPA. One action we ask be included in an action plan is submitting economic benefit evaluations for specific types of cases (e.g., SNC, HPV) to EPA for a specified period of time (e.g., one year). EPA enforcement staff are willing to engage in cross-program and/or media specific

discussions or training to help identify ways to overcome the identified barriers (e.g., share experience about what kind of information can be gathered and ways to obtain the information to support economic benefit determinations).

SRF Milestone(s)

Ecology and EPA Region 10 discuss the above recommendations for economic benefit (June 2008) and agree upon next steps (e.g., evaluation, information sharing, etc.) including a timeline for action.

Citation of Information Reviewed

SRF file review guide, RCRA Enforcement Response Policy, Ecology Compliance Manual and State files

8. The degree to which penalties in final enforcement actions include economic benefit and gravity in accordance with applicable penalty policies.

a. No activity indicator - penalties NA

This indicator is not applicable to Washington as they assessed \$98,000 in final penalties in four cases for fiscal year 2005. Washington identified missing data for final orders that raised the penalty total to \$202,400. Washington indicated that they will make data changes in RCRAInfo to fix the problems identified in the SRF data pull.

b.1. Penalties normally included with formal enforcement actions: percent of formal enforcement actions that carry any penalty NA

We've pulled metric 8.b. in two ways because of variability in how states enter formal actions data in RCRAInfo. Most states enter both initial (200 series) and final (300 series) actions, however, some only enter initial actions, and for those states the first version of the metric must be used. For Washington, the measures came out the same.

b.2. Penalties normally included with formal enforcement actions: percent of **final** formal enforcement actions that carry any penalty 27% or 64%

Washington was significantly below the national average when the calculation was narrowed to only final formal enforcement actions. There were four penalty cases out of the 15 final actions (27%) compared with the national average of 78%.

However, Washington identified five enforcement cases that were double counted as final penalty actions as well as final actions without penalties. Washington agreed to change the way final actions and penalties will be entered in RCRAInfo so that future data will be accurately reflected in the headquarters SRF report format. Washington used their corrected information to calculate that 11 of 17 (64%) final actions included penalties.

c. Percentage of final enforcement actions that appropriately document penalties to be collected

(File Review)

{R10 recognizes this element and element 7 above relate to similar information – degree to which initial and final penalties conform to expectations, and degree to which files adequately document penalty decision-making}

Discussion and Analysis:

See also the discussion in Metric 7 above. The review team did not see a consistent use of penalty calculation worksheets in the files reviewed. There did not appear to be a standard approach to calculating and documenting penalty decisions in the files. The penalty adjustment documentation for one matter (Specialty) provided qualitative (+ or -) but no numeric values. The file noted that the penalty would increase because of length of violation, but no multi-day penalty factor was apparently included. Some of the notices of penalty provided specific discussion of gravity penalty factors (e.g., degree of magnitude, consideration of mitigating factors). It was difficult to determine the extent to which the Ecology Compliance Manual calls for a standardized approach to documenting penalty calculations and basis for changes in penalties. The Compliance Manual (page 5) indicates it is important that the written Recommendation for Enforcement (RFE) contain a sound rationale for the enforcement recommendations and serve as a basis for the recommendation to be explained to program management, the violator and interested parties. After the enforcement action is issued, it is considered a public document. The RFE is intended to serve as the penalty calculation documentation and become public document upon issuance of the formal action.

We did not specifically evaluate the extent to which use of SEPs impacted appropriateness of penalties, nor to what extent did the SEPs meet any state policies. An SEP for donation of fire fighting equipment was initially included (but later not pursued) in the B&G Farms settlement. In the Janicki matter, it appears SEP credit was allowed for activities conducted prior to the settlement action. We were not able to determine how these SEPs comported to Ecology's settlement guidelines for SEPs. Under EPA's SEP policy, it is likely that neither of these would have been acceptable as SEPs.

d. Percentage of final enforcement actions resulting in penalties collected

Discussion and Analysis

Of six penalty actions, only files in CRO documented that penalties were collected. We did not find documentation in other files that penalties were collected. The Ecology Compliance Manual includes a section on procedures to follow when penalties are not paid, including the role of the fiscal office and the AG's office. RCRAInfo for some cases reported that penalties were collected, but this information was not consistently captured. NWRO explained that the fiscal office tracks payment of penalties and through a tickler system, notifies the compliance group whether or not penalties have been paid. We understand CRO places a copy of the memo from the fiscal office in the file to document payment of penalties.

Findings:

In addition to the findings in Metric 7 regarding economic benefit, file documentation can be improved with respect to penalty action decision-making.

Recommendations:

Ecology should develop a standard process for documenting penalty calculations. This process should include justification for use of mitigating factors, amount that penalties are mitigated up or down, and documentation of consideration of economic benefit of noncompliance.

SRF Milestone(s): Ecology will improve and clarify the documentation of penalty calculations, including any updating of the Inspector Guidance Manual as appropriate (with EPA assistance).

9. Degree to which enforcement commitments in the PPA/PPG/categorical grants (written agreements to deliver a product/project at a specified time) are met and any products or projects are completed.

a. State agreements (the PPA and PPG work plan in Washington) are met and any products or projects are completed Met
The End of Year Report (for FY 05) prepared by EPA, based on detailed information submitted by Ecology, concluded compliance related outputs had been completed.

Findings and Recommendations:

Ecology met the compliance related PPA commitments. No recommendations for Metric 9.

10. Degree to which the Minimum Data Requirements are timely.

Discussion and Analysis

a. Integrity of SNC data (timely entry) 56%
Washington was worse than the SRF benchmark national average for entering SNC determinations in RCRAInfo less than 60 days after the SNY evaluation date. Nationally, 44% of SNC data were entered more than 60 days after SNC evaluation dates. In FY 2005, Washington entered five of nine SNC determinations more than 60 days after the SNY evaluation date, based on recorded updates from RCRAInfo to OTIS online.

OECA guidance requires prompt reporting of SNC designations in order to implement the national enforcement oversight priority for tracking and resolving cases of Significant Non-Compliance.

b. Percent of inspections, enforcement actions, or other compliance related activities for which there is a nationally required data element that are entered into RCRAInfo in a timely manner
(File Review)

Discussion, Analysis and Findings:

Other than the issue concerning timeliness for making and reporting SNC determinations, the review team did not find recurring reporting timeliness concerns. A list of specific discrepancies noted between file review information and corresponding RCRAInfo data has been provided to Ecology so they may make appropriate corrections.

Recommendations:

See Metric 4 regarding timely SNC reporting

Citation of Information Reviewed

RCRA file review guide and SRF data metrics

11. Degree to which the minimum data requirements (nationally required data elements for the RCRA program) are accurate

a.1. Number of violators SNC-determined on same day as the formal enforcement action 6

Washington failed to meet the national goal of making SNC evaluations and designations early in the enforcement process in order to provide OECA with national oversight data for tracking and resolving significant cases.

Making the SNY designation on the same day as the formal enforcement action provided no advance information to EPA for the tracking of significant cases.

a.2. Number of violators SNC-determined within one week of the formal enforcement action 0

Washington met this goal as none of Washington's SNC determination dates were within one week of the formal enforcement date. However, the fact that six were on the same day negates the importance of this measure.

b. Number of sites in violation for greater than three years 6

Washington had six handlers for which violations were open for more than three years without data for "return to compliance" or SNC entered. Ecology responded that two of the sites with open violations are in EPA's court for enforcement and return to compliance determinations. Another two of the six are Continued Use Program determinations that involve a national policy debate about whether solvents are being legitimately reused or recycled. Washington will investigate the data for two other violators to resolve their compliance status in RCRAInfo.

The Enforcement Response Policy states that a facility designated as a secondary violator should be redesignated as SNC if the violator does not return to compliance within 240 days. The Framework Metrics pull only violators that have exceeded three years without resolution to allow a significant margin for error.

c. Accuracy of data reporting (vis-à-vis file review information)

(File Review)

Discussion, Analysis and Findings:

A list of specific discrepancies noted was provided to Ecology so appropriate RCRAInfo corrections could be made. There was inconsistent information reported in RCRAInfo with respect to penalties – proposed, final, and collected. Ecology and EPA should ensure a common understanding of the national reporting expectations concerning penalty information and ensure consistent practices within Ecology, including how using enforcement action codes 310 and 311 actions codes (penalties/orders).

Recommendations and potential SRF milestone(s):

By April 2008, Ecology and EPA will discuss and clarify national reporting expectations concerning penalties, including any corresponding changes to Ecology’s practices. At that time, they will determine whether any updates to the RCRAInfo data agreement are necessary and if so, by when.

12. Degree to which the minimum data requirements are complete, unless otherwise negotiated by the region and state or prescribed by a national initiative (All data pulled from EPA's RCRAInfo database January 2007.)

(File Review)

Discussion, Analysis, Findings:

EPA did not find recurring data completeness concerns. A list of specific discrepancies noted was provided to Ecology so that appropriate corrections could be made to RCRAInfo. The discrepancies identified included one SNC (identified as such in the file) but not reported to RCRAInfo (discussed in Metric 4 above).

Recommendations:

None for 12

a.1. Active* facility universe counts accurate, number of **operating** TSDFs in RCRAInfo
There were 15 known operating TSDFs in Washington correctly identified in the SRF data pull.

a.2. Number of active LQGs in RCRAInfo
There were 880 reported active large quantity generators in Washington in the SRF data pulled in January 2007. This did not match the Biennial Report data which identified 440 active LQG handlers in 2005. We will use Washington’s data which include 430+/- LQGs as confirmed by Biennial Report data.

a.3. Number of active SQGs in RCRAInfo

There were 1,200 reported active small quantity generators in Washington, which Ecology classifies as Medium Quantity Generators. We acknowledged Washington's independent count of 698 current generators.

a.4. All other active handlers in RCRAInfo

There were 4,478 reported other active handlers in Washington. Washington reported 3,182 current handlers.

b.1. Inspection counts complete

Washington reported 301 inspections in fiscal year 2005.

b.2. Inspection counts complete.

The number of handlers inspected by Washington in 2005 was 249. Washington visited a number of other handlers to provide compliance assistance that may be presented in Element 13, if the state chooses to report.

c. Violation counts complete; number of facilities with violations during the reporting period

Washington reported 229 facilities with violations during 2005 of the 249 inspected, which would be an 8% compliance rate if we were reporting that metric.

d.1. Notice of violation counts complete; facilities with State NOV data in 2005

Washington entered informal enforcement actions (warning letters or notices of violation) for 158 violators.

d.2. Notice of violation counts complete; total state notices issued

Washington entered 164 notices of violation.

e.1 SNC counts complete; number of new SNC in fiscal year 2005

Washington entered 8 new SNC violators.

e.2. SNC counts complete; number of facilities in SNC status in 2005

Washington had a total of 19 facilities with SNC status at some time during the fiscal year.

f.1. Formal action counts complete; facilities with formal actions in 2005

Washington entered formal enforcement actions at 12 violators in RCRAInfo.

f.2. Formal action counts complete; total formal actions taken

Washington entered 15 formal enforcement actions at 12 violators in RCRA Info. They identified data corrections that will increase the number of actions to 17.

g. Assessed penalties complete; total amount of final assessed penalties

Washington entered a total of \$98,000 in penalties in fiscal year 2005. They identified data corrections that will increase the total penalty amount to \$202,400.

13. Degree to which additional compliance programs and activities improve compliance.

Washington Ecology did not prepare an element 13 evaluation for this review report.

NPDES PROGRAM REVIEW

Regional Contact:	Robert Grandinetti	Phone: (509) 376-3748
State Contact:	Nancy Winters	Phone: (360) 407-6460
State Data Contact:	Kathleen Emmett	Phone: (360) 407-7386

A. BACKGROUND INFORMATION

Structure

Washington Department of Ecology's (Ecology) NPDES program is organized within the Water Quality Division and operates through its Headquarters office located in Lacey, four regional offices (Southwest – Lacey, Northwest - Bellevue, Central - Yakima, Eastern – Spokane), one multi-media office (the Industrial Section - Lacey) and their affiliated field offices (1 in Southwest, 1 in Northwest, 1 in Central, and 2 in Eastern). The regional and multi-media offices are responsible for issuing individual permits, complaint response, providing compliance/technical assistance, planning and conducting inspections, documenting inspections, determining violations, classifying violations and determining the appropriate enforcement response. They also issue the informal enforcement actions (e.g., letters and phone calls) and formal enforcement referrals (e.g., notices of noncompliance orders, agreements, and penalty assessments).

Authorities

Ecology is authorized to implement the majority of the NPDES program. Washington Department of Agriculture is responsible for administering and managing the compliance and enforcement aspects of the NPDES Animal Feeding Operations (AFO) through separate Memoranda of Agreement with Ecology and EPA. However, Ecology retains the authority to issue NPDES permits for AFOs.

Source Universe

In FY05, Washington had a total of 74 major and 353 minor dischargers. There were a significant number of facilities covered under general permits (well over 1000), many of which are storm water and wet weather facilities, but these were not reviewed for this report. Storm water and other wet weather priority work is not included in SRF metrics.

Corrections

The data metrics were primarily obtained from Ecology's databases Water Quality Permit Life Cycle System (WPLCS), which feeds into the PCS or ICIS-NPDES. However, the feed is incomplete and there are some data quality issues caused by the link from WPLCS to PCS. It is important to note that a large portion of the data issue is out of Washington's control because of the lack of EPA headquarters funding as well as the various link-up issues with ICIS-NPDES from PCS. As a result, we were unable to evaluate a majority of the data metrics.

Data in Permit Compliance System (PCS) – national database

Historically, EPA Region 10 entered all required Washington data into PCS based on information

received from the State. In August 2004, EPA stopped entering this data. Ecology currently has the WPLCS database to store and track water quality permit and enforcement information.

Ecology began uploading data from its Water Quality Permit Life Cycle System (WPLCS) into PCS on January 6, 2006. This upload included historical data. However, several problems developed after the linkup, and both EPA and Ecology are currently working on this issue. In addition, Ecology does not enter the following data into PCS: 1) Inspections; 2) Inspection Audits; 3) Compliance Schedules, which means no CS Violations will be reported; 4) Enforcement Actions; 5) Single Event Violations; and 6) Pretreatment Performance Summary. Due to this lack of data and the problems with the link up between WPLCS and PCS, SNC is not calculated.

B. REVIEW PROCESS

Key Dates

Review period: FY2005 (October 1, 2004 thru September 30, 2005)

Date SRF Metrics sent to State: December 4, 2006

Date(s) when on-site interviews and file reviews were conducted: June 4, 2007 (Spokane – Eastern Regional Office), June 5, 2007 (Yakima – Central Regional Office), June 18–19 (Bellevue – Northwest Regional Office), June 20–22 (Lacey – Southwest Regional Office and Industrial Section).

Review Process

Number of regional offices and number visited: Headquarters/Industrial Section, Northwest Region (Bellevue), Central Region Office (Yakima), and Eastern Region (Spokane)

List of reviewers and contacts for the region and the State:

From EPA: Robert Grandinetti (lead), Eva Chun

From Washington: Kathleen Emmett, Nancy Winters, and Kelly Susewind

Location and duration of the review: Headquarters/Industrial Section (Lacey) – 3 days, Northwest Region (Bellevue) – 2 days, Central Region Office (Yakima) – 1 day, and Eastern Region (Spokane) – 1 day.

The file review was conducted at all of the Ecology's Regional and Headquarters Offices located in Lacey, Yakima, Bellevue, and Spokane. Enforcement files are maintained at the regional offices. Information was gathered through a variety of means. A list of major and minor facilities, inspections conducted, and formal enforcement actions for FY05 were requested from Ecology on November 27, 2006, prior to the file review since this information was not available on PCS/ICIS. Ecology responded to our data request on February 28, 2007. Files were selected and the facility names were sent to Ecology on May 21, 2007. On August 7th, Region 10 informally shared preliminary file and data findings with the Ecology contact for the enforcement program managers to provide early indication of the findings and to provide opportunity to identify incorrect information.

C. FILE SELECTION PROCESS

Universe

The total number of majors and minors within the NPDES universe was 427 (74 majors and 353 minors). 192 inspections were conducted; however, because eight of those facilities are no longer active they were not included in the review. Eliminating the eight inactive facilities leaves the number of inspection analyzed at 184 inspections with 12 formal enforcement actions that were issued in FY05. In some cases, more than one inspection or enforcement action was conducted or initiated at the same facility in FY05. In addition, inspections of non-discharge permit-holders which may indirectly contribute to pollution of surface waters through failing lagoons, seepage, or direct underground injection were not included. As previously mentioned, facilities covered under the storm water and wet weather general permits were not evaluated. This is a large universe and where a large portion of Ecology's work is focused.

File Selection

A total of 30 facilities were selected for the file review, from a range of 15 to 30 as specified in the SRF guidance. These facilities had either inspection and/or formal enforcement activity in FY05. File selection was based on percentage of inspections/enforcement actions in each region. Most files were selected from the Southwest Region since they had the most inspection/enforcement activity. An attempt was also made to obtain a representative sample of municipalities, and industrial facilities. Facilities covered under general permits (e.g., wet weather) were outside the scope of this review. Follow-up phone calls were made with Ecology staff to clarify findings and fill in the information gaps.

File Maintenance

Permit, DMR, enforcement, and inspection files are maintained at regional offices. File organization appeared to vary regionally and individually. For the most part, files were well-organized and separated chronologically into, for example, permit files, inspection files, facility correspondence, and enforcement files.

D. ELEMENT-BY-ELEMENT DESCRIPTION

1. Degree to which state program has completed the universe of planned inspections (addressing core requirements and federal, state, and regional priorities.)

Discussion and Analysis

- a. Inspection coverage for NPDES Major Facilities 76%
Washington inspected 56 majors out of a total of 74 majors. This was greater than the national average of 63.8%.
- b. Inspection coverage – NPDES non-majors 28%
Washington inspected 136 minors out of 353 minors.

c. Other inspections performed (beyond facilities indicated in 1a and 1b) 373
Washington performed 373 other inspections. These included technical outreach, compliance assistance, and storm water inspections. The total number of facilities (including those covered under the general permits) in Washington (this number was pulled from OTIS and includes both EPA and Ecology facilities in Washington).

d. Regions can track yearly commitments, or multi-year plans. Reserved for inspection plan targets negotiated between the Region and State in PPAs and grant agreements. 168%
The 2003–2005 Performance Partnership Agreement states that “Ecology will continue its inspection program of major and minor facilities.” Specific inspection numbers are not given. However, in the Memorandum of Agreement (MOA) between EPA and Ecology signed January 9, 1990, Ecology committed to performing compliance inspections of all major permittees on at least an annual basis. The Clean Water Act National Pollutant Discharge Elimination System Inspection Frequency Guidance for the Core Program and Wet Weather Sources allows for a 2:1 trade off of minor to major inspections. Using this guidance, Ecology’s inspection coverage increases from 75.7% to 167.6%.

Findings for Metric 1

Washington committed to inspect all major sources each year. The Clean Water Act National Pollutant Discharge Elimination System Inspection Frequency Guidance for the Core Program and Wet Weather Sources allows for a 2:1 tradeoff of minor to major inspections. Because Ecology’s PPA and MOA with EPA does not include the 2:1 ratio tradeoff, Ecology technically did not meet their inspection target. However, because of the guidance, we allowed the tradeoff criteria.

Recommendations for Metric 1

EPA recommends Ecology incorporate the 2:1 tradeoff in the next round of PPA negotiations.

SRF Milestone(s): Ecology has agreed to include this in the next PPA negotiation. (June 08)

Citation of Information Reviewed

The Metric 1 review was based on data pulled by Ecology’s WPLCS for FY05, starting October 1, 2004 to September 30, 2005.

2. Degree to which inspection reports and compliance reviews document inspection findings, including accurate description of what was observed to sufficiently identify violations.

Discussion and Analysis

2a. Percentage of inspection reports that are adequately documented in the files 69%

Thirty files were reviewed. Most files included both an enforcement action and inspection report in FY05; however, seven of these facilities/files had enforcement actions only in FY05. Thus, only 23 inspection reports were reviewed. Sixteen out of 23, or 69%, inspection reports were adequately documented with the inspector’s observations, analytical results (if a CSI), 3560 form, peer review,

and signature.

Findings for Metric 2

The major problem in the inspection reports was the failure to include a peer review. Nineteen of the 23 inspection reports did not document any violations. Of the four inspections that documented violations, three were followed up with timely and appropriate responses to the facility. The North Bend STP noted violations of copper and zinc during the sampling inspection; however, there was no follow-up to the facility to address the violations.

Recommendations for Metric 2

Ecology should ensure a peer review is conducted for each inspection report.

SRF Milestone(s) Ecology has agreed to evaluating their current process to ensure reviews are conducted (this will be the same action as for Metric 3, below). Ecology will inform EPA of the results of this evaluation in the PPA discussions in June 08 and implement any changes by 9/30/08.

Citation of Information Reviewed

Region 10 reviewed 23 inspection reports in all of the state's regional and multi-media offices.

3. Degree to which inspection reports are completed in a timely manner, including timely identification of violations.

Discussion and Analysis

3a. Percentage of Inspection Reports in the file which identify potential violations within a given time frame established by the Region and State (87%)

According to Ecology's Investigator Guidance Manual (March 2004), inspectors have a goal of completing a report within 30 days of the inspection. Once Ecology is aware of a violation, it has 90 days to initiate a formal enforcement action. EPA's guidance allows 30 days for the completion of an inspection report for compliance evaluation inspections and 45 days for compliance sampling inspections. Based on EPA's more conservative guidance, 20 of the 23 inspection reports reviewed were completed in a timely manner; only one inspection report failed to identify violations in an appropriate time frame.

The inspection reports that were not completed in a timely manner or failed to identify a violation in a timely manner: 1) Boise Cascade Wallula (WA0003697) inspected on May 10, 2005, report completed on July 2, 2005; 2) Teck Cominco (WA0001317) inspected on March 16, 2005, report completed on April 20, 2005; 3) Coupeville STP (WA0029378) inspected on January 6, 2005, report completed on March 31, 2005; and 4) North Bend STP (WA0029351) inspected on December 6, 2004, report completed on February 14, 2005. The inspection report that identified a violation but did not follow-up with the facility in a timely manner was the North Bend STP.

Findings for Metric 3

Ecology typically completed inspection reports in a timely manner. One issue that arose was the one

facility that identified a violation, but failed to follow up in a timely manner. The other issue is a failing to have a QA/QC review and signature of the inspection report.

Recommendation for Metric 3

To implement a statewide practice to have a QA/QC review and signature for each inspection report.

SRF milestone(s): Ecology has agreed to evaluate their current process to ensure reviews are conducted (this will be the same action as for Metric 2 above). Ecology will inform EPA of the results of this evaluation in the PPA discussions in June 2008 and implement any changes by September 30, 2008.

Citation of Information Reviewed

Region 10 reviewed 23 inspection reports in all of the State's regional and multi-media offices.

4. Degree to which significant violations (e.g., significant noncompliance and high priority violations) and supporting information are accurately identified and reported to EPA national databases in a timely manner.

Discussion and Analysis

4a. Single-event violations reported to national system (0%)

Single-event violations are not reported.

4b. Frequency of SNC (0%)

We were unable to determine this metric without PCS/ICIS data.

4c. Wet weather SNC placeholder (NA)

Wet weather SNCs have not been developed and were not analyzed in this review.

4d. Percentage of SNC determinations that are accurately reported (0%)

We were unable to determine this metric without PCS/ICIS data

Findings for Metric 4

In August 2004, EPA stopped entering Washington data into PCS. Ecology began uploading data from its WPLCS into PCS on January 6, 2006. This upload included historical data. However, several problems developed after the linkup, and both EPA and Ecology are currently working on this issue. In addition, Ecology does not enter the following data into PCS: 1) Inspections; 2) Inspection Audits; 3) Compliance Schedules, which means that Washington will not have any CS violations; 4) Enforcement Actions; 5) Single Event Violations; and 6) Pretreatment Performance Summary. Both Ecology and EPA Region 10 were relying on the PCS linkup to automatically calculate SNC. Due to this lack of data and the problems with the link up between WPLCS and PCS, SNC is not calculated. Ecology has stated that calculating SNCs outside of PCS is unnecessary, as they address every violation regardless of SNC status. The next WA SRF review for NPDES should examine this issue more closely.

Ecology staff have indicated they would rather focus on ensuring WPLCS has a complete, accurate and direct linkup to ICIS-NPDES, than spend resources to correct the linkup to PCS. Currently WPLCS needs to link to PCS then upload to ICIS-NPDES. It is important to note that PCS does not currently have a regular upload to ICIS-NPDES.

Recommendations for Metric 4 (and all other data related metrics)

Ecology and Region 10 need to talk to EPA headquarters about its work to linkup PCS and associated options. Ecology also needs to seek funding, whether federal or state, to ensure the continued linkup to ICIS-NPDES. Ecology and Region 10 need to work out the continuing SNC issue, as well as plans and schedule for Ecology to report inspection and enforcement information.

SRF milestone(s):

Ecology and EPA (R10, OECA, and Office of Water) begin discussing data needs and options by June 30, 2008, as part of the PPA work plan development.

Citation of Information Reviewed

Files and discussions about PCS project

5. The degree to which state enforcement actions include required corrective actions (injunctive relief) that will return facilities to compliance in a specific time frame.

Discussion and Analysis

5a. Percentage of formal state enforcement actions that contain an appropriate compliance schedule of required actions or activities designed to return the source to compliance. This can be in the form of injunctive relief or other complying actions (100%).

According to the Ecology Compliance Assurance Manual (July 2003) the following are formal enforcement actions: 1) Notice of Violation; 2) Administrative Orders; and 3) Penalties. EPA's Enforcement Management System states, "a formal enforcement action is one 'that requires actions to achieve compliance, specifies a timetable, contains consequences for noncompliance that are independently enforceable without having to prove the original violation, and subjects the person to adverse legal consequences for noncompliance.'" For this metric, EPA reviewed 11 Administrative Orders that Ecology issued in FY05.

The 11 facilities that had compliance schedules were: 1) Westport STP (WA0020923); 2) Pacific Coast Shredding (WA0040991); 3) Kaiser Trentwood (WA0000892); 4) West Farm Foods, Lynden Plant (WA0002470); 5) Town of Rockford STP (WA0044831); 6) Eastsound Water District (WA0030571); 7) Echo Glen Children's Center (WA0029939); 8) Friday Harbor STP (WA0023582); 9) Port Blakely Issaquah Highlands (WA0031887); 10) Quincy Industrial (WA0021067); and 11) Vashon STP (WA0022527). All contained a timetable in which the facility had to return to compliance, as well as consequences for the failure to return to compliance. Therefore, this measure was calculated at 100%.

b. Percentage of actions or responses other than formal enforcement that return source to compliance (86%)

688 informal enforcement actions were taken in FY05. It is unknown how many returned to compliance. However, two facilities with informal actions were reviewed including the five with penalty actions. Of the two informal actions, Boise Cascade Wallula (WA003697) appeared to return to compliance after the letter was issued, while Port of Kalama (WA0040483) had no documentation. It is assumed that Port of Kalama did not return to compliance. It appeared that the five facilities with penalty actions returned to compliance. A total of six facilities out of seven with informal enforcement actions returned the source to compliance.

Findings for Metric 5

Enforcement actions generally returned the facility to compliance with the violation addressed.

Recommendation for Metric 5

No recommendations for Metric 5.

Citation of Information Reviewed

Region 10 reviewed seven formal and informal files (from 30 facilities) in all of the State's regional and multi-media offices.

6. Degree to which a state takes timely and appropriate enforcement actions in accordance with policy relating to specific media.

Discussion and Analysis

6a. Timely action taken to address SNC violators (NA)

Ecology issues informal or formal enforcement actions for every violation of the permit that is found. Because every violation is addressed, Ecology states that they begin the enforcement process prior to SNC status. Ecology issued 688 informal enforcement actions in FY05. It is possible that every violation is addressed. However, due to the limited scope of this review, it was not possible for Region 10 to evaluate if each informal action brought the facility back into compliance. Similarly, without the linkup to PCS there is no way for Region 10 to verify that no facility reaches SNC.

6b. No activity indicator - (actions) (NA)

This indicator is not applicable to Washington as they initiated formal enforcement actions against 16 violators in FY05.

6c. Percentage of SNCs addressed appropriately (0%)

Ecology does not perform SNC calculations due to the problems with the linkup between WPLCS and PCS. This metric cannot be evaluated at this time.

Findings for Metric 6

We were unable to evaluate this metric because of the link-up problems between WPLCS and PCS.

Recommendation for Metric 6 and *SRF Milestone(s)*:

Ecology should analyze the informal actions to see if any of the facilities rise to SNC status by September 2008 and share this information with EPA.

Citation of Information Reviewed

Region 10 reviewed 30 inspection and enforcement files in all of the State's regional and multi-media offices.

7. Degree to which a state includes both gravity and economic benefit calculations for all penalties using the BEN model or a similar state model (where in use and consistent with national policy.) {Note to reader: Region 10 recognizes this element and element 8c below do relate to similar information – degree to which initial and final penalties conform to expectations and degree to which files adequately document penalty decision-making.}

Discussion and Analysis

7a. Percentage of formal enforcement actions that include calculation for gravity and economic benefit consistent with applicable policies (0%)

Of the 16 formal enforcement actions, 11 were compliance orders only and did not include penalties. This leaves five enforcement actions reviewed with penalties. The five were: 1) West Farm Foods – Lynden Plant (WA0002470); 2) Sound Transit (WA0031925); 3) Lewis County Water District #2 (WA0024546); 4) Duwamish Shipyard (WA0030937); and 5) Kaiser Trentwood (WA0000892).

Although all of the enforcement actions with penalties contained a rating factor for economic benefit, Region 10 believes that economic benefit should be evaluated on a case-by-case basis rather than just giving it a factor rating, i.e., 1-5. An actual value (i.e., dollar amount) should be estimated. There are instances in which the case development officer determines that there is no economic benefit and this determination is appropriate under certain circumstances; however, a reason why a zero or de minimis economic benefit was made should be given. Of the five cases reviewed, Region 10 found two cases in which economic benefit should have been calculated. A third case, the Lewis County Water District #2, did not have a penalty calculation sheet in the file. As a result, we were unable to evaluate the appropriateness of the economic benefit. Duwamish Shipyard did not have an economic benefit analysis (other than the rating sheet), and EPA concurs that this case probably had little or no economic benefit. However, EPA still believes a short paragraph should be written to understand why this determination was made. The Sound Transit file did not evaluate economic benefit either (although it did contain a rating sheet in the file); and there was insufficient information for Region 10 to determine if there was an economic benefit.

Ecology indicated that economic benefit has been considered in cases, even if not so in the cases for this review. Ecology staff expressed a number of reservations and concerns about EB calculation (as well as use of the ABEL model – which covers a different subject matter) - including level of effort necessary to gain information, difficulty in using the model, and how to defend in litigation. Use of the BEN model itself is not usually in litigation; it provides a useful tool to estimate the economic benefit. As a settlement tool, the staff can use the best judgment to identify economic benefit. When respondents are able to provide information that supports a different estimate, the estimate can be changed.

West Farm Foods – Lyden Plant: West Farm Foods had a significant number of indirect discharge violations in which it appears a new equalization tank would remedy the problem. We believe that the calculation for economic benefit should have been considered and would be relatively easy to do by estimating the cost of an equalization tank (this can be done by calling different manufacturers) and determining the period of noncompliance. Similarly, economic benefit the facility gained by failure to sample would be fairly easy to calculate. Cost estimates for samplings that were missed can be obtained from any laboratory. In addition, labor costs for samplings missed can be added as an avoided cost. Not every violation will provide a substantial or even any economic benefit. It is appropriate at least to evaluate those violations that most likely had an economic gain. The other violations could then be explained as to why they did not result in economic benefit.

Kaiser Trentwood: From the case review, it appears that the facility failed to take into account the actual PCB levels when performing the initial engineering study for the wastewater treatment plant. It appears that the plant was not designed correctly and that the facility was not running the plant as it was designed (i.e., failing to monitor the actual flow through the plant, which caused an unknown amount of PCBs to be discharged). The economic benefit calculation would include the cost of performing the required sampling to ensure the original design performed correctly, and the cost of an adequate flow measurer. In addition, with the knowledge that the current treatment plant cannot treat the PCBs to the required level, then the cost of developing and constructing the appropriate treatment plant would be the economic benefit.

Findings for Metric 7

EPA believes that in at least two penalty cases reviewed, economic benefit may have accrued but economic benefit was not analyzed. While Ecology uses a factor rating to determine economic benefit, we believe that this is an inadequate means of estimating economic benefit and may greatly underestimate the amount. Economic benefit should be calculated (i.e., an actual value rather than a factor) in each case.

Recommendations for Metric 7

Ecology recommendation for all three reviewed programs:

EPA is recommending Ecology (1) either affirm it has a definitive policy statement that economic benefit should be recovered in civil penalties as a matter of routine practice or develop such a policy statement, (2) conduct internal evaluations to identify what contributes to the successful approaches

to economic benefit, identify impediments where it isn't successful, and develop an action plan to share with EPA. One action we ask be included in an action plan is submitting economic benefit evaluations for specific types of cases (e.g., SNC, HPV) to EPA for a specified period of time (e.g., one year). EPA enforcement staff are willing to engage in cross-program and/or media-specific discussions or training to help identify ways to overcome the identified barriers (e.g., share experience about what kind of information can be gathered and ways to obtain the information to support economic benefit determinations).

SRF milestone(s): Ecology and EPA Region 10 discuss the above recommendations for economic benefit (June 2008) and agree upon next steps (e.g., evaluation, information sharing, etc.) including a timeline for action.

Citation of Information Reviewed

Region 10 reviewed 16 formal enforcement files (from 16 facilities) in all of the State's regional and multi-media offices.

8. The degree to which final enforcement actions (settlements or judicial results) collect appropriate (i.e., litigation risk, ability to pay, SEPs, injunctive relief) economic benefit and gravity portions of a penalty. {Note to reader: Region 10 recognizes this 8c of this element and Element 7 above relate to similar information – degree to which initial and final penalties conform to expectations, and degree to which files adequately document penalty decision-making.}

Discussion and Analysis

8a. No activity indicator - penalties (NA)

This indicator is not applicable to Ecology as they assessed \$481,543 in final (closed) penalties in FY05. These cases were not necessarily issued in FY05, but closed in FY05.

8.b. Penalties normally included with formal enforcement actions: percent of formal enforcement actions that carry any penalty (100%)

Enforcement data was available through Washington's WPLCS database. According to Ecology anything other than warning letters or verbal notifications are formal enforcement actions. Therefore, out of the 33 formal enforcement actions (from 28 different facilities), five had penalty actions. However, in this instance only the penalty actions normally carry a penalty, so we only assessed the five.

8c. Percentage of final enforcement actions that appropriately document penalties to be collected (0%)

This data metric can be misleading since not all final enforcement actions include penalties. In this instance EPA looked at those facilities that had penalty actions.

This metric requires all enforcement actions to have appropriate economic benefit, gravity, as well as documentation explaining why a penalty amount was reduced upon settlement. None of the files contained appropriate economic benefit calculation. Refer to 7a for EB analysis. In one case (Kaiser Trentwood) the penalty amount was reduced from \$40,000 to \$10,000 (with \$30,000 in a supplemental environmental project). There was neither a sufficient amount of documentation as to why the penalty amount dropped so significantly nor was there documentation into the appropriateness of the SEP.

8d. Percentage of final enforcement actions resulting in penalties collected (80%)

Of the five penalty actions, four had documentation showing that a penalty was collected. Lewis County Sewer District #2 (WA0024546) did not have documentation showing a penalty was collected.

Findings for Metric 8

All five penalty enforcement actions contained documentation of the penalty to be collected. This information is also available through Ecology's enforcement database which follows all formal enforcement actions from issuance to finalization.

Recommendations for Metric 8

See Metric 7.

SRF milestone(s):

See Metric 7.

Citation of Information Reviewed

Region 10 reviewed 16 formal enforcement files (from 16 facilities) in all of the State's regional and multi-media offices.

9. Degree to which enforcement commitments in the PPA/PPG/categorical grants (written agreements to deliver a product/project at a specified time) are met, and if any products or projects are completed.

Discussion and Analysis

9a. State agreements (the PPA and PPG work plan in Washington) contain enforcement and compliance commitments that are met. (Met)

It appears that the only measure not met was the requirement to inspect all majors at least annually. However, as stated in metric 1.d the CWA NPDES Inspection Frequency Guidance for the Core Program and Wet Weather Sources that is out for comment to the states allows for a 2:1 trade off of minor to major inspections. By using this guidance, Ecology has met their commitments.

Findings for Metric 9

Ecology was able to meet most of their 2006-2007 PPA commitments. Ecology and EPA need to work collaboratively to ensure that PPA commitments are met or appropriate PPA adjustments made

through semi-annual meetings that include both key program and enforcement staff.

Recommendations for Metric 9

None for Metric 9

Citation of Information Reviewed

Region 10 reviewed the PPA for 2004-2007

10. Degree to which the Minimum Data Requirements are timely.

Discussion and Analysis

10a. Regions should evaluate what is maintained in PCS by the State and ensure that all minimum data elements are properly tracked and entered according to accepted schedules (0%)

See discussion for Metric 4.

Findings and Recommendations for Metric 10.

See discussion for Metric 4

Citation of Information Reviewed

None.

11. Degree to which the minimum data requirements are accurate.

Discussion and Analysis

11a. Actions are linked to violations they address (0%)

See discussion for Metric 4.

11r. Accuracy of WENDB data elements (0%)

See discussion for Metric 4.

Findings and Recommendations for Metric 11.

See discussion for Metric 4.

Citation of Information Reviewed

None.

12. Degree to which the minimum data requirements are complete, unless otherwise negotiated by the Region and State or prescribed by a national initiative.

Discussion and Analysis

12a. Active Facility Universe Counts Accurate for all NPDES permit types

There were 74 majors and 353 minor facilities within Washington in FY05. Wet weather facilities

(e.g., construction storm water, industrial storm water, CAFOs) were excluded from this review. Including federal and tribal facilities in which EPA has authority, the major and minor universe becomes 80 and 424, respectively.

12b. Majors permit limits and DMR entry complete.

See 4.b. above.

12c. Non-majors permit limits and DMR entry.

See 4.b. above.

12d. Inspection counts complete.

A total of 192 inspections (56 majors and 136 minors) were conducted at 192 different facilities in FY05. There were a total of 565 inspections that include the major and minor inspections, repeat inspections, compliance assistance, technical assistance visits, and operator outreach inspections.

12e. Percent of violations linked to activity that identified the violation

A. This metric has not been developed.

12f. Notice of Violation Counts Complete

Washington issued 17 Notices of Noncompliance to 17 different facilities.

12g. Quality of violation data at non-major facilities (that regularly submit DMRs)

See 4.b. above.

12h. Formal Action Counts Complete

PCS does not have this information. However, according to WPLCS, formal enforcement actions were sent to 28 facilities in FY05.

12i. Assessed Penalties Complete *** (Data are not currently required from states)

There were 5 penalty actions in FY05 (not including wet weather sources). The total penalty amount (including all sources) from WPLCS was \$481,453.

12j. Facilities with compliance schedule violations.

Ecology does not track this information.

12k. Facilities with permit schedule violations.

Ecology does not track this information.

Findings for Metric 12

In August 2004, EPA stopped entering Washington data into PCS. Ecology began uploading data from its WPLCS into PCS on January 6, 2006. This upload included historical data. However, several problems developed after the linkup, and both EPA and Ecology are currently working on this issue. In addition, Ecology does not enter the following data into PCS: 1) Inspections; 2)

Inspection Audits; 3) Compliance Schedules, which means that Washington will not have any CS violations; 4) Enforcement Actions; 5) Single Event Violations; and 6) Pretreatment Performance Summary. Due to this lack of data and the problems with the link up between WPLCS and PCS, SNC is not calculated.

Ecology staff have indicated they would rather focus on ensuring WPLCS has a complete, accurate and direct linkup to ICIS-NPDES, than to spend resources to correct the linkup to PCS. Currently WPLCS needs to link to PCS then upload to ICIS-NPDES. It is important to note that PCS does not currently have a regular upload to ICIS-NPDES.

Recommendations for Metric 12

See Metric 4.

Review was based on data pulled by Ecology's WPLCS data from Fiscal Year 2005, starting October 1, 2004.

13. Degree to which additional compliance programs and activities improve compliance.

Ecology did not prepare an Element 13 evaluation for this review.

CLEAN AIR ACT PROGRAM REVIEW

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A. BACKGROUND INFORMATION

Scope of Review

The review was designed to address requirements of the State Review Framework and to gather additional information regarding how the Compliance Monitoring Strategy (CMS) is carried out in the State of Washington. The six major sources located in Indian Country subject to EPA's jurisdiction under Part 71 were not reviewed.

Structure

State of Washington CAA stationary source compliance program is implemented by seven local agencies and the Department of Ecology. Ecology's program is carried out through three (3) program offices in four (4) geographic locations (Nuclear Waste Program in Richland, Industrial Section of the Solid Waste and Financial Assistance Program Office in Olympia, and the Office of Air Quality through its Eastern Regional Office in Spokane and its Central Regional Office in Yakima. The four (4) largest local agencies comprise 62% of the universe of major sources (PSCAA @ 28%, NWCAA @ 12%, SWCAA @ 11% and ORCAA @ 11%). Ecology offices together account for 23% of the major sources in the State (ranging from 10% in Industrial to less than 1% - Nuclear Waste).

Authorities

The Washington program operates under federal and state laws and State Implementation Plan (SIP) approved by the EPA and the Washington Legislature. The local agencies were authorized by the 1968 Clean Air Washington Act. Most of the agencies have been in operation since shortly after the law was enacted. They are responsible for enforcing federal, state and local air pollution standards within their jurisdictions. Ecology does not exercise oversight authority over how the LAAs carry out their compliance assurance programs. Agencies adopt SIPs and obtain program approvals or delegation from EPA to implement federal programs.

Source Universe

From the OTIS pulls, statewide the universe was 130 major sources and 222 SM 80 sources. The relative size of universes for the Ecology offices and the seven local agencies is:

Organization	% of majors universe	# of majors universe	% of SM 80	# of SM80 sources
PSCAA	28%	36	56%	125
NWCAA	12%	16	5%	11
SWCAA	11%	15	11%	25
ORCAA	11%	14	5%	11
Ecology – Industrial	10%	13	0%	0
Ecology – Eastern RO	9%	11	8%	17
SRCAA	9%	11	12%	26
YRCAA	5%	6	< 1%	0
Ecology – Central RO	4%	5	3%	6
BCAA	1%	2	< 1.0%	1
Ecology – Nuclear	-- (< 1.0%)	1	0%	1
	100%		100 %	

Corrections

There were no major corrections to the national data system undertaken by the agencies that significantly (i.e., 5%) changed any Framework metrics after the timeframe specific by national policy or guidance.

B. REVIEW PROCESS

Key Dates

The Washington Review was based on data pulled for Federal Fiscal Year 2005, starting October 1, 2004. The data was pulled from the national database in January 2007.

The Deputy Regional Administrator sent a letter to the Ecology Director in November 2005. A management level kick-off meeting was held November 2006. The data pull for the metrics was shared with state/LAA counterparts in February 2007. The file selection protocol and proposed list of files to be reviewed was communicated to the State and LAA contacts in May 2007, at least two

weeks prior to the scheduled on-site visits.

Region 10's CAA team conducted file reviews at two Ecology and five LAA offices between May 22 and June 7, 2007. On August 21, 2007, Region 10 informally shared preliminary file and data findings with SRF contacts for the 11 jurisdictions (four Ecology and seven LAA) to provide early indication of the findings and to provide opportunity for the State to identify incorrect information or provide clarifying information.

Review Process

The file review team of John Keenan and Katie Watt, accompanied by CAA SRF team lead Betty Wiese conducted file reviews at PSCAA (Seattle) on May 22-23, 2007. John Keenan and Katie Watt reviewed files at NWCAA (Mt. Vernon) on May 24 and ORCAA and IND (Olympia) on June 5. Katie Watt reviewed files at SWCAA (Vancouver) on May 30; John Keenan reviewed files at ERO and SCAPCA (Spokane) on June 6-7.

To supplement our knowledge of program operations and procedures across the State, we held overview discussions with most of the agencies, including offices not visited. Discussion questions focused on processes and procedures related to key components of the compliance monitoring program (e.g., FCE documentation, source testing program, and T5 certifications), violation determination and enforcement decision-making and data management. We did not attempt to specifically quantify the level of resource investment nor training avenues or needs. It should be noted that the agencies have responsibility for compliance programs beyond the stationary source/CMS program (e.g., minor sources, open burning, asbestos demolition, etc).

C. FILE SELECTION PROCESS

Universe

Majors/SM 80 with FCE in FY 05	= 258
Sources with formal enforcement in FY 05 (metric 12h2)	= 33
Informal enforcement actions in FY 05	= 97
TOTAL Activity	388

Selection

Framework range of files to select for review = 20-35 (based on 300-700 activities)

The following factors affected the number of files and source selection: (1) representation within Ecology (four offices) and among seven local agencies, (2) relative size of universe/level of activity, (3) efficient use of EPA travel monies for on-site visits, (4) degree of knowledge R10 has about the jurisdiction (e.g., HPV calls, 2003 review, case-specific interactions, familiarity with facilities through national priority work), (5) data metrics are largely above average and (6) R10's review of this program was completed in September 2003.

The following categories of work were used to select files: (1) CAA majors w/ FCE in FY 05, (2) SM 80 w/ FCE w/ in FY 05, (3) Formal enforcement action in FY 05 and (4) Informal enforcement (NOV) in FY 05

We selected about one-half of files based on evaluation activity and one-half based on enforcement activity. We determined the proportionate share of universe/activity for the 11 organizations. Once the number of files/organization and categories of work were determined, facility names were picked at random from the FY 05 activities reported for that organization.

Thirty-one files were selected for review; 14 have informal and/or formal enforcement activity (13 majors, 1 SM). Some sources have FY 05 activity in more than 1 metric area (e.g., FCE and NOV or formal enforcement and NOV). More than one activity in the FY doesn't necessarily mean the activities are related. Each file reviewed included consideration of violation classification determinations (i.e., HPV or not) as part of the evaluation metric area #4 (concerning HPV determinations). Files were selected for review in seven locations (those offices with at least 9% of the major's universe). No files were selected for review in the four smallest offices: YRCAA, Ecology-CRO, BCAA or Ecology-Nuclear.

File Maintenance

Files in the local agencies were for the most part well organized and complete. In the Ecology offices, the review team struggled with being able to locate the relevant documents. It did not appear that related types of materials were filed together; materials seemed to have been largely placed in "general correspondence" files even though they related to a subject area (e.g., inspection).

It appears documents are largely filed in a chronological manner by facility. In one of the Ecology offices, staff was available to help locate materials to assist the reviewer team, but was not available in the other office visited.

D. ELEMENT BY ELEMENT FINDINGS, RECOMMENDATIONS

1. Degree to which state program has completed the universe of planned inspections/compliance evaluations (addressing core requirements and federal, state, and regional priorities.)

1a1. CAA majors full compliance evaluation coverage in last two fiscal years 94%

Taking into account the six major facilities EPA is responsible for (Part 71 sources in Indian Country); the Washington agencies exceeded the national average of 80% and approached the desired goal of 100%. The difference between 94% and 100% is nine sources, three of which were reported as unknown compliance status in metric 1G which indicates required FCE was not completed.

1a2. CMS majors full compliance evaluation coverage in last two fiscal years 94%

This metric differs from 1a1 by using CMS majors rather the number of CAA majors. Taking into

account the six major facilities EPA is responsible for (Part 71 sources in Indian Country); the Washington agencies exceeded the national average of 80% and approached the desired goal of 100%. The difference between 94% and 100% is nine sources, three of which were reported as unknown compliance status in metric 1G which indicates required FCE was not completed.

1b. SM 80 sources full compliance evaluation coverage in 4 fiscal years 97%

The Washington agencies exceeded the 80% goal and the 77% national average by conducting FCEs at 189 of the 194 flagged SM 80 sources resulting in a 97% coverage rate. The location of the five SM80s without FCEs is in the following jurisdictions: PSCAA (1); NWCAA (1); and Ecology's Eastern Regional Office (3).

1c1. SM sources with Full or Partial Compliance Evaluation 92%

Informational measure. No specified evaluation frequency for those synthetic minors that are less than 80% of thresholds

1c2. SM sources with Full or Partial Compliance Evaluation 98%

Informational measure. No specified evaluation frequency for those synthetic minors that are less than 80% of thresholds

1d. Minor source compliance evaluation coverage (FCE or PCE) 38%

Informational measure. No specified evaluation frequency for minor sources

1e. Stationary Source Investigations 3

Informational measure. No specified expectations for states/locals to perform investigations. Three were reported by PSCAA agency

1f. Title V self-certifications reviewed 87%

The Washington agencies exceeded the national average of 79%, but fell short of the program goal of 100% by reviewing during FY 05 compliance certifications at 104 of the 120 major facilities where a compliance certification was due or received during FY 05. Two of those not reviewed were at EPA lead Part 71 sources which did not receive FCEs in the time period. SCAPCA identified 10 certifications received in FY 05 which were not reviewed and reported to AFS until the first few months of FY 06. SWCAA identified one certification received and reviewed but incorrectly reported as such in AFS. PSCAA identified a late certification that was received and reviewed early in FY 06. ORCAA received a certification in FY 05, but it was not reviewed (and entered in AFS) until early FY 06. One unreviewed certification was from BCAA.

1g. Sources with unknown compliance status

Two (2) major sources that should have received a full compliance evaluation in the two-year FY 04-FY05 timeframe did not (~ 2% of the Washington universe of major sources) these sources are Agrium-BCAA, NW Pipeline-BCAA. While this metric also showed that Guy Bennett Lumber-ERO was in unknown compliance status, an FCE for that facility was completed on September 30, 2004 and entered into AFS on November 4, 2004, and was captured as unknown in ECHO for one

quarter.

1h. Percentage of planned/negotiated FCE/PCE completed

No alternative FCE/PCE schedules to those reflected in the data metrics above were negotiated.

Findings

With the exception of one agency, the Washington agencies are substantially meeting the CMS frequencies. BCAA is the smallest of the agencies, responsible for two major sources in a largely rural area; the agency was faced with substantial staff turnover during the period of the review. They have recently hired new staff with responsibility to focus on stationary source compliance and enforcement.

Recommendations and SRF Milestone(s)

In general, the Region recommends that Title V self-certifications be reviewed in a timely manner in order to complete and accurately report an FCE. BCAA should submit to EPA Region 10 by July 1, 2008, its plan for ensuring coverage of the minimum CMS compliance monitoring work.

Citation of Information Reviewed

SRF metrics pull for FY 05 and comments, corrections from the agencies

2. Degree to which inspection reports and compliance reviews document inspection findings, including accurate description of what was observed to sufficiently identify violations. (File Review)

Discussion and Analysis

The May 2003 Washington Compliance Assurance Agreement summarizes the CMS requirements for FCEs. On-site visits are to include review of records and log books, observations of facility in operation, and evaluation of compliance with permit conditions. FCE includes records maintained by the agency and by the facility that include CEM reports, malfunction reports, excess emission reports, deviation reports, etc. Compliance evaluation reports should address the following basic elements: (1) facility info (e.g., location, mailing address, contact), (2) general information (e.g., date, type of evaluation, person preparing the report), (3) inventory and description of regulated emission units and processes, (4) information on previous compliance evaluations, (5) compliance monitoring activities – processes and units evaluated, applicable requirements evaluated, action taken by facility to return to compliance during the inspection, etc., and (6) findings and recommendations relayed to facility. Relevant documents can be attached.

The agencies have varied practices with respect to how on-site compliance evaluations are

documented visa-vi how completion of all elements required for the FCE is documented. Because of the variability, the review team attempted to capture information about the quality of on-site compliance evaluation reports, whether the agencies are conducting full compliance evaluations and how completed FCEs are documented. For example, at PSCAA, the files reviewed for FCEs were the on-site inspection reports. The agency has a database to track receipt and review of the other submittals that complement the on-site report to fulfill the requirements for an FCE.

Out of 25 files reviewed for FCE purposes, the review team found 12 files considered complete for on-site inspection and FCE documentation purposes. SCAPCA and SWCAA FCE files and the Lianga Pacific file (PSCAA) were especially well-documented; the three ERO FCEs files were also complete. The degree of completeness in the remaining files (ORCA, IND, NWCAA, and PSCAA) varied – with many of them substantially complete. Examples of items considered missing from reports include: no (or limited) description or reference to applicable requirements (e.g., Olympia Panel-ORCAA), no description of compliance monitoring activities (e.g., Maax-NWCAA), little narrative about applicable requirements or what was reviewed (e.g., Contour-PSCAA), applicable items apparently not reviewed (e.g., semi-annual reports, excess emissions) and time period reviewed not correspond to CMS period (Alcoa-IND). For the most part, the reports noted as “not reviewed” above were reviewed, but not documented in the FCE write-up. Therefore, the underlying issue is not lack of FCE completion but documentation of that completion. The industrial section uses a spreadsheet to record and track compliance obligations, activities and results.

In addition to file reviews, we discussed FCE documentation practices with three additional jurisdictions, including NUC for Hanford facility mega-site. NUC provided examples of tracking sheets and unit-specific inspections. CRO provided an example of a completed FCE, and YRCAA provided a copy of the template for its FCEs.

Source Testing Programs (based on discussions with nine agencies). Agencies in Washington do not conduct source tests, but have active source test review, observation and results review programs. Agencies typically review test plans and most try to observe 50-80% of source tests conducted. SCAPCA is adopting a rule regarding notification, test starting and stopping, using EPA Stack Test Guidance. SWCAA requires more frequent testing than the minimums (e.g., 3-5 year cycles in permits). PSCAA sometimes requires testing in addition to that required by EPA (e.g., coffee roasters).

T5 compliance certification review programs (based on discussions with nine agencies). In the majority of jurisdictions, facilities are using the so-called “long form” as encouraged by the respective agencies. The agencies have systems (some manual, some automated) to track receipt and review of certifications. Some agencies prepare a letter to the facility summarizing the results of their review.

Findings

Based on the files reviewed and discussions with staff, the agencies have systems in place and are generally evaluating compliance with applicable requirements (on-site observations, reviews of CEM data, source test results, deviation reports, certifications). However, the files do not consistently contain a single document that concisely describes the scope and findings of each FCE. For example, PSCAA is doing on-site as well as off-site tracking compliance obligations, finding violations and taking actions. Yet their file documentation of FCEs is not as thorough as some other agencies. Agencies reviewed have active source test review and observations' programs and are also actively managing and tracking receipt and review of T5 compliance certifications. Even though several Washington state agencies complete FCEs annually rather than biannually, the quality of the FCEs is consistently excellent.

Recommendations and SRF Milestone(s):

ORCAA, IND, NWCAA, PSCAA, BCAA should review examples of FCE documentation from other agencies (e.g., SCAPCA, SWCAA, CRO) in light of CMS (and the Compliance Assurance Agreement) and evaluate opportunities to improve their FCE documentation. Agencies are asked to inform EPA of results of their evaluations by July 1, 2008. Agencies should notify inspectors of the need to address identified improvements. At a minimum, PSCAA is encouraged to include a copy of the off-site tracking report in the file to supplement the on-site inspection report. If on-site compliance evaluation reports do not discuss all elements required to document an FCE, the reports should, at a minimum, reference where else in the files such information can be obtained.

Citation of Information Reviewed

EPA's 2001 Compliance Monitoring Strategy, SRF file review guidelines, 2003 Washington Compliance Assurance Agreement, agency files.

3. Degree to which inspection reports are completed in a timely manner, including timely identification of violations.

File Review

Discussion and Analysis

A. Percentage of Compliance Monitoring Reports Which Identify Potential Violations in the File Within a Given Time Frame Established by the Region and State, Within 60 days 92%

Region 10 and the Agencies do not have a specific agreement regarding timeframe for completion of CMR reports. Therefore, we used the default timeframe from SRF of 60 days (from evaluation to completion of report).

Of 25 files reviewed, 23 reports were completed within 60 days. We had questions about two files: Seattle Steam -- on-site inspection was done March 15, 2005, but the report was undated. In the Avista (ERO) file, the on-site inspection was conducted January 6, 2005, but the FCE report was

prepared September 30, 2005, to capture all compliance activities for the year (this FCE was reported as off-site FCE). In this case, the inspection counted as an on-site PCE (and written up timely) followed by an FCE completed at the end of the review cycle. Since the FCE was completed at a time other than the on-site inspection, it was reported as an off-site FCE>

We found some instances where the reports were timely, but may not have accurately captured all the violations. The Olympia Panel Products (ORCAA) file identified a number of deficiencies with one item called a violation without discussion of why the others were not violations. The Mutual Materials FCE (PSCAA) did not discuss a missed requirement (to apply for permit renewal) as a potential violation. In the Alcoa file (IND), there is correspondence relating to a major shutdown event that was not assessed (for excess emissions or permit violation) as part of the FCE.

Findings:

R10 does not have concerns about the timeliness of compliance monitoring report preparation in Washington. Agencies are encouraged to review the notes above regarding three files where violations may have been overlooked to determine if any changes in internal guidelines or procedures are noted.

Recommendations:

None for Metric 3

Citation of Information Reviewed

SRF file metrics guidelines and agency files.

4. Degree to which significant violations (e.g., High Priority Violations) and supporting information are accurately identified and reported to EPA national databases in a timely and accurate manner.

Discussion and Analysis

4a. HPV discovery rate at major sources (function of FCE coverage at major sources) _____ 9%

In Washington state nine sources were identified with at least one HPV out of the 99 major facilities that received an FCE in FY 05. This is 85% of the national average of 10.50%, well above the 50% threshold for Framework’s level of concerns. It should be noted these nine sources were reported by two of the 11 organizations (PSCAA with 6 and NWCAA with 2). One aspect of the file reviews was to look at the information in light of violation determination and classifications made by the respective agencies. As noted below, an additional HPV was identified by Ecology-ERO to EPA, but EPA apparently didn’t flag it as such in AFS (Guy Bennett Lumber NOV # 1810-ERO).

4b. HPV discovery rate at major sources (function of major source universe) _____ 5.6%

In Washington state nine sources were identified with at least 1 HPV out of a universe of 160 major sources. This is 5.6% which just exceeds the national average of 5%. It should be noted these nine sources were reported by two of the 11 organizations (PSCAA with 6 and NWCAA with 2). One

aspect of the file reviews was to look at the information in light of violation determination and classifications made by the respective agencies. As noted above, an additional HPV was identified by Ecology-ERO to EPA, but EPA apparently didn't flag it as such in AFS (Guy Bennett Lumber NOV # 1810-ERO). It should be noted that 14 of the 25 violations are associated with two sources in PSCAA which are the subject of on-going national case negotiations. The remaining 11 HPVs were by three organizations (PSCAA with 5 additional, NWCAA with 5 and Ecology-CRO with 1).

4c. No activity indicator - new HPV designations NA

The "no activity indicator" is generally not applicable to Washington for 2005, since state-wide 25 HPVs (day zero) were identified in 2005 (these HPVs include those at major as well as non-major facilities). The purpose of this measure is to identify states where no HPV activity is identified within the year. It should be noted that 14 of the 25 violations are associated with two sources in PSCAA which are the subject of on-going national case negotiations. The remaining 11 HPVs were by three organizations (PSCAA with five additional, NWCAA with five and Ecology-CRO with one). However, given that there were a number of agencies with no HPV activity in the review year, we will discuss the organizations that did not report HPVs during FY 05: Ecology-Industrial, Ecology-Nuclear, ORCAA, SWCAA, SCAPCA, BCAA, and YRCAA. One aspect of the file reviews was to look at the information in light of violation determination and classifications made by the respective agencies. Although these agencies did not find any HPVs in the relevant review period, these agencies had previously-found HPVs and with only a few exceptions, we feel that the lack of HPVs is a function of no HPV activities rather than none discovered or properly classified. We discuss below a few instances where we believe HPVs were not properly classified.

4d. HPV reporting indicator (enforcement actions at sources with HPV designation) 61%

In Washington, 14 of the 29 formal enforcement actions in 2005 were for designated HPVs (61%); this is 77% of the national average of 79%, well above the 50% threshold for Framework's level of concerns. On the other hand, the measure shows about 40% of the formal enforcement actions taken in FY 05 were not associated with HPVs. One aspect of the file reviews was to look at the information in light of violation determination and classifications made by the respective agencies. It should be noted that this metric is not intended to discourage agencies from taking or reporting formal enforcement actions at non-HPV violations since state and local agencies have enforcement interests at additional sources beyond those in HPV.

4e. Percentage of HPV determinations identified in timely manner

(File Review)

Not assessed from file review. The Washington agencies and Region 10 have a process for written communication or individual calls to Region 10 upon discovering an HPV (or a potential HPV). For example, SWCAA has a form they fill out which discusses why the violation is an HPV. They send this document to Region 10, which provides notice and allows EPA to comment if there are any issues. This communication process is timely with respect to the HPV discovery. In addition, there are bi-monthly HPV communications through which new or potential new HPVs are identified to EPA and discussed, as well as status of actions on existing HPVs. Degree of active participation by

the agencies in the periodic HPV calls varies since agencies with no current HPVs may not have much to gain from the discussion.

With two exceptions, EPA Region 10 does the HPV-related reporting to AFS for the agencies (i.e., entry of day zero, date addressed, date resolved, etc., based on input from the agencies). The fact that EPA does this reporting is an artifact of the fact that we have been doing AFS reporting for people historically and it is working. This also had the added benefit of allowing EPA an opportunity to ensure it was an HPV before it got entered in to the system as opposed to having to correct it later.

4f. Percentage of HPV determinations accurately identified 60% (6 out of 10)
(File Review)

Six (6) facilities were identified by the agencies as having one or more HPVs (King County-PSCAA, Lianga Pacific-PSCAA, Mutual Materials-PSCAA, Shell-NWCAA, Noveon-SWCAA and Guy Bennett Lumber-ERO -- NOV #1810). EPA identified violations at some facilities that we believe should have been reported as HPV and at others where an evaluation with respect to HPV was warranted.

EPA believes the following violations at facilities should have been reported as HPVs, but were not:

- (1) Avista (ERO)
- (2) Port Townsend Paper (PTP) (IND) (NOV 1952- Smelt Tank)
- (3) Guy Bennett Lumber (ERO) (NOV # 2163).

The Avista violation regarded a failed NO_x test which should have been classified as an HPV. There was no NOV or civil penalty associated with this violation. Staff on site verified that they did assess it but never did send the NOV and penalty.

The Port Townsend Paper violation was regarding a failed stack test. The Industrial Section subsequently informed us that their current practice is to identify failed stack tests as HPV, even though the facilities often repeat and pass the test shortly after the initial failure. Although this one was missed, it appears the proper changes have already been implemented to catch these types of HPVs in the future.

The Guy Bennett Lumber violation was for repeated reporting failures. Further records reviews showed that this HPV was written up and sent to EPA but never reported by Region 10 into AFS. In this case, the problem was not with HPV identification but the way the HPVs are entered into AFS (more discussion on this later).

EPA believes the following violations at facilities warranted an evaluation with respect to HPV as information in the file suggests the violations might have been HPVs:

- (1) PTP (IND) – NOV 1952 Lime Kiln and NOV 1653 NCG
- (2) Olympic Panel Products (ORCAA)

File information about the Port Townsend Paper NOV 1952 Lime Kiln was confusing. It appears the issued NOV only discusses the violation of the O&M requirement rather than the underlying opacity requirement violation. We believe that the underlying violation should have, at a minimum, been considered for HPV status. NOV 1653 for the NCG could have risen to the level of an HPV if the violated condition was associated with a MACT requirement. Documentation in the file to confirm whether or not in this case it is MACT-related and, therefore, an HPV would have been helpful.

For the Olympic Panel file (ORCAA), the violations appear to rise to HPV level and should have been evaluated for HPV, but we found no documentation that such an evaluation had been made. ORCAA subsequently informed us that their standard practice is to conduct an HPV analysis for every NOV issued at a major facility and acknowledged this file did not contain the HPV worksheet.

We found an issue at one facility that we believe warrants a broader policy discussion among the agencies and EPA about whether certain MACT work practice violations rise to HPV (Puget Sound Naval Shipyard-PSCAA). In this case the relevant work practice standard related to putting lids on paint cans when they were not being used. It is unclear if this qualifies as a MACT violation that could have resulted in emissions and therefore falls under HPV Criteria 2.

Findings:

HPV violations are not being appropriately identified and reported by all agencies.

Recommendations *and potential SRF milestone(s):*

Ecology should determine why HPVs are not being identified and reported and inform EPA of the results of that determination by July 1, 2008. Ecology is encouraged to look at what is working well in CRO to identify possible good practices to incorporate.

By July 1, 2008, ORCAA should review their practices in light of the specific situations identified during the review and discuss with EPA R10 the factors that went into not flagging those violations as HPV.

Agencies who did not report HPVs in this review cycle should review their procedures and consult with EPA (if necessary) on whether their procedures are sufficient to identify HPVs appropriately and to document that decision. If the determination is that the procedures are not sufficient, the agency will develop a plan to correct these procedures by July 1, 2008.

EPA will provide HPV training on an as-needed basis to all Agencies in Washington. The training will include not only how to make the determination, but also the proper documentation.

Citation of Information Reviewed

December 22, 1998 Policy on Timely and Appropriate Enforcement Response to High Priority Violators, SRF file review guidelines, SRF data pulls, Washington Compliance Assurance Agreement and agency files.

5. The degree to which state enforcement actions include required corrective or complying actions (injunctive relief) that will return facilities to compliance in a specific time frame

Note: Not all formal actions require a schedule of required actions as the violation may have already been corrected.

(File Review)

Discussion and Analysis

We reviewed 16 formal enforcement actions (at 14 facilities) (BP and Shell had multiple actions); all were civil penalty actions. Two also included an Assurance of Discontinuance and Consent Agreement (one to address an FY 04 HPV (King County WWT-PSCAA); the other was for Nordic Tug-NWCAA.

The typical enforcement process among the agencies is to initiate action with a notice of violation which puts the violator on notice and identifies the corrective action needed to return to compliance. Among the files reviewed, most violations did not require substantive injunctive relief and were corrected before the penalty action was issued (e.g., failure to submit T5 application). The files identified various methods to determine return to compliance, including letters from the facility and on-site inspections.

Findings:

Violations identified are corrected, often through informal enforcement, followed by penalty actions. The penalty-only actions were appropriate.

Recommendations:

None for Metric 5

Citation of Information Reviewed

December 22, 1998 Policy on Timely and Appropriate Enforcement Response to High Priority Violators, SRF file review guidelines, SRF data pulls, Washington Compliance Assurance Agreement and agency files.

6. Degree to which a state takes timely and appropriate enforcement actions in accordance with policy relating to specific media.

Discussion and Analysis

6a. % of HPVs unaddressed for greater than 270 days 39%

Of 18 HPV sources that had not been addressed by the end of FFY 05, seven were “untimely” – meaning unaddressed (i.e., no formal enforcement action) for greater than 270 days. This is 39%, which is better performance than the national average of 56%. Three (3) of these seven are associated with cases that involve EPA (e.g., as national cases). Of the remaining four that were unaddressed at the end of FFY 05 (but most likely addressed after FFY 05, one reviewed as part of the SRF was King County WWT (PSCAA) (which has been addressed). The other three were: Dynea (PSCAA), Rainier Richlight (PSCAA) and PUD #1 Klickitat County (Ecology – CRO). This latter matter was a complex situation in which Ecology was consulting with EPA and had agreement that the resolution would extend beyond the standard timeframe. The two from Puget Sound were complicated, and we do not believe there is a problem with PSCAA with regard to addressing HPVs in a timely manner. Up through the present, PSCAA takes many enforcement actions and most, if not all, are completed in a timely manner.

6b. Percentage of day zero’s unaddressed for greater than 270 day 43%

Of 49 HPV (day zero), 21 were unaddressed (i.e., no formal enforcement action) for greater than 270 days. This is 43%, which is better performance than the national average of 65%. It should be noted there are many day zeros associated with two sources in PSCAA which are part of EPA national case negotiations.

6c. No activity indicator - formal actions NA

This indicator is not applicable since 57 formal enforcement actions (at 33 sources) were taken in FY 05. The purpose of this metric is to identify states where no formal enforcement activity occurred during the year. However, the following agencies individually did not have any enforcement actions in the review period: YRCAA, BCAA, Ecology-SRO, Ecology-NUC, Ecology-NRC, and Ecology-ERO. These are the smallest agencies, and the lack of enforcement actions is likely due to the small number of sources that could be in violation. We have no information currently indicating a problem with identifying violations at these agencies.

6d. Percentage of HPVs addressed or resolved appropriately 60% (6 out of 10)

File Review

In the files reviewed, six HPV had been identified and reported to EPA in Washington State. Five (5) were appropriately addressed by formal enforcement action. (These five are: King County-PSCAA, Lianga Pacific-PSCAA, Mutual Materials-PSCAA, Shell Oil-NWCAA and Noveon-SWCAA). The sixth HPV (Guy Bennett Lumber-ERO NOV # 1810) (reported to EPA, but not flagged as such in AFS) was not subject to a formal enforcement action.

Where EPA identified violations we believe should have been identified as HPVs, one was subject

to a penalty action (BP-NWCAA enforcement action # 3451). In the ORCAA matter (Olympic Panel) where EPA believes there should have been an analysis done regarding HPV, the agency did take a formal action. While a penalty action was issued to the Port Townsend Paper (IND) facility, it was difficult to tell from the file whether the violations of concern with respect to HPV were addressed with a penalty action. The other two un-reported HPVs were not addressed with formal enforcement (Avista-ERO and Guy Bennett Lumber-ERO NOV # 2163).

Findings:

While HPVs reviewed in most agencies were addressed with formal enforcement, not all offices are appropriately addressing HPVs. Generally, it seems that many actions in most jurisdictions are penalty only, whereas some cases could have benefited from corrective action in addition to penalty.

Recommendation

Ecology should determine why HPVs are not being addressed with formal enforcement, and inform EPA of results of determination by July 1, 2008. Ecology is encouraged to look at what is working well in CRO (as well as local agencies) to identify possible good practices to incorporate.

In addition, EPA encourages the remaining agencies to review their enforcement process for whether in addition to penalty, requiring other actions may be appropriate to ensure future compliance, such as increased monitoring frequency, extra reports, or even O&M plan creation. These should especially be considered in examples of repeat violations.

Potential SRF Milestone(s):

Citation of Information Reviewed

December 22, 1998 Policy on Timely and Appropriate Enforcement Response to High Priority Violators, SRF file review guidelines, SRF data pulls, Washington Compliance Assurance Agreement and agency files.

7. Degree to which a state includes both gravity and economic benefit calculations for all penalties appropriately using the BEN model or a similar state model (where in use and consistent with national policy) {Note to reader: Region 10 recognizes this element and Element 8c below do relate to similar information – degree to which initial and final penalties conform to expectations, and degree to which files adequately document penalty decision-making}
(File Review)

Discussion and Analysis

Sixteen (16) penalty actions were included in the file review. Eleven (11) identified gravity and economic benefit considerations. Most of the actions did not actually result in identified economic benefit; the violations in most of the cases reviewed were not the type to have resulted in substantial benefit. There were five (5) actions where the review team had specific concerns as follows.

Liang Pacific-PSCAA:	No multi-day for what appears to be 12-month violation
Nordic Tugs-NWCAA:	No EB calculations performed; possible some EB accrued
BP (#3451)-NWCAA:	Points for gravity appear low based on NWCAA policy
Olympic Panel (ORCAA):	No multi-day for what appears to be multi-day violation
PTP-IND:	Unable to determine based on file review

In the Region 10 review of the Washington CAA compliance program, completed in 2003, we identified concerns about the lack of economic benefit consideration and lack of sufficient gravity penalties to create deterrence, often because multi-day penalties were not considered. As a result of that review, training was held for the Washington agencies on economic benefit, and several of the local agencies revised or adopted stationary source penalty policies to incorporate consideration of multi-penalties. In addition to information gained through these file reviews, we have been engaged in other case-specific discussions through which understanding was gained how agencies approach penalties (e.g., a complex CRO case which also involved substantial economic benefit and application of Muni-pay).

The Washington air program is commended for its commitment to recover economic benefit (May 2003 Compliance Assurance Agreement). General Civil penalty worksheets provide for discussion of economic benefit. It is a common practice to make an initial qualitative evaluation (“No”, “Possibly”, “Probably”, “Definitely”). If the qualitative evaluation is “Definitely”, the worksheets call for a calculation of economic benefit. In other worksheets (e.g., CEM penalty worksheets), the worksheet calls for calculation of the benefit if there was a benefit.

Findings:

While we have seen improvement in the Washington programs since our review in 2003, case specific concerns were identified as noted in the five (5) cases identified above. We also believe changes in practices should be implemented. Because economic benefit in penalties is being identified as a concern in the RCRA and CWA programs, some recommendations are directed to Ecology for agency-wide review.

Recommendations:

(1) For the five (5) specific case matters noted above, the respective agencies are asked to discuss the situations with EPA to address any outstanding questions or determine if additional guidance should be provided.

(2) General Practice and Policy Statements: For HPVs, we recommend the agencies not limit developing estimates of economic benefit to situations where the qualitative decision is yes, but to develop estimates unless documented in the file why economic benefit wouldn’t accrue (e.g., paperwork violations). Where not in place, agencies should make a definitive policy statement that economic benefit should be recovered in civil penalties as a matter of practice prior to July 1, 2008.

(3) Documentation: Agencies are asked to submit to EPA copies of the economic benefit evaluation for penalties associated with HPVs through the 2008 calendar year.

Ecology recommendation for all three reviewed programs

EPA is recommending Ecology (1) either affirm it has a definitive policy statement that economic benefit should be recovered in civil penalties as matter of routine practice or develop such a policy statement, (2) conduct internal evaluations to identify what contributes to the successful approaches to economic benefit, impediments where it isn't successful, and develop and implement action plan to share with EPA. One action we ask be included in an action plan is submitting economic benefit evaluations for specific types of cases (e.g., SNC, HPV) to EPA through the 2008 calendar year. EPA enforcement staff are willing to engage in cross-program and/or media specific discussions or training to help identify ways to overcome the identified barriers (for example, share experience about what kind of information can be gathered and ways to obtain the information to support economic benefit determinations).

SRF Milestones: Ecology and EPA Region 10 discuss the above recommendations for economic benefit (June 2008) and agree upon next steps (e.g., evaluation, information sharing, etc.) including a timeline for action.

Citation of Information Reviewed

December 22, 1998 Policy on Timely and Appropriate Enforcement Response to High Priority Violators, SRF file review guidelines, SRF data pulls, Washington Compliance Assurance Agreement, Ecology Compliance Manual (2003), local agency penalty matrixes/guidelines.

8. Degree to which penalties in final enforcement actions include economic benefit and gravity in accordance with applicable penalty policies {Note to reader: Region 10 recognizes this 8c of element and Element 7 above relate to similar information – degree to which initial and final penalties conform to expectations and degree to which files adequately document penalty decision-making}

A. No activity indicator – Actions with penalties FY 05 (NA)

The “no activity” review indicator is not applicable to Washington as the agencies took 53 penalty actions in FY 05.

B. Percent Actions at HPVs with penalty 100%

This is a review indicator. The agencies were above the national goal (80%) and national average (79%) by addressing all reported HPVs with a penalty action

C. Percent of final enforcement actions that appropriately document penalties to be collected

(File Review)

As noted in Metric 7, 16 penalty actions were included in the file review. Eleven (11) identified gravity and economic benefit considerations. Most of the actions did not actually result in identified economic benefit; the violations in most of the cases reviewed were not the type to have resulted in substantial benefit. There were five (5) actions where the review team had specific concerns as follows.

Lianga Pacific-PSCAA:	No multi-day for what appears to be 12-month violation
Nordic Tugs-NWCAA:	No EB calculations performed; possible some EB accrued
BP (#3451)-NWCAA:	Points for gravity appear low based on NWCAA policy
Olympic Panel (ORCAA):	No multi-day for what appears to be multi-day violation
PTP-IND:	Unable to determine based on file review

Documentation: Unless economic benefit was specifically calculated, the files most often did not identify the reason why no economic benefit accrued. Given the nature of violations in the files reviewed, the EPA review team agreed most likely substantive economic benefit did not accrue, even though the files did not document why. The following other types of file documentation issues were identified:

Ace Paving-PSCAA	No discussion to support conclusion no EB accrued
King County-PSCAA	EB calculations referenced, but not included in file
Lianga Pacific-PSCAA	No basis for final penalty reduction
PTP-IND	Multiple actions; matrix hard to decipher. Could not track what had occurred and why from the file.

D. Percentage of final enforcement actions resulting in penalties collected
(File Review)

In three files, there was no documentation found in file that penalties had been paid (Ace Paving-PSCAA, Noveon-SWCAA, Port Townsend Paper-IND). We generally saw documentation of penalties paid in most agency files. For example, PSCAA typically includes a copy of the penalty payment check in the file. In a NWCAA file, there was a copy of the letter from the respondent transmitting payment.

Findings:

While we have seen improvement in the Washington programs since our review in 2003, there are opportunities for improvement, as noted in the five (5) cases discussed. See also the Metric 7 discussion regarding economic benefit.

Recommendations:

For the four (4) specific matters noted above, we encourage the respective agencies to review the files and make appropriate changes in procedures to improve file documentation.

See also recommendations under Metric 7 – which also relate to file documentation.

Potential SRF Milestone(s)

See Metric 7

Citation of Information Reviewed

December 22, 1998 Policy on Timely and Appropriate Enforcement Response to High Priority Violators, SRF file review guidelines, SRF data pulls, Washington Compliance Assurance Agreement, Ecology Compliance Manual (2003), local agency penalty matrixes/guidelines.

9. Degree to which enforcement commitments in the PPA/PPG/categorical grants (written agreements to deliver a product/project at a specified time) are met and any products or projects are completed **Met**

The Air Program Annual PPA Review report for this PPA, dated October 2004, indicates compliance/enforcement outputs and activities were accomplished, including completion of the revised WA Compliance Assurance Agreement by July 2003.

Citation of Information Reviewed

The Air Program Annual PPA Review report dated October 2004

10. Degree to which the Minimum Data Requirements are timely

Discussion, Analysis and Findings:

10a. Integrity of HPV data (timely entry of day zero after HPV designation)

In Washington, the agencies report newly discovered HPVs to Region 10 who then enters the HPV flag and the day zero reported by the agencies. The Washington agencies achieved about 73% timely reporting which exceeds the national average of 56%. The HPVs that were not entered timely were those that were discovered by other agencies but entered by EPA (NWCAA, SWCAA, and Ecology-CRO). Currently Region 10 has an agreement to enter the HPV tags, so this timeliness is a shared issue.

As noted in Metric 4d, the Washington agencies and Region 10 have a process for monthly written communication and bi-monthly HPV conference calls through which new or potential new HPVs are identified to EPA, as well as status of actions on existing HPVs. At a minimum, agencies are to update the spreadsheet that is maintained by EPA prior to each call. With two exceptions, EPA Region 10 does the HPV-related reporting to AFS for the agencies (i.e., entry of day zero, date addressed, date resolved, etc., based on input from the agencies).

Recommendations:

While there are no specific recommendations for this metric, it would be appropriate for the Region and the agencies to revisit the current practices for reporting HPVs and move toward having the agencies take responsibility for reporting HPV information to AFS as they do other data elements. Region 10 proposes discussions with each agency regarding flagging the HPVs and what might be required to change this practice.

Citation of Information Reviewed

SRF data pulls

11. Degree to which Minimum Data Requirements are accurate

11a. Indicator of accurate violation/noncompliance data entry 83%

This metric compares number of major sources with HPV designation to those with reported non-compliance to determine if number of sources in HPV exceeds total number in non-compliance. The Washington agencies identified 19 major sources in HPV out of 23 major sources in non-compliance.

11b1. Stack test results reviewed without pass/fail entry 0

The Washington agencies fully met the national goal of having all stack test results reported with a pass or fail entry.

The Washington agencies demonstrate they are reporting stack test failures by reporting such failures at 39 sources.

11c Accuracy of data reporting (vis-à-vis file review information)

(File Review)

Findings

EPA found very few data discrepancies which have been identified to the respective agencies for correction in AFS. The agencies and Region 10 have focused substantial effort to ensure accurate data.

Recommendations:

None for Metric 11

Citation of Information Reviewed

Agency files and AFS facility reports

12. Degree to which minimum data requirements are complete

Discussion, Analysis, Findings:

For this metric, EPA Region 10 provided to the Washington Agencies on February 14, 2007, the

CAA data metrics for the Washington SRF. On February 28, 2007, the Region held a conference call with representatives to answer questions about data quality review. The agencies and EPA region have devoted considerable resources over the past few years to ensure accurate and complete AFS information with special emphasis on CMS data. The CAA metrics spreadsheet was updated (and posted to the SRF tracker) to reflect the comments and updates received by the agencies in March 2007. Overall, the agencies identified only a few discrepancies.

Recommendations

None for this Metric 12

Citation of Information Reviewed

SRF metrics pull for FY 05 and comments, corrections from the agencies

13. Degree to which additional compliance programs and activities improve compliance

An element 13 evaluation was not submitted for this review

Additional CMS information

Scope of review:

SRF metrics provide information on individual and collective agency performance; we did not attempt to evaluate the adequacy of agency resources to implement their T5 compliance assurance programs.

Additional information about local agencies:

For the local air agencies, we are providing the following web links should HQ SRF/CMS report reviewers want additional information about the agency structures and activities.

www.psclean.org

www.nwcleanair.org

www.swcaa.org

www.orcaa.org

www.spokaneclearair.org

www.yrcaa.org

www.bcaa.net