

**Massachusetts Department of Environmental
Protection (MassDEP)
Round 2 Report
for Federal Fiscal Year 2009**

Final – September 29, 2011

**U.S. EPA – Region 1 Review of Massachusetts Department of
Environmental Protection (MassDEP) - Federal Fiscal Year 2009**

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I. EXECUTIVE SUMMARY

NOTE - MassDEP does not have delegation of the Clean Water Act (CWA) NPDES Enforcement Program. MassDEP implements a state-authorized Water enforcement program. Region 1 did not review this program. Region 1 is responsible for the direct implementation of the Clean Water Act (CWA) NPDES Enforcement Program in Massachusetts. In May, 2010, EPA's Office of Enforcement and Compliance Assurance (OECA) conducted a review of Region 1's implementation of this program.

Major Issues

The SRF review of Massachusetts Department of Environmental Protection identified the following major issues:

Region 1 observed similar issues in how the CAA and RCRA programs calculate penalties and document penalty calculations. Region 1 coordinated recommendations to each program to facilitate a single solution that will be compatible with MassDEP's multi-media enforcement program design.

- CAA - Element 11 - Penalty Calculation Method - DEP does not always describe how it calculated economic benefit (especially in cases where economic benefit is zero).
- CAA - Element 12 - Final Penalty Assessment and Collection - MassDEP does not always describe how the proposed penalty differs from the final penalty.
- RCRA - Element 11 - Penalty Calculation Method - MassDEP is considering gravity and economic benefit in its formal enforcement cases. Some case files did not have adequate documentation as to why economic benefit was not assessed.
- RCRA - Element 12 - Final Penalty Assessment and Collection - MassDEP does not always describe how the proposed penalty differs from the final penalty.

While there has been improvement since the first SRF review, the RCRA program needs to improve the quality of inspection reports. EPA is concerned that the quality of RCRA inspection reports is an indication that the RCRA Program needs to improve the quality of its inspections.

- RCRA - Element 6 – Quality of Inspection or Compliance Evaluation Reports - EPA found MassDEP inspection reports were of varying detail and quality and often did not have sufficient description of observations. MassDEP does complete its reports in very timely manner.

Summary of Programs Reviewed

I. Clean Air Act Program

The problems which necessitate state improvement and require recommendations and actions include:

- CAA - Element 11 - Penalty Calculation Method - DEP does not always describe how it calculated economic benefit (especially in cases where economic benefit is zero).
- CAA - Element 12 - Final Penalty Assessment and Collection - MassDEP does not always describe how the proposed penalty differs from the final penalty.

The good practices include:

- Data Accuracy (Element 2) - Review of the data and file review metrics indicates that MassDEP is accurately entering the MDRs and has established a good practice to ensure data accuracy on a monthly basis.
- Completion of Commitments (Element 4) - MassDEP exceeded its inspection commitments.
- Quality of Inspection or Compliance Evaluation Reports (Element 6) - Based on the file review, MassDEP inspectors are writing comprehensive inspection reports that document observations and effectively evaluate compliance.

Areas meeting SRF program requirements or with minor issues for correction include:

- Data Completeness (Element 1),
- Timeliness of Data Entry (Element 3),
- Inspection Coverage (Element 5),
- Identification of Violations (Element 7),
- Identification of SNC and HPV (Element 8),
- Enforcement Actions Promote Return to Compliance (Element 9),
- Timely and Appropriate Action (Element 10),

II. Resource Conservation and Recovery Act Program

The problems which necessitate state improvement and require recommendations and actions include:

- RCRA - Element 6 – Quality of Inspection or Compliance Evaluation Reports - EPA found MassDEP inspection reports were of varying detail and quality and often did not have sufficient description of observations. MassDEP does not complete its reports in a very timely manner.
- RCRA - Element 11 - Penalty Calculation Method - MassDEP is considering gravity and economic benefit in its formal enforcement cases. Some case files did not have adequate documentation as to why economic benefit was not assessed.
- RCRA - Element 12 - Final Penalty Assessment and Collection - MassDEP does not always describe how the proposed penalty differs from the final penalty.

The good practices include:

- Completion of Commitments (Element 4) - In FY2009 MassDEP committed to conduct a total of one hundred twenty one (121) inspections; however, they completed 396 inspections including 12 TSDs, 67 LQGs and 108 SQGs.
- Inspection Coverage (Element 5) - MassDEP inspects all of its TSD universe every year (one of the 13 TSDs in Massachusetts is federally regulated.) MassDEP inspected 75.5% of its LQGs in five years, exceeding the national average of 68.4, even while being given flexibility in the number of LQGs inspected for three years.

Areas meeting SRF program requirements or with minor issues for correction include:

- Data Completeness (Element 1),
- Data Accuracy (Element 2),
- Timeliness of Data Entry (Element 3),
- Identification of Violations (Element 7),
- Identification of SNC and HPV (Element 8),
- Enforcement Actions Promote Return to Compliance (Element 9),
- Timely and Appropriate Action (Element 10),

II. BACKGROUND INFORMATION **ON STATE PROGRAM AND REVIEW PROCESS**

The State Review Framework (SRF) is a program designed to ensure EPA conducts oversight of state and EPA direct implementation compliance and enforcement programs in a nationally consistent and efficient manner. Reviews look at 12 program elements covering data (completeness, timeliness, and quality); inspections (coverage and quality); identification of violations; enforcement actions (appropriateness and timeliness); and penalties (calculation, assessment, and collection).

Reviews are conducted in three phases: analyzing information from the national data systems; reviewing a limited set of state files; and development of findings and recommendations. Considerable consultation is built into the process to ensure EPA and the state understand the causes of issues, and to seek agreement on identifying the actions needed to address problems.

The reports generated by the reviews are designed to capture the information and agreements developed during the review process in order to facilitate program improvements. The reports are designed to provide factual information and do not make determinations of program adequacy. EPA also uses the information in the reports to draw a “national picture” of enforcement and compliance, and to identify any issues that require a national response. Reports are not used to compare or rank state programs.

NOTE: The Background Information provided below was provided by MassDEP. EPA included this information in this report without edits or other changes. While this review examines MassDEP activities in Federal Fiscal Year 2009, this section includes budget and resource information for State Fiscal Year 2009 (July 1, 2008 through June 30, 2009).

A. General Program Overview

MassDEP’s organizational structure related to compliance and enforcement is composed of the Commissioner’s Office, the Bureaus of Waste Prevention, Resource Protection and Waste Site Clean-up, the Offices of General Counsel, Enforcement, and Research and Standards, four regional offices and the Wall Experiment Station (laboratory). The Bureau of Waste Prevention is responsible for implementing programs regarding air quality, hazardous waste, industrial waste water, toxics, and solid waste management and recycling. The Bureau of Resource Protection is responsible for implementing programs regarding drinking water, stormwater, wastewater, wetlands and waterways. The Bureau of Waste Site Clean-up is responsible to manage the assessment and clean-up of releases of hazardous waste and waste oil.

Overall management of compliance and enforcement is the responsibility of the Deputy Commissioner for Operations and Environmental Compliance. Implementing compliance assurance activities including conducting inspections and enforcement actions and technical assistance, is the largely the responsibility of the regional offices. In addition to the regional staff, the Environmental Strike Force operates out of the Office of Enforcement with a focus on environmental crimes and major civil prosecutions in coordination with the Attorney General’s Office (AGO). MassDEP and the Assistant Attorneys General from the civil and criminal

divisions of the AGO conduct regularly scheduled meetings to screen significant pending enforcement cases to determine if further investigation and prosecution should proceed through the Department's administrative process or be referred to the AGO for judicial action. In addition to coordination with the criminal and civil divisions of the AGO, MassDEP staff has conducted investigation and prosecutions with local law enforcement and district attorneys as well as supported municipal agencies including boards of health and conservation commissions.

In the mid-1990s, MassDEP re-organized its EPA delegated compliance and enforcement programs, making them fully multi-media. As a result, MassDEP inspectors are no longer single media inspectors (CAA, RCRA, etc.) Instead they conduct FIRST (Facility-Wide Inspections to Reduce the Source of Toxics) inspections. When carrying out an inspection, a FIRST inspector assesses the compliance of a facility with all applicable statutes. All inspection documents and any subsequent enforcement documents address all applicable statutes. MassDEP usually addresses all violations at a facility through a single action that includes violations under all of the specific statutes involved.

Although MassDEP has a multimedia program, Region 1 conducted this review by evaluating the individual media (i.e., air, RCRA, and water) independently, and by comparing performance in a particular media to the national program guidance for that media. The national program guidance is designed to achieve compliance in each specific media. However, due to inherent differences among the media programs and legal authorities, the national program guidance for each program is different. As a result, in this report, EPA may comment differently in different media about MassDEP's performance in a particular element. In other words, MassDEP's performance in the same element may be consistent with national guidance in one program, but not in another or vice versa. It is therefore important that MassDEP consider the recommendations of this review in the context of the national guidance for each media even though MassDEP has a multimedia program.

While Region 1 did not evaluate the benefits of a multi-media compliance program as part of this review, MassDEP reports that multimedia inspections prevent inter-media transfer of pollutants and that MassDEP includes Toxic Use Reduction requirements in its program.

Resources

In 2002 MassDEP had 1210 FTEs. By FY 2009, that number was reduced to approximately 1000 FTEs, and now stands at 830 FTEs. During this time period, MassDEP's responsibilities have increased significantly with the implementation of many new Federal requirements and the passage of landmark State legislation such as the Mercury Management Act and the Global Warming Solutions Act.

MassDEP's State Budget

Fiscal Year	Funding (in millions)	Staff Level FTEs
FY02	\$62.9	1210
FY09	\$58.7	1004
FY12	\$43.2	830

With staff and budget reductions of this magnitude, all activities have been cut significantly except for environmental compliance and enforcement. Funding for permitting has been reduced by 26% and funding for Hazardous Waste Site Cleanup and Emergency Response has been reduced by 32%. Support activities have been reduced by 36 to 59%.

Further staff reductions cannot be made without significant impacts. Potential cuts will need to be absorbed by direct activities, including environmental compliance and enforcement.

FTE Breakout

There were a total of 24,758 individual facilities subject to air pollution, hazardous waste, toxic use reduction or industrial wastewater regulations.

The Bureau of Waste Prevention (BWP) conducted 1130 inspections of individual facilities subject to Air pollution, Hazardous Waste, Toxic Use Reduction/TRI or Industrial Wastewater regulations. At these facilities BWP conducted 1734 air, hazardous waste, toxic use reduction/TRI, or industrial wastewater media related inspections. Some of these inspections were "single media" and others were "multi-media". The inspector checks all of the regulatory programs to which the facility is subject during a multi media inspection.

BWP had 31.2 FTEs assigned to air pollution, hazardous waste, toxic use reduction, and industrial wastewater compliance and enforcement in our four regional offices. In 2009, BWP's Boston staff (4 FTEs) reviewed approximately 9,000 reports regarding their compliance and/or

emissions from air, industrial wastewater, hazardous waste, and toxics use reduction submitted by facilities.

Training

MassDEP is committed to providing both 'in-house' and external training to staff. Twice a year, a group of senior enforcement leads conduct training sessions at each of the regional offices and Boston. This presentation, which typically last a full day, covers a variety of compliance and enforcement topics for field staff and managers. The sessions also provide a forum for staff to engage in dialogue regarding the role of environmental enforcement in general, and the effective enforcement specific cases in particular. Recent training agendas have included, for example, drafting effective enforcement documents; correctly applying penalty mitigation policies and conducting Inability to Pay Analyses. Experienced litigators from MassDEP' Office of General Counsel also conduct trainings for technical staff on how to prepare for and testify at administrative hearings on appeals of enforcement actions.

Because MassDEP is a member of the Northeast Environmental Enforcement Project ("NEEP"), we are able to provide technical and legal staff with professional training opportunities throughout the year. NEEP trainings cover a wide range of relevant topics that range from 'Science and Sampling Techniques' to 'Effective Presentation Skills.' NEEP trainings are made available approximately three (3) times per calendar year, and MassDEP is usually able to send between two (2) and five (5) people to each such out- of- state training. In addition, NEEP has conducted in-state trainings for MassDEP that allow for up to 100 staff to attend. Last May, MassDEP recently 'opened the doors' to its last NEEP in-state training ("Inspections, Investigations, Enforcement - Sharpening Our Tools - Training for Experienced Inspectors and Investigators" to other sister agencies that have an overlapping environmental mission. Attendees at the May training included Dept. of Public Health; Dept. of Fish and Wildlife; Office of Attorney General; City of Boston Environmental Health and EPA. An added bonus to this is the strengthening of bonds that we build with our sister agencies as we continue to combine resources, share information, and bring good joint enforcement cases. Presenters at NEEP trainings include experienced enforcement personnel from state and federal agencies and experts in fields like communication, documenting digital evidence, mapping natural resources.

MassDEP also takes advantage of the many training opportunities provided via webinar through the National Enforcement Training Institute ("NETI") NETI curricula are varied, current, and relevant, and interested MassDEP staff can literally 'plug in' at their desk tops. Scores of MassDEP staff have attended these webinar seminars. Despite decreasing monies available for training, MassDEP continues to find ways to provide a variety for high quality training for staff in all programs.

MassDEP has been providing an annual on-line 8-hour safety hazards course to all field staff. The course covers core information (e.g., routes of entry for hazardous materials to enter the body, health effects hazardous materials can have on the body, fire safety issues and related terminology, factors that affect the movement of chemical hazards, identifying hazards specific to explosives and gases, knowledge of common labeling systems, MSDSs and protective equipment) and has included specialty modules covering other topics (asbestos awareness,

excavation awareness, confined space awareness, field hazards associated with abandoned buildings, noise, electricity, temperature, insects, domesticated and wild animals, and poisonous plants)(see example courses at <http://www.hazmatschool.com/HScourses.html#Hazwoper%20Refreshers>). For staff that are OSHA HAZWOPER-certified, the course allows them to maintain their certification, although the vast majority of inspection staff are not, and do not need to be, HAZWOPER-certified. MassDEP staff that specialize in particular high-hazard activities, such as asbestos inspections and emergency response, receive in-depth training on those topics, rather than the general safety training described above for other field staff.

Data System Architecture/Reporting

In 2009, there were issues with electronic reporting nodes that link MassDEP's and EPA's data systems, so that the data contained in EPA's data systems was frequently out of date. Since then, work has proceeded to attempt to resolve these issues (with varying degrees of success), and to ensure that the Massachusetts data flows into EPA's data systems more smoothly.

Since 2006, MassDEP has had an EPA-approved an alternative compliance monitoring strategy for air majors and RCRA LQG facilities that do not match the national model. As a result, the data in the national compliance and enforcement data bases appears to indicate that MassDEP is not fulfilling its compliance inspection commitments, when in fact MassDEP has met the targets established in the annual Performance Partnership Agreement.

B. MAJOR STATE PRIORITIES AND ACCOMPLISHMENTS

See Appendix H - Massachusetts Department of Environmental Protection Priorities and Accomplishments

- **Element 13:** MassDEP has not submitted a proposal under Element 13.

C. PROCESS FOR SRF REVIEW

Describe key steps in the reviews of each media program, including:

- **Review period:** Federal Fiscal Year 2009 – October 1, 2008 – September 30, 2009
- **Key dates and Communication with the state**

MassDEP hosted a kick-off meeting to begin the review on April 27, 2010 at its Headquarters in Boston. The MassDEP Deputy Commissioner and managers and senior staff from Region 1 and MassDEP participated in the meeting. After the kick-off meeting, staff from the MassDEP regional offices and federal staff worked out their own schedules for data examinations, file reviews and meetings. File reviews took place at MassDEP's regional offices. File reviews began immediately after the kick-off meeting.

Region 1's SRF Coordinator and MassDEP's Associate Commissioner discussed procedural and substantive aspects of the review by phone. EPA program reviewers worked out their own schedules with their state counterparts for data evaluation, file reviews and meetings. Data Evaluation was reviewed through MassDEP's Headquarters Office in Boston. File reviews and meetings took place in MassDEP's four regional offices. All of these activities occurred during meetings at Maine DEP and by phone. The SRF meetings and calls often took place during regularly scheduled state oversight meetings and calls.

File reviews and SRF site visits mostly occurred in summer 2010. EPA reviewers drafted preliminary findings in fall 2010 and shared them informally with their MassDEP program counterparts, also, often during regularly scheduled program oversight meetings and calls. Throughout this process EPA and MassDEP revised and refined findings and recommendations. This included steps by MassDEP to address and resolve some issues identified by EPA. In these instances, the finding may have been designated an area for State Attention rather than an area for State Action.

- EPA reviewers submitted draft findings and supporting material to the Region 1 SRF Coordinator in May/June, 2011.

STATE AND REGIONAL LEAD CONTACTS FOR REVIEW

Massachusetts Department of Environmental Protection

- Phil Weinberg, Associate Commissioner
- Maria E. Pinaud, Deputy Director, Enforcement and Audits Division, Bureau of Waste Prevention
- MassDEP Regional Office Enforcement Directors
 - Northeast Region: Ed Pawlowski
 - Southeast Region: Gregg Hunt
 - Central Region: John Kronopolus
 - Western Region: Saadi Motamedi

EPA Region 1

- Sam Silverman, Deputy Director, Office of Environmental Stewardship
- Mark Mahoney, SRF Coordinator
- Lisa Papetti – Senior Enforcement Coordinator, RCRA, EPCRA, Federal Program Technical Unit
- Christine Sansevero - Senior Enforcement Coordinator , Air Act Unit

III. STATUS OF OUTSTANDING RECOMMENDATIONS FROM PREVIOUS REVIEWS

During the first SRF review of MassDEP's compliance and enforcement programs, Region 1 and MassDEP identified a number of actions to be taken to address issues found during the review. The table below shows the actions that have not been completed at the time of the current SRF review. (Appendix A contains a comprehensive list of completed and outstanding actions for reference.)

Media	E#	Element	Finding	Recommendation	Due Date	Status
CAA	E12	Data Complete	FIPS Code	MassDEP should incorporate FIPS codes.	9/30/2009	Long Term Resolution
CWA	E4	SNC Accuracy	SEV Reporting	EPA should provide training to MassDEP regarding Single Event Violation reporting. MassDEP should be provided with copies of the updated Form 3560 for use by its inspectors. (IWW) Note: DEP may elect not to do single event violation reporting in IWW because of its multimedia program.	12/31/2010	Long Term Resolution
CWA	E6	Timely & Appropriate Actions	Timely and Appropriate Actions	MASSDEP should consider developing interim limits for all (Response to MassDEP comment) facilities under a compliance schedule to remove these facilities from the SNC list.	9/30/2009	Long Term Resolution
CWA	E7	Penalty Calculations	Penalty Calculation	MassDEP should use its information gathering authority under 314 CMR 3.03 to obtain information on the cost of corrective actions and avoided costs that can be used to calculate the economic benefit of the violation(s). Alternatively MassDEP could calculate the economic benefit based on its best estimate of the cost of corrective action and avoided costs and adjust the calculation with more accurate information obtained during settlement negotiations.	9/30/2009	Long Term Resolution

IV. OVERALL FINDINGS AND RECOMMENDATIONS

Findings represent the Region’s conclusions regarding the issue identified. Findings are based on the Initial Findings identified during the data or file review, as well as from follow-up conversations or additional information collected to determine the severity and root causes of the issue. There are four types of findings, which are described below:

Finding	Description
Good Practices	This describes activities, processes, or policies that the SRF data metrics and/or the file reviews show are being implemented exceptionally well and which the State is expected to maintain at a high level of performance. Additionally, the report may single out specific innovative and noteworthy activities, process, or policies that have the potential to be replicated by other States and that can be highlighted as a practice for other states to emulate. No further action is required by either EPA or the State.
Meets SRF Program Requirements	This indicates that no issues were identified under this Element.
Areas for State* Attention *Or, EPA Region’s attention where program is directly implemented.	This describes activities, processes, or policies that the SRF data metrics and/or the file reviews show are being implemented with minor deficiencies that the State needs to pay attention to to strengthen its performance, but are not significant enough to require the region to identify and track state actions to correct. This can describe a situation where a State is implementing either EPA or State policy in a manner that requires self-correction to resolve concerns identified during the review. These are single or infrequent instances that do not constitute a pattern of deficiencies or a significant problem. These are minor issues that the State should self-correct without additional EPA oversight. However, the State is expected to improve and maintain a high level of performance.
Areas for State * Improvement – Recommendations Required *Or, EPA Region’s attention where program is directly implemented.	This describes activities, processes, or policies that the metrics and/or the file reviews show are being implemented by the state that have significant problems that need to be addressed and that require follow-up EPA oversight. This can describe a situation where a state is implementing either EPA or State policy in a manner requiring EPA attention. For example, these would be areas where the metrics indicate that the State is not meeting its commitments, there is a pattern of incorrect implementation in updating compliance data in the data systems, there are incomplete or incorrect inspection reports, and/or there is ineffective enforcement response. These would be significant issues and not merely random occurrences. Recommendations are required for these problems that will have well defined timelines and milestones for completion. Recommendations will be monitored in the SRF Tracker.

Clean Air Act

[CAA] Element 1 – Data Completeness - Degree to which the Minimum Data Requirements are complete.		
1.1	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input checked="" type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement (Recommendation Required)
	Finding	Review of the data and file review metrics indicate that MassDEP is entering the minimum data requirements (MDRs). The review did identify two minor issues (see below) both of which MassDEP has already addressed.
	Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	<p>MassDEP enters compliance and enforcement data into a state database and uses the universal interface (UI) to upload this data to AFS. Because of some differences between the type of information that is tracked in the State data system and the type of information AFS requires, not all data is successfully transferred to AFS through the UI. For example, for certain MDRs such as compliance status, MassDEP must manually update AFS. To ensure proper data transfer, MassDEP conducts monthly quality assurance/control checks on the data.</p> <p>In conducting the SRF data review, EPA noted two minor issues.</p> <ul style="list-style-type: none"> • Because the state data system does not track compliance status, MassDEP must manually update compliance status in AFS. MassDEP had been entering the compliance status of all facilities receiving enforcement actions as "5-On schedule." MassDEP interpreted the code of "5" to mean that the facility was in violation but on a schedule to return to compliance. However, AFS does not recognize this code as one of the noncompliance codes. As a result, none of the facilities with a compliance status = "5" were counted being in violation. However, MassDEP has since fixed this in AFS and will now use the code of: "1-In Violation" for facilities with enforcement actions. • Although all facility stack test have valid result codes in AFS, MassDEP neglected to add the pollutant code. This resulted in not all stack tests being counted. This has been fixed in AFS. <p>EPA has recommended that MassDEP discontinue using code "5" to indicate that a facility is in violation and add a pollutant code on all stack tests.</p> <p>MassDEP has already implemented these recommendations.</p>
	Metric(s) and Quantitative Value	Reviewed Data Metrics A01A1S - A02B2S – See Appendix D

	State Response	
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	

[CAA] Element 2 – Data Accuracy - Degree to which data reported into the national system is accurately entered and maintained (example, correct codes used, dates are correct, etc.).		
2.1	Is this finding a(n) (select one):	<input checked="" type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement (Recommendation Required)
	Finding	Review of the data and file review metrics indicate that MassDEP is accurately entering the MDRs and has established a good practice to ensure data accuracy on a monthly basis.
	Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	MassDEP has established a good practice in developing procedures to first ensure that data are entered properly in the state data system and to then conduct monthly checks to ensure that data are transferred properly to AFS. Specifically, MassDEP has designated a central point of contact within the state whose responsibility it is to review and quality control/quality assure the data. Although this process is time consuming and often requires manual data entry in AFS by this individual to resolve any issues, it has greatly improved data quality.
	Metric(s) and Quantitative Value	<p>The data metrics (preliminary data analysis) indicate no issues with data accuracy. Of the 24 files reviewed, all files contained the minimum data requirements outlined in the metric 2c check list. Not all minor sources contain MACT subparts, but this is not an MDR. In addition, the state updates the compliance status of all sources.</p> <p>A02A0S - Number of HPVs/Number of NC Sources (1 FY) 85.7% A02A0C - Number of HPVs/Number of NC Sources (1 FY) 87.5% A02B1S - Stack Test Results at Federally-Reportable Sources - % Without Pass/Fail Results (1 FY) A02B2S - Stack Test Results at Federally-Reportable Sources - Number of Failures (1 FY) File Metric 2c - % of files reviewed where MDR data are accurately reflected in AF – 100%</p>
	State Response	
	Action(s) (Include any uncompleted	

	actions from Round 1 that address this issue.)	
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[CAA] Element 3 - Timeliness of Data Entry - Degree to which the Minimum Data Requirements are timely.		
3.1	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input checked="" type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement (Recommendation Required)
	Finding	Review of the data and file review metrics indicate that MassDEP is entering MDRs in AFS in a timely manner.
	Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	<p>MassDEP is entering MDRs in AFS in a timely manner. Although not all HPVs are entered in AFS within 60 days, this is generally due to state legal constraints that require the state to notify the facility before making data publically available. This is a legal barrier that is beyond the control of MassDEP.</p> <p>Any late data entries are generally the result of quality assurance/control checks to ensure that data in the state system has been properly extracted to AFS.</p> <p>MassDEP reports HPV within 60 days only 45% of the time (note this is still above the national average of 32%). However, because of constraints in the Massachusetts Enforcement Regulations, Statutes and policies, it is not always possible to submit an HPV designation within 60 days of the initiating action. This is a legal barrier that is beyond the control of MassDEP.</p> <p>EPA Region 1 will work with DEP to determine if there is a way to improve on the 45% timely rate even though there is a legal barrier and while EPA continues to evaluate and possibly revise current HPV policy.</p>
	Metric(s) and Quantitative Value	<p>MassDEP reports compliance related MDRs to AFS within the required timeframes 91% of the time and enforcement related MDRS to AFS within the required timeframes 98% of the time.</p> <p>MassDEP reports HPV within 60 days only 45% of the time (note this is still above the national average of 32%). However, because of constraints in the Massachusetts Enforcement Regulations, Statutes and policies, it is not always possible to submit an HPV designation within 60 days of the initiating action. This is a legal barrier that is beyond the control of MassDEP.</p> <p>A03A0S - Percent HPVs Entered <= 60 Days After Designation, Timely Entry (1 FY) 45% A03B1S - Percent Compliance Monitoring related MDR actions reported <= 60 Days After Designation, Timely Entry (1 FY) – 91.1% A03B2S - Percent Enforcement related MDR actions reported <= 60 Days After Designation, Timely Entry (1 FY) – 98.2%</p>

	State Response	
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	

[CAA] Element 4 - Completion of Commitments - Degree to which all enforcement/compliance commitments in relevant agreements (i.e., PPAs, PPGs, categorical grants, CMS plans, authorization agreements, etc.) are met and any products or projects are completed.

4.1	Is this finding a(n) (select one):	<input checked="" type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement (Recommendation Required)
	Finding	MassDEP exceeded its inspection commitments.
	Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	Both the data metrics (preliminary data analysis) and the file review metrics indicate that there were no issues regarding the completion of CMS and/or PPA/PPG commitments. Specifically in FY09, MassDEP committed to conduct 19 FCEs at Title V majors, but actually conducted 37. Similarly, MassDEP committed to conduct 23 FCEs at SM80s, but actually conducted 44. In FY10, MassDEP committed to conduct 19 FCEs at Title V majors, but actually conducted 32 and committed to conduct 33 FCEs at SM80s, but actually conducted 48.
	Metric(s) and Quantitative Value	File Metric 4a - % of planned evaluations (negotiated FCEs, PCEs, investigations) completed for the review year pursuant to a negotiated CMS plan. 97.8% File Metric 4b - Delineate the air compliance and enforcement (c/e) commitments for the FY under review. This should include commitments in PPAs, PPGs, grant agreements, MOAs, or other relevant agreements. The C/E commitments should be delineated. – 100%
	State's Response	
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	

[CAA] Element 5 – Inspection Coverage - Degree to which state completed the universe of planned inspections/compliance evaluations (addressing core requirements and federal, state and State priorities).		
5.1	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement (Recommendation Required)
	Finding	MassDEP has an alternative compliance monitoring strategy (CMS) that it negotiated with EPA Region 1. The SRF data elements do not reflect this alternative CMS. However, MassDEP is meeting the commitments in this alternative CMS.
	Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	All majors and SM80s are on either a 3 year or 5 year on-site full compliance evaluation (FCE) schedule. MassDEP conducts an off-site FCE at major combustion sources once every 2 years per the CMS.
	Metric(s) and Quantitative Value	<p>Only 2 fiscal years are counted in the SRF data metrics. This does not account for the 3 and 5 year cycle that Massachusetts has under its CMS. MassDEP conducted 135 out of 138 full compliance evaluations (FCEs) in the CMS cycle (97.8%). All but 3 facilities had an FCE within the proper time frame because of on-going enforcement activity.</p> <p>A05A1S - CMS Major Full Compliance Evaluation (FCE) Coverage (2 FY CMS Cycle) A05A1C - CMS Major Full Compliance Evaluation (FCE) Coverage (2 FY CMS Cycle) A05A2S - CAA Major Full Compliance Evaluation (FCE) Coverage (most recent 2 FY) A05A2C - CAA Major Full Compliance Evaluation (FCE) Coverage (most recent 2 FY) A05B1S - CAA Synthetic Minor 80% Sources (SM-80) FCE Coverage (5 FY CMS Cycle) A05B1C - CAA Synthetic Minor 80% Sources (SM-80) FCE Coverage (5 FY CMS Cycle) A05B2S - CAA Synthetic Minor 80% Sources (SM-80) FCE Coverage (last full 5 FY) A05B2C - CAA Synthetic Minor 80% Sources (SM-80) FCE Coverage (last full 5 FY) A05C0S - CAA Synthetic Minor FCE and reported PCE Coverage (last 5 FY) A05C0C - CAA Synthetic Minor FCE and reported PCE Coverage (last 5 FY) A05D0S - CAA Minor FCE and Reported PCE Coverage (last 5 FY) A05E0S - Number of Sources with Unknown Compliance Status (Current) A05E0C - Number of Sources with Unknown Compliance Status (Current) A05F0S - CAA Stationary Source Investigations (last 5 FY) A05G0S - Review of Self-Certifications Completed (1 FY) See Appendix D for metric values</p>
	State Response	
	Action(s) (Include any uncompleted actions from Round 1 that address this	

	issue.)	
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[CAA] Element 6 – Quality of Inspection or Compliance Evaluation Reports - Degree to which inspection or compliance evaluation reports properly document observations, are completed in a timely manner, and include accurate description of observations.

6.1	Is this finding a(n) (select one):	<input checked="" type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement (Recommendation Required)
	Finding	Based on the file review, MassDEP inspectors are writing comprehensive inspection reports that document observations and effectively evaluate compliance.
	Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	As follow-up from SRF Round 1, MassDEP created and/or revised a number of forms that inspectors use to prepare for and conduct inspections. For example, the pre and post inspection activity report is an excellent supplement to the inspection report as it provides a detailed summary of all past activities at the facility. These forms and new procedures have helped ensure that MassDEP is meeting the requirements for compliance evaluations as described in the CMS.
	Metric(s) and Quantitative Value	<p>Of the 24 files reviewed, 14 had FCEs. One file had an off-site FCE. Two files had reports completed beyond 30 days (one in 44 and one in 42). One file did not have a date on the report. Of the 14 FCEs, all met the definition of the CMS.</p> <p>File File Metric 6a - # of files reviewed with FCEs. 58% File Metric 6b - % of FCEs that meet the definition of an FCE per the CMS policy. – 100% File Metric 6c - % of CMRs or facility files reviewed that provide sufficient documentation to determine compliance at the facility. -100%</p>
	State Response	
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	

[CAA] Element 7 - Identification of Alleged Violations - Degree to which compliance determinations are accurately made and promptly reported in the national database based upon compliance monitoring report observations and other compliance monitoring information (e.g., facility-reported information).

7.1	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input checked="" type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement (Recommendation Required)
	Finding	MassDEP consistently updates compliance status in AFS. This has to be done manually as there is no similar data element in the state data system. The state cannot indicate that a facility is in violation until an enforcement action has been issued. However, enforcement actions are being entered in a timely manner (within the 60 days).
	Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	<p>Due to legal constraints, the state cannot change the compliance status of a facility to “in violation” until an enforcement action has been issued.</p> <p>In addition, as described in metric 1, because the state data system does not track compliance status, MassDEP must manually update compliance status in AFS. MassDEP had been entering the compliance status of all facilities receiving enforcement actions as "5-On schedule." MassDEP interpreted the code of “5” to mean that the facility was in violation but on a schedule to return to compliance. However, AFS does not recognize this code as one of the noncompliance codes. As a result, none of the facilities with a compliance status = "5" were counted being in violation. However, MassDEP has since fixed this in AFS and will now use the code of: “1-In Violation” for facilities with enforcement actions.</p> <p>EPA recommends that MassDEP discontinue using code “5” to indicate that a facility is in violation.</p> <p>MassDEP has already implemented this recommendation.</p>
	Metric(s) and Quantitative Value	<p>A07C1S -Percent facilities in noncompliance that have had an FCE, stack test, or enforcement (1 FY) 10.6%</p> <p>A07C2S - Percent facilities that have had a failed stack test and have noncompliance status (1 FY) - 0</p> <p>A07C2E - Percent facilities that have had a failed stack test and have noncompliance status (1 FY) - 0</p> <p>File Metric 7a - % of CMRs or facility files reviewed that led to accurate compliance determinations. - 100%</p> <p>File Metric 7b - % of non-HPVs reviewed where the compliance determination was timely reported to AFS. - 100%</p>
	State Response	
	Action(s) (Include any uncompleted actions from Round 1 that	

	address this issue.)	
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[CAA] Element 8 - Identification of SNC and HPV - Degree to which the state accurately identifies significant noncompliance/high priority violations and enters information into the national system in a timely manner.		
8.1	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input checked="" type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement (Recommendation Required)
	Finding	As described in metric 3, some HPVs were not entered in AFS within 60 days. However, this is due to state legal constraints that require the state to notify the facility before making data publically available. This is a legal barrier that is beyond the control of MassDEP.
	Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	<p>EPA and Region 1 conduct monthly HPV calls to discuss any existing, as well as new, HPVs. On these calls, MassDEP and EPA discuss the substance as well as the timing of HPVs.</p> <p>EPA Region 1 will work with the state to determine if there is a way to improve on the 45% timely rate even though there is a legal barrier while EPA continues to evaluate and possibly revise the current HPV policy.</p>
	Metric(s) and Quantitative Value	<p>MassDEP reports HPV within 60 days only 45% of the time (note this is still above the national average of 32%). However, because of constraints in the Massachusetts Enforcement Regulations, Statutes and policies, it is not always possible to submit an HPV designation within 60 days of the initiating action. This is a legal barrier that is beyond the control of MassDEP.</p> <p>A08A0S - High Priority Violation Discovery Rate - Per Major Source (1 FY) -4.9% A08A0E - High Priority Violation Discovery Rate - Per Major Source (1 FY) – 0.7% A08B0S - High Priority Violation Discovery Rate - Per Synthetic Minor Source (1 FY) – 0.3% A08B0E - High Priority Violation Discovery Rate - Per Synthetic Minor Source (1 FY) – 0.1% A08C0S - Percent Formal Actions With Prior HPV - Majors (1 FY) - 66.7% A08D0S - Percent Informal Enforcement Actions Without Prior HPV - Majors (1 FY) - 78.6% A08E0S - Percentage of Sources with Failed Stack Test Actions that received HPV listing - Majors and Synthetic Minors (2 FY) – 25% File Metric 8h - % of violations in files reviewed that were accurately determined to be HPV. – 100%</p>
	State Response	
	Action(s) (Include any uncompleted actions from Round 1 that	

	address this issue.)	
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[CAA] Element 9 - Enforcement Actions Promote Return to Compliance - Degree to which state enforcement actions include required corrective action (i.e., injunctive relief or other complying actions) that will return facilities to compliance in a specific time frame.		
9.1	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement (Recommendation Required)
	Finding	<p>Based on the file review, MassDEP is taking appropriate enforcement action to bring facilities back into compliance, where necessary, through its Notice of Noncompliance and Higher Level enforcement actions (informal and formal enforcement, respectively). In addition, MassDEP sets a reasonable timeframe for achieving compliance, so that facilities with violations return to compliance expeditiously.</p>
	Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	<p>While MassDEP is taking timely and appropriate enforcement in almost all cases, it is worth noting that there are some differences between EPA enforcement policies and MassDEP's enabling statute, the Administrative Penalties Act (APA). Although the APA limits MassDEP in some ways, it does provide MassDEP with specific penalty authorities and, in effect, compels MassDEP to prioritize getting sources back into compliance quickly. The APA gives MassDEP authority to assess penalties for environmental violations without having to refer the cases to the state Attorney General's office. However, there is a specific procedure that MassDEP must follow to notify a facility of noncompliance and offer them an opportunity to comply before assessing penalties.</p> <p>Specifically, MassDEP is directed to issue a Notice of Noncompliance (NON) to a facility, which requires the facility take actions to come back into compliance often within 30 days or another reasonable compliance date. The APA prohibits MassDEP from taking higher level enforcement unless the violation meets certain threshold criteria or the facility fails to comply with the NON. Where the violation meets certain threshold criteria, MassDEP can issue higher level enforcement and assess penalties without prior notice. For example, if MassDEP discovers a significant emission violation well above a permitted limit, or discovers a facility operating without a permit, MassDEP can directly pursue enforcement and assess penalties without issuing an NON. In addition, if a facility willfully violates, or if MassDEP discovers the same or similar type of violation at a facility that has already been cited in previous NON(s), MassDEP can directly pursue higher level enforcement and assess penalties.</p>

Metric(s) and Quantitative Value	Of the 24 files reviewed, 16 had either formal or informal actions and all actions returned the facilities to compliance. The remaining 8 files were inspection only files. File Metric 9a - of formal and informal enforcement responses reviewed. – 68% File Metric 9b - % of formal enforcement responses that have returned or will return a source to physical compliance. – 100%
State Response	
Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	

[CAA] Element 10 – Timely and Appropriate Action - Degree to which a state takes timely and appropriate enforcement actions in accordance with policy relating to specific media.		
10.1	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement (Recommendation Required)
	Finding	Based on the file review, MassDEP is identifying HPVs and addressing them appropriately and in a timely manner.
	Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	Although not all HPVs can be addressed with a penalty action (due to state legal constraints), the actions are returning facilities to compliance. In the case where an informal action is not sufficient, Massachusetts Enforcement Regulations, Statutes and policies allow (and in some circumstances require) the state to pursue a formal (e.g., penalty or criminal) action.
	Metric(s) and Quantitative Value	Of the 8 HPV files reviewed, all 8 were accurately determined to be HPVs. In addition all 8 HPVs were addressed within 270 days. MassDEP addressed 4 HPVs with an informal action (e.g., Notice of Noncompliance). Because of constraints in the Massachusetts Enforcement Regulations, Statutes and policies, in some cases, MassDEP must first pursue informal enforcement prior to a formal action (see Metric 9 for

		further explanation). A10A0S - Percent HPVs not meeting timeliness goals (2 FY) – 42.1% File Metric 10e - % of HPVs reviewed that are addressed in a timely manner. – 100% File Metric 10f - % of enforcement responses reviewed at HPVs that are appropriate. The number of appropriately addressed HPVs over the number of HPVs addressed during the review year. – 100%
	State Response	
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	

[CAA] Element 11 - Penalty Calculation Method - Degree to which state documents in its files that initial penalty calculation includes both gravity and economic benefit calculations, appropriately using the BEN model or other method that produces results consistent with national policy.		
11.1	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input checked="" type="checkbox"/> Area for State Improvement (Recommendation Required)
	Finding	DEP does not always describe how it calculated economic benefit (especially in cases where economic benefit is zero).
	Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	<p>MassDEP has a well established process to review all penalty calculations at a management level. In addition, MassDEP has developed a program to help standardize penalty calculations (PENCALC) to ensure that they meet the requirements of the state penalty policy. MassDEP should be commended for this innovation.</p> <p>PENCALC currently allows staff to enter an explanation of economic benefit. However, a drop down menu allows staff to select “none” without entering an explanation as to why the economic benefit is zero.</p> <p>Based on the preliminary recommendations from the SRF Round 2, MassDEP has amended the list of available comments that describe economic benefit findings to replace “none” with “economic benefit evaluated and determined to be not significant.”</p>
	Metric(s) and Quantitative Value	<p>11 out of 11 penalty actions include a gravity component and at least a brief discussion of economic benefit. In some cases when economic benefit was zero, there was no explanation of how the state came to that conclusion.</p> <p>File Metric 11a - % of reviewed penalty calculations that consider and include where appropriate gravity and economic benefit. – 100%</p>
	State Response	MassDEP is in the process of supplementing its penalty calculation software program (PenCalc) and developing guidance that will document the applicable penalty mitigation and settlement policies and the statutory

		penalty assessment considerations that were applied in reaching a final cash settlement amount in those situations where it is less than the amount reflected in the final PenCalc report.
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	<p>11.1 EPA recommends that MassDEP include a more detailed description the economic benefit calculation especially when it is zero.</p> <p>11.2 EPA recommends that in the case of insignificant economic benefit, MassDEP also include a brief description in the file of how it made the determination that the economic benefit was insignificant. EPA recommends that MassDEP implement these changes no later than January 2012.</p>

[CAA] Element 12 - Final Penalty Assessment and Collection - Degree to which differences between initial and final penalty are documented in the file along with a demonstration in the file that the final penalty was collected.		
12.1	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input checked="" type="checkbox"/> Area for State Improvement (Recommendation Required)
	Finding	MassDEP does not always describe how the proposed penalty differs from the final penalty.
	Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	<p>MassDEP has a well established process to review all penalty calculations at a management level. In addition, MassDEP has developed a program to help standardize penalty calculations through the PENCALC system to ensure that they meet the requirements of the state penalty policy.</p> <p>MassDEP has 4 regional offices and in each office an enforcement review committee reviews and discusses every penalty action. These committees establish a dollar range for settlement. Penalties may also change during settlement negotiations. Some DEP regions document these discussions in the file and others do not.</p>
	Metric(s) and Quantitative Value	<p>All files either contained documentation or referenced the location of documentation of collection of the final penalty. The state has a separate database for tracking penalty collection.</p> <p>Of the 24 files reviewed, 11 were formal actions with penalty. There were 3 files that did not contain a description of the rationale between the initial and final penalty.</p> <p>A12A0S - No Activity Indicator - Actions with Penalties (1 FY) -72 A12B0S - Percent Actions at HPVs With Penalty (1 FY) – 72.7% File Metric 12a - % of penalties reviewed that document the difference and rationale between the initial and final assessed penalty. – 82% File Metric 12b - % of files that document collection of penalty. – 100%</p>

	State's Response	MassDEP is in the process of supplementing its penalty calculation software program (PenCalc) and developing guidance that will document the applicable penalty mitigation and settlement policies and the statutory penalty assessment considerations that were applied in reaching a final cash settlement amount in those situations where it is less than the amount reflected in the final PenCalc report.
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	<p>12.1 EPA recommends that MassDEP include a more detailed description of the difference between proposed and final penalties in the file. This may be a matter of including the original PENCALC sheet as well as the final PENCALC sheet in the file as well as notes from the enforcement review committee's discussion of the penalty and/or settlement negotiations. EPA recommends that MassDEP implement this change no later than January 2012.</p> <p>12.2 Based on the preliminary recommendations from the SRF Round 2, MassDEP has asked its Office of General Counsel to develop and issue guidance to the DEP regional offices regarding how changes in penalty should be documented in the file. EPA recommends that MassDEP finalize this guidance no later than September 2012.</p>

Resource Conservation and Recovery Act

[RCRA] Element 1 – Data Completeness - Degree to which the Minimum Data Requirements are complete.		
1.1	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input checked="" type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement (Recommendation Required)
	Finding	The MassDEP has its own database known as the Facility Master File which tracks the universe and activities for all media. The Preliminary Data Assessment (PDA) revealed that some of the data was different from the data that could be extracted from FMF.
	Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	<p>There has been an historic problem with inaccurate data for both universe and inspection commitments in RCRAInfo. MassDEP and EPA Region I have invested many resources in improving the translation of data from FMF to RCRAInfo. At the time the data for the PDA was frozen, some of the final work had not yet been completed. Therefore the state data may have been more accurate at the time. FMF also has additional information about changes of status, which results in more accurate, real-time data on universes.</p> <p>MassDEP enters RCRA enforcement data into its Facility Master File (FMF) data system. The data is then transformed and transmitted to RCRAInfo by a software package known as a data translator or universal interface. The data translator is a customized system created by EPA specifically for MassDEP RCRA data. Data translators reduce errors and improve efficiency by eliminating the need for state staff to enter data twice, once to the state system and again to EPA’s system. Data translators are owned and managed by EPA. MassDEP was unable to successfully translate their data from FMF, to RCRAInfo from August, 2007 to November, 2010. MassDEP has a "full replace" system that requires that every time any data is translated because of changes in RCRAInfo, all data is must be translated, including all historical data. MassDEP data pulled by Region I from RCRAInfo to assist in the data translation was not accepted because it was failing edits that HQ had just put in place. Region I requested that HQ change the edits to a new cutoff date of 1/1/2007, but this never happened. MassDEP came up with their own solution to resolve this problem, but the work was labor intensive and required assistance from a contractor.</p> <p>MassDEP will continue to have more accurate information in its database because it does real-time data entry of changes of status and companies that have gone out of business and has more accurate data on “other” facilities, such as VSQGs and out-of-state transporters.</p>

	<p>MassDEP has completed work with EPA HQ and Region 1 data staff to resolve data translation issues.</p> <p>EPA held RCRAInfo C, M&E Training for MassDEP inspectors and data managers on September 23, 2010. The training clarified the importance of RCRAInfo, the differences between RCRAInfo and FMF, the timing of data entry and relevant guidance documents.</p> <p>Initial evaluation of this Element would have indicated a finding “Area for State Improvement.” However, because MassDEP has already addressed the matter, Region 1 makes a finding of “Area for State Attention.”</p>
Metric(s) and Quantitative Value	<p>Data metric for LQG universe was 611 in RCRAInfo and 415 in FMF, data metric for SQG universe was 2,843 in RCRAInfo and 2,469 in FMF, data metric for number of inspections was 354 in RCRAInfo and 396 in FMF, data metric for inspection coverage for LQG was 13.9% in RCRAInfo and 16.2% in FMF.</p> <p>RCRA Data metrics - R01A1S to R01G0E - See Appendix D</p>
State Response	<p>MassDEP experienced technical difficulties during data translation since the application as delivered by EPA did not work. The issue has been corrected; unfortunately, the data run for the analysis was done prior to rectifying the data translation from FMF to RCRAInfo. MassDEP will strive to collect and report timely and accurate data.</p>
Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	

[RCRA] Element 2 – Data Accuracy - Degree to which data reported into the national system is accurately entered and maintained (example, correct codes used, dates are correct, etc.).		
2.1	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input checked="" type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement (Recommendation Required)
	Finding	<p>Six (6) of twenty-four (24) files reviewed did not have accurate information entered into RCRAInfo at the time of the review.</p> <p>The PDA revealed that information regarding penalties and open violations may not have been entered into the national database.</p>

<p>Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)</p>	<p>One file did not have the inspection entered into RCRAInfo, one file had the wrong date for an inspection entered into RCRAInfo and four (4) files did not have return to compliance dates and/or “SNN” entered into RCRAInfo.</p> <p>MassDEP sent e-mails to its Regional Offices to correct data not entered into RCRAInfo including those related to open violations, late SNC entry and penalties.</p> <p>MassDEP sent e-mails to its Regional Offices to identify data that needed to be updated, including penalties violations resolution and enforcement actions.</p> <p>MassDEP enters RCRA enforcement data into its Facility Master File (FMF) data system. The data is then transformed and transmitted to RCRAInfo by a software package known as a data translator or universal interface. The data translator is a customized system created by EPA specifically for MassDEP RCRA data. Data translators reduce errors and improve efficiency by eliminating the need for state staff to enter data twice, once to the state system and again to EPA’s system. Data translators are owned and managed by EPA. MassDEP was unable to successfully translate their data from FMF, to RCRAInfo from August, 2007 to November, 2010. MassDEP has a "full replace" system that requires that every time any data is translated because of changes in RCRAInfo, all data is must be translated, including all historical data. MassDEP data pulled by Region I from RCRAInfo to assist in the data translation was not accepted because it was failing edits that HQ had just put in place. Region I requested that HQ change the edits to a new cutoff date of 1/1/2007, but this never happened. MassDEP came up with their own solution to resolve this problem, but the work was labor intensive and required assistance from a contractor.</p> <p>EPA held RCRAInfo C,M&E Training for MassDEP inspectors and data managers on September 23, 2010. The training clarified the importance of RCRAInfo, the differences between RCRAInfo and FMF, the timing of data entry and relevant guidance documents.</p> <p>Initial evaluation of this Element would have indicated a finding “Area for State Improvement.” However, because MassDEP has already addressed the matter, Region 1 makes a finding of “Area for State Attention.”</p>
<p>Metric(s) and Quantitative Value</p>	<p>Six of twenty-four (24) files or 25% of the files reviewed had inaccurate or incomplete data in RCRAInfo when compared to facility files.</p> <p>R02A1S - Number of sites SNC-determined on day of formal action (1 FY) - 3</p> <p>R02A2S - Number of sites SNC-determined within one week of formal action (1 FY) - 1</p> <p>R02B0S - Number of sites in violation for greater than 240 days - 203</p> <p>Metric 2c - % of files reviewed where mandatory data are accurately reflected in the national data system. – 79%</p>
<p>State Response</p>	<p>MassDEP routinely evaluates the data and makes appropriate updates. MassDEP will continue to strive to collect and report timely and accurate</p>

		data.
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	

[RCRA] Element 3 - Timeliness of Data Entry - Degree to which the Minimum Data Requirements are timely		
3.1	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input checked="" type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement (Recommendation Required)
	Finding	Preliminary Data Analysis (PDA) indicated some issues with the timeliness of minimum data requirements entries. There were issues with data in the SRF website changing over time, after the PDA had been completed, which means that data was being entered long after the required time frames.
	Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	<p>The final data was sent to MassDEP on April 16, 2010. Several data metrics showed changes within weeks after the final data set was sent. This means that new data was being added in April 2010 for activities in 2009.</p> <p>MassDEP enters RCRA enforcement data into its Facility Master File (FMF) data system. The data is then transformed and transmitted to RCRAInfo by a software package known as a data translator or universal interface. The data translator is a customized system created by EPA specifically for MassDEP RCRA data. Data translators reduce errors and improve efficiency by eliminating the need for state staff to enter data twice, once to the state system and again to EPA's system. Data translators are owned and managed by EPA. MassDEP was unable to successfully translate their data from FMF, to RCRAInfo from August, 2007 to November, 2010. MassDEP has a "full replace" system that requires that every time any data is translated because of changes in RCRAInfo, all data is must be translated, including all historical data. MassDEP data pulled by Region I from RCRAInfo to assist in the data translation was not accepted because it was failing edits that HQ had just put in place. Region I requested that HQ change the edits to a new cutoff date of 1/1/2007, but this never happened. MassDEP came up with their own solution to resolve this problem, but the work was labor intensive and required assistance from a contractor.</p> <p>EPA held RCRAInfo C, M&E Training for MassDEP inspectors and data</p>

		managers on September 23, 2010. The training clarified the importance of RCRAInfo, the differences between RCRAInfo and FMF, the timing of data entry and relevant guidance documents.
	Metric(s) and Quantitative Value	R10C1S -Number of sites with violation determination at any time (1FY) changed from 473 to 504; R10D1S -Informal actions-number of sites (1FY) changed from 127 to 138; and R10D2S -Informal action-number of actions (1F) changed from 133 to 144.
	State Response	MassDEP routinely evaluates the data and makes appropriate updates. MassDEP will continue to strive to collect and report timely and accurate data.
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	

[RCRA] Element 4 - Completion of Commitments. - Degree to which all enforcement/compliance commitments in relevant agreements (i.e., PPAs, PPGs, categorical grants, CMS plans, authorization agreements, etc.) are met and any products or projects are completed.		
4.1	Is this finding a(n) (select one):	<input checked="" type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement (Recommendation Required)
	Finding	In FY2009 MassDEP committed to conduct a total of one hundred twenty-one (121) inspections; however, they completed 396 inspections including 12 TSDs, 67 LQGs and 108 SQGs.
	Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement,	In FY2009 MassDEP committed to conduct a total of one hundred twenty-one (121) inspections, including twenty-nine (29) large quantity generator (LQG) inspections, sixty (60) small quantity generator (SQG) inspections, twelve (12) TSD inspections, four (4) transporter inspections and fifteen to twenty inspections at facilities covered under the MassDEP Environmental Results Program (ERP.) The inspection commitments were negotiated as part of the RCRA LQG flexibility MassDEP runs a fully-integrated, multi-media compliance and enforcement

provide recommended action.)	<p>program. Inspectors are trained to conduct multi-media inspections. Any inspection targeted may be inspected for all applicable media, which leads to a large number of sites visited annually.</p> <p>In addition to conducting more RCRA inspections than any state in Region I, MassDEP identified SNCs at a rate that is more than 3 times the national average, identified violations at over 200 sites and collected almost a million dollars in final penalties in 2009.</p>
Metric(s) and Quantitative Value	<p>Metric 4a - Planned inspections completed – 100%</p> <p>Metric 4b - Planned commitments completed - Yes</p>
State's Response	MassDEP will continue to strive to complete all its commitments.
Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	

[RCRA] Element 5 – Inspection Coverage - Degree to which state completed the universe of planned inspections/compliance evaluations (addressing core requirements and federal, state and State priorities).		
5.1	Is this finding a(n) (select one):	<input checked="" type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement (Recommendation Required)
	Finding	MassDEP inspects all of its TSD universe every year (one of the 13 TSDs in Massachusetts is federally regulated.) MassDEP inspected 75.5% of its LQGs in five years, exceeding the national average of 68.4, even while being given flexibility in the number of LQGs inspected for three years.
	Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	<p>In FY2009 MassDEP committed to conduct a total of one hundred twenty-one (121) inspections including twenty-nine (29) large quantity generator (LQG) inspections, sixty (60) small quantity generator (SQG) inspections, twelve (12) TSD inspections, four (4) transporter inspections and fifteen to twenty inspections at facilities covered under the MassDEP Environmental Results Program (ERP.) The inspection commitments were negotiated as part of the RCRA LQG flexibility.</p> <p>MassDEP runs a fully-integrated, multi-media compliance and enforcement program. Inspectors are trained to conduct multi-media inspections. Any inspection targeted may be inspected for all applicable</p>

		<p>media, which leads to a large number of sites visited annually.</p> <p>In addition to conducting more RCRA inspections than any state in Region I, MassDEP identified SNCs at a rate that is more than 3 times the national average, identified violations at over 200 sites and collected almost a million dollars in final penalties in 2009.</p>
	Metric(s) and Quantitative Value	<p>R05E3C - Inspections at non-notifiers (5 FYs)</p> <p>R05E4S - Inspections at active sites other than those listed in 5a-d and 5e1-5e3 (5 FYs)</p> <p>R05E4C - Inspections at active sites other than those listed in 5a-d and 5e1-5e3 (5 FYs)</p>
	State Response	MassDEP will continue to strive to complete all its commitments.
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	

[RCRA] Element 6 – Quality of Inspection or Compliance Evaluation Reports - Degree to which inspection or compliance evaluation reports properly document observations, are completed in a timely manner, and include accurate description of observations.		
6.1	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input checked="" type="checkbox"/> Area for State Improvement (Recommendation Required)
	Finding	EPA found MassDEP inspection reports were of varying detail and quality and often did not have sufficient description of observations. MassDEP does complete its reports in a very timely manner.
	Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	<p>MassDEP has four Regional Offices that run independently. The work from office to office and within offices varies significantly. The MassDEP Compliance/Enforcement Staff conduct multi-media inspections. Documentation of RCRA inspections is achieved with a combination of documents, including: a Pre-inspection Report; a Compliance Evaluation Cover Sheet; a Compliance Evaluation Inspection Report; and/or a narrative trip summary. Numerous reports reviewed were found to have no specific details about wastes observed on-site, no specific details about violations (rather they included a general statement, such as “training violation”), missing facility identification information and few diagrams, and missing photos or photocopies for documentation of violations.</p> <p>MassDEP has always done an excellent job at completing its reports and follow-up enforcement in a timely manner. Inspection documentation is</p>

		<p>almost always completed within the required timeframes.</p> <p>MassDEP responded to concerns in SRF Round 1 regarding inspection reports by implementing tools such as the Pre-inspection Report and Compliance Evaluation Cover Sheet.</p> <p>There is improvement in the documentation maintained in files, and in some case there were examples of thorough documentation.</p> <p>MassDEP instituted several tools after SRF Round 1 to enhance inspection documentation; however, more work must be done to drive consistency and sufficient detail. There is a noticed improvement in the level of detail of some documentation. There are, in fact, good examples of documentation that meets the requirements of the SRF Inspection Report Completeness Checklist.</p>
Metric(s) and Quantitative Value		<p>A total of 22 MassDEP inspection files were reviewed by EPA. Of the twenty-two (22) files, 11 or 50% of the reports were not sufficiently detailed.</p> <p>Metric 6a - # of inspection reports reviewed. -22 Metric 6b - % of inspection reports reviewed that are complete and provide sufficient documentation to determine compliance at the facility. – 50% Metric 6c - Inspections reports completed within a determined time frame. - 100%</p>
State Response		<p>MassDEP has developed tools intended to capture the necessary information to properly document inspections. MassDEP will continue to work towards obtaining consistent documentation of inspections and findings while balancing its diminishing resources with the need to complete commitments.</p> <p>MassDEP will initiate a second round of training and increased supervision of its inspection report quality. MassDEP is confident that its inspections are identifying all violations.</p>
Action(s) (Include any uncompleted actions from Round 1 that address this issue.)		<p>6.1.1 MassDEP must create a standard format for all Regions that includes sufficient narrative to identify processes, waste streams, and hazardous waste accumulation and sufficiently documents specific observations and potential violations. MassDEP must ensure that the model includes the required elements set out in the SRF RCRA Inspection Report Completeness Checklist. MassDEP should build on some strong work that already exists in the Regions. EPA recommends that MassDEP finalize this standard format no later than September 2012.</p> <p>6.1.2 MassDEP’s Boston office must review implementation of the model and report to EPA in September 2013 and September 2014 that the model is being adequately and consistently implemented among the regional offices and overall inspection documentation quality is being maintained.</p>

[RCRA] Element 7 - Identification of Alleged Violations - Degree to which compliance determinations are accurately made and promptly reported in the national database based upon compliance monitoring report observations and other compliance monitoring information (e.g., facility-reported information).

7.1	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement (Recommendation Required)
	Finding	Of the twenty (20) enforcement responses reviewed, all appeared to have adequate enforcement response and were reported in a timely manner into RCRAInfo.
	Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	The documentation in the files was consistent in all cases reviewed with the compliance determination made. The concern about the level of detail in inspection documentation (see Element 6) may have some bearing on whether all violations are being identified, which could possibly impact whether a case was lower level or higher level enforcement.
	Metric(s) and Quantitative Value	<p>In reviewed case files, all twenty compliance determinations, ten (10) lower level enforcement and ten (10) formal enforcement, were all appropriate based upon the information in the file.</p> <p>100% of violation determinations in the files reviewed showed that they are reported in a timely manner to the national database (within 150 days).</p> <p>R07C0S - Violation identification rate at sites with inspections (1 FY) 55.2% R07C0E - Violation identification rate at sites with inspections (1 FY) 11.1% Metric 7a - % of accurate compliance determinations based on inspection reports. – 100% Metric 7b - % of violation determinations in the files reviewed that are reported timely to the national database (within 150 days). – 100%</p>
	State Response	MassDEP has a pool of experienced multi-media inspectors and legal staff who adhere to MassDEP’s Enforcement Response Guidance (ERG) to carry out enforcement actions.
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	

[RCRA] Element 8 - Identification of SNC and HPV - Degree to which the state accurately identifies significant noncompliance/high priority violations and enters information into the national system in a timely manner.

8.1	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement (Recommendation Required)
	Finding	MassDEP appears to have made adequate SNC determinations for the files reviewed.
	Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	<p>MassDEP has a SNC SOP that it implemented in 2007 and in October 2009 added a SNC code to its data system facilitating data entry and translation of SNC.</p> <p>EPA held training on SNCs for states after SRF Round 1.</p>
	Metric(s) and Quantitative Value	<p>Of the total of nine (9) formal enforcement action reviewed, seven (7) facilities were determined to be SNC and two (2) were not. The two facilities determined not to be SNC met MassDEP's policy for formal enforcement, but did not meet EPA's definition of SNC.</p> <p>R08B0S - Percent of SNC determinations made within 150 days (1 FY) – 71% R08C0S - Percent of formal actions taken that received a prior SNC listing (1 FY) – 55.7% Metric 8d - % of violations in files reviewed that were accurately determined to be SNC.- 100%</p>
	State Response	MassDEP will strive to identify and report SNC determinations in a timely and accurate fashion.
Action(s) (Include any uncompleted actions from Round 1 that address this issue.)		

[RCRA] Element 9 - Enforcement Actions Promote Return to Compliance - Degree to which state enforcement actions include required corrective action (i.e., injunctive relief or other complying actions) that will return facilities to compliance in a specific time frame.

9.1	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement (Recommendation Required)
	Finding	MassDEP included complying actions and timeframes for return to compliance in all enforcement actions.
	Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	MassDEP adds complying actions with timeframes into all lower level enforcement actions (Notices of Noncompliance) and formal enforcement actions (Administrative Consent Orders with Penalty). MassDEP also conducts follow-up inspections after the issuance of formal actions to document compliance.
	Metric(s) and Quantitative Value	EPA reviewed a total of twenty (20) formal and informal enforcement actions. All twenty (20) or 100% of the actions required corrective actions and included return to compliance schedules, if needed. Metric 9a - # of enforcement responses reviewed. - 18 Metric 9b - % of enforcement responses that have returned or will return a source in SNC to compliance – 100%. Metric 9c - % of enforcement responses that have returned or will return Secondary Violators (SV's) to compliance. 100%.
	State Response	MassDEP will continue to strive to implement its enforcement program in a manner that promotes return to compliance.
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	

[RCRA] Element 10 – Timely and Appropriate Action - Degree to which a state takes timely and appropriate enforcement actions in accordance with policy relating to specific media.

10.1	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement (Recommendation Required)
	Finding	MassDEP has issued timely actions in accordance with its enforcement response policy.

<p>Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)</p>	<p>Of the twenty (20) enforcement responses reviewed, based on the information in the files, all enforcement actions appear to have been in conformance with MassDEP and EPA's RCRA Enforcement Response Policies and were issued in a timely manner in all cases.</p> <p>As part of MassDEP's Administrative Penalties Act (APA,) MassDEP is required to give notice to a respondent prior to issuance of a penalty action and hold a meeting to discuss potential violations. As a result of this meeting, consent is usually reached and a Consent Agreement is issued. Therefore, there is no initial action (Administrative Complaint.) The only formal action issued is a final action, after negotiation. Even with this limitation, most of MassDEP's final actions occur within the required time frame.</p> <p>Data element 10(a) shows the number of timely formal enforcement occurred in only 38.7% of cases. MassDEP reviewed each of the cases listed in this element 10(a) and provided supporting information to EPA on the reason that it exceeded 360 days. Most of the cases in this data element were either within two weeks of the 360 days or were data entry errors. Two cases were coordinated enforcement actions (three different facilities in one case and two in another,) which required additional time to issue.</p>
<p>Metric(s) and Quantitative Value</p>	<p>All (10) formal enforcement file reviewed had actions issued within 360 days. All ten (10) secondary violators had an informal action issued well within 240 days.</p> <p>R10A0S - Percent of SNCs with formal action/referral taken within 360 days (1 FY) – 38.7%</p> <p>R10B0S - No activity indicator - number of formal actions (1 FY) - 71</p> <p>Metric 10c - % of enforcement responses reviewed that are taken in a timely manner – 100%.</p> <p>Metric 10d - % of enforcement responses reviewed that are appropriate to the violations – 100%.</p>
<p>State Response</p>	
<p>Action(s) (Include any uncompleted actions from Round 1 that address this issue.)</p>	

[RCRA] Element 11 - Penalty Calculation Method - Degree to which state documents in its files that initial penalty calculation includes both gravity and economic benefit calculations, appropriately using the BEN model or other method that produces results consistent with national policy.

11.1	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input checked="" type="checkbox"/> Area for State Improvement (Recommendation Required)
	Finding	MassDEP is considering gravity and economic benefit in its formal enforcement cases. Some case files did not have adequate documentation as to why economic benefit was not assessed.
	Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	<p>MassDEP relies on its PENCAL system document penalty calculation, including the assessment of gravity and economic benefit. There is an economic benefit field in the automated system which cannot be bypassed, and for which a value must be entered (0 for no economic benefit.)</p> <p>If the economic benefit for a violation is zero, there is not documentation as to whether there was no economic benefit or whether the economic benefit was waived and why.</p> <p>In two files there was no assessment of economic benefit for instances of acting out of status (missed fees.)</p>
	Metric(s) and Quantitative Value	<p>A total of ten (10) formal enforcement actions were reviewed. In three (3) of the ten (10) files, MassDEP did not apply economic benefit for facilities acting out of status (missed fees) and treating hazardous waste on-site.</p> <p>Metric 11a - % of reviewed penalty calculations that consider and include where appropriate gravity and economic benefit 70%.</p>
	State Response	<p>MassDEP routinely evaluates whether economic benefit resulted from the violation when assessing the amount of the penalty. MassDEP will continue to recover in the penalty any quantifiable economic gain when feasible.</p> <p>MassDEP is in the process of supplementing its penalty calculation software program (PenCalc) and developing guidance that will document the applicable penalty mitigation and settlement policies and the statutory penalty assessment considerations that were applied in reaching a final cash settlement amount in those situations where it is less than the amount reflected in the final PenCalc report.</p>
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	<p>11.1 EPA recommends that MassDEP include a more detailed description of the economic benefit calculation especially when it is zero.</p> <p>11.2 EPA recommends that in the case of insignificant economic benefit, MassDEP also include a brief description in the file of how it made the determination that the economic benefit was insignificant. EPA recommends that MassDEP implement these changes no later than January 2012.</p>

[RCRA] Element 12 - Final Penalty Assessment and Collection - Degree to which differences between initial and final penalty are documented in the file along with a demonstration in the

file that the final penalty was collected.		
12.1	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input checked="" type="checkbox"/> Area for State Improvement (Recommendation Required)
	Finding	MassDEP does not always describe how the proposed penalty differs from the final penalty.
	Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	<p>MassDEP documents penalty calculations using its PENCALC automated system. MassDEP does not always adequately document how it arrives at a final penalty after a conference with the company and the internal Regional Enforcement Review Committee review.</p> <p>MassDEP responded to a recommendation in SRF Round I and is documenting payment either by copy of a check or a copy of the Massachusetts Management and Accounting Reporting System (MMARS) printout showing the receipt of payment to the Commonwealth.</p>
	Metric(s) and Quantitative Value	<p>A total of ten (10) formal actions reviewed. In three (3) cases, MassDEP did not have documentation of how it arrived at the final penalty. Only one file did not have documentation of penalty payment.</p> <p>R12A0S - No activity indicator - penalties (1 FY) - \$625,625. R12B0S - Percent of final formal actions with penalty (1 FY) – 59.1%. Metric 12a - % of penalties reviewed that document the difference and rationale between the initial and final assessed penalty – 70%. Metric 12b - % of files that document collection of penalty – 90%.</p>
	State's Response	<p>MassDEP often settles penalty cases through enforceable agreements utilizing several publicly available settlement policies. MassDEP will continue to work at better documenting penalty decisions.</p> <p>MassDEP is in the process of supplementing its penalty calculation software program (PenCalc) and developing guidance that will document the applicable penalty mitigation and settlement policies and the statutory penalty assessment considerations that were applied in reaching a final cash settlement amount in those situations where it is less than the amount reflected in the final PenCalc report.</p>
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	<p>12.1 EPA recommends that MassDEP include a more detailed description of the difference between proposed and final penalties in the file. This may be a matter of including the original PENCALC sheet as well as the final PENCALC sheet in the file as well as notes from the enforcement review committee's discussion of the penalty and/or settlement negotiations. EPA recommends that MassDEP implement this change no later than January 2012.</p> <p>12.2 Based on the preliminary recommendations from the SRF Round 2, MassDEP has asked its Office of General Counsel to develop and issue</p>

		guidance to the DEP regional offices regarding how changes in penalty should be documented in the file. EPA recommends that MassDEP finalize this guidance no later than September 2012.
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APPENDIX A: STATUS OF RECOMMENDATIONS FROM PREVIOUS REVIEW

During the first SRF review of MassDEP's compliance and enforcement programs in 2004, Region 1 and MassDEP identified a number of actions to be taken to address issues found during the review. MassDEP has taken steps to implement each of these recommendations. The table below describes the SRF-1 recommendations.

Media	E#	Element	Finding	Recommendation	Due Date	Status
CAA	E1	Insp Universe	Inspection Commitments	MassDEP should demonstrate to EPA that MassDEP inspectors have conducted FCEs with on-site inspection at the following frequencies: once within a 3- year period for each non-combustion major and SM80 source, and once within a 5-year period for each combustion major and SM80 source. FCEs without an on-site inspection will be performed once within a 2-year period for each combustion major source.	9/30/2007	Completed
CAA	E1	Insp Universe	Inspection Commitments	MassDEP should demonstrate to EPA that it has conducted FCEs at sources that currently are in unknown compliance status.	9/30/2007	Completed
CAA	E1	Insp Universe	Title V Certifications	MassDEP should review 100% of the Title V certifications it receives.	9/30/2007	Completed
CAA	E2	Violations ID'ed Appropriately	Improvement of Inspection Documentation	By September 30, 2007 MassDEP should report progress on the specific steps taken to improve the quality of inspection reports, including but not limited to, any additional training for inspectors and the development of new MassDEP procedures, checklists/model reports.	9/30/2007	Completed
CAA	E3	Violations ID'ed Timely	Timeliness of inspection reports	MassDEP will provide EPA with a summary of the specific steps taken to improve the timeliness of inspection reports.	9/30/2007	Completed
CAA	E9	Grant Commitments	Demonstrate UI is fully functional	MassDEP should demonstrate to EPA that the UI is fully functional.	9/30/2007	Completed
CAA	E11	Data Accurate	Update Compliance Status in AFS	MassDEP should mark the past and current compliance status of all sources in AFS.	9/30/2007	Completed
CAA	E12	Data Complete	FIPS Code	MassDEP should incorporate FIPS codes.	9/30/2009	Long Term Resolution
CAA	E12	Data Complete	Data quality plan for MDRs	MassDEP will submit a plan to EPA outlining how it will improve data quality and meet all MDRs. This plan will include maintenance procedures to ensure that MassDEP continues to meet all MDRs going forward (Air).	9/30/2007	Completed
CWA	E1	Insp Universe	NPDES Inspection Commitments	MassDEP should conduct compliance evaluation inspections each year at a larger percentage of its NPDES facilities. The appropriate coverage level can be negotiated as part of the Performance Partnership Agreement	9/30/2007	Completed
CWA	E1	Insp Universe	Inspection Resource Commitments	MassDEP should evaluate the level of resources devoted to NPDES inspections.	9/30/2007	Completed
CWA	E1	Insp Universe	Form 3560 data entry	MassDEP should provide EPA with a Form 3560 for all NPDES inspections. Alternatively, MassDEP should begin directly entering its inspections into ICIS-NPDES.	9/30/2007	Completed
CWA	E4	SNC Accuracy	SEV Reporting	EPA should provide training to MassDEP regarding Single Event Violation reporting. MassDEP should be provided with copies of the updated Form 3560 for use by its inspectors. (IWW) Note: DEP may elect not to do single event violation reporting in IWW because of its multimedia program.	12/31/2010	Long Term Resolution

CWA	E6	Timely & Appropriate Actions	Timely and Appropriate Actions	MASSDEP should consider developing interim limits for all (Response to MassDEP comment) facilities under a compliance schedule to remove these facilities from the SNC list.	9/30/2009	Long Term Resolution
CWA	E7	Penalty Calculations	Penalty Calculation	MassDEP should use its information gathering authority under 314 CMR 3.03 to obtain information on the cost of corrective actions and avoided costs that can be used to calculate the economic benefit of the violation(s). Alternatively MassDEP could calculate the economic benefit based on its best estimate of the cost of corrective action and avoided costs and adjust the calculation with more accurate information obtained during settlement negotiations.	9/30/2009	Long Term Resolution
CWA	E8	Penalties Collected	Documentation of Penalty Calculations	MassDEP should ensure that any changes from the original penalty to the final penalty are properly documented in the case file.	9/30/2007	Completed
CWA	E8	Penalties Collected	Economic Benefit Calculations	MassDEP should ensure that economic benefit is calculated for all penalty calculations. Significant economic benefit and at least some gravity component should be recovered absent compelling justification.	9/30/2007	Completed
RCRA	E1	Insp Universe	Inspection Commitments	MassDEP has committed to inspecting LQs never inspected and not inspected in five years through the FY07 PPA process	9/30/2007	Completed
RCRA	E2	Violations ID'ed Appropriately	Inspection Documentation	MassDEP has committed to assess its field documentation for RCRA and set up procedures to ensure that the minimum elements required for conducting a full RCRA inspection, including the minimum evidentiary elements to support any violations observed at the time of the inspection, are documented for every full inspection. The proposed procedures should be submitted to EPA and instituted throughout Regional Offices.	9/30/2007	Completed
RCRA	E4	SNC Accuracy	SNC Accuracy	MassDEP has committed to enter the accurate violation determination date regardless of the level of enforcement and does not have to identify significant noncompliance in the national database until 150 days after the violation determination date. MassDEP has also committed to working with EPA to resolve any confusion about entering formal actions for cases issued into RCRAInfo and has already prepared a list of those facilities that are in FMF, but not in RCRAInfo so that its data leads can begin to correct discrepancies. Standard operating procedures will be instituted to ensure data accuracy in the future.	9/30/2007	Completed
RCRA	E7	Penalty Calculations	Documentation of Economic Benefit Consideration	MassDEP has committed to adding a line item in its penalty calculation sheet to show that economic benefit has been considered, but does not apply, and to include a final settlement justification in the case file.	9/30/2007	Completed
RCRA	E8	Penalties Collected	Penalty Payment Documentation	MassDEP has committed to include either a copy of a check or a hard copy of the relevant page(s) of the penalty payment tracking system in the file. Guidance has been provided to the MassDEP staff on the documentation that should be placed in each file where a penalty has been collected.	9/30/2007	Completed
RCRA	E8	Penalties Collected	Inspection Report Timeliness	MassDEP has committed to date each report to reflect that the report is completed contemporaneously with the inspection and that the facts and evidence have been documented before initiating an enforcement action.	9/30/2007	Completed
RCRA	E10	Data Timely	Clarify SNC Data Requirements	EPA will clarify the SNC requirements with MassDEP and continue to work with MassDEP to address them.	9/30/2007	Completed
RCRA	E10	Data Timely	RCRA Data Quality	MassDEP and EPA will address database issues that affect their commitment to enter data into RCRAInfo.	9/30/2007	Completed

RCRA	E11	Data Accurate	Improving RCRAInfo Data Quality	MassDEP has conducted a qualitative analysis of discrepancies between OTIS, RCRAInfo and FMF and has sent requests for data correction to its Regional Offices. EPA will continue to work with MassDEP to ensure data quality for reporting to RCRAInfo	9/30/2007	Completed
RCRA	E12	Data Complete	Data guidance for RCRA program	Region 1 will continue to offer guidance to MassDEP to clarify data and allow MassDEP to get recognition for the full breadth of its RCRA program. MassDEP has committed to work with EPA and create SOPs, where necessary, to resolve data inconsistencies such as number of facilities in violation	9/30/2007	Completed

APPENDIX B: OFFICIAL DATA PULL

Clean Air Act

Metric	Metric Description	Metric Type	Agency	National Goal	National Average	Mass. Metric Prod	Count Prod	Universe Prod	Not Counted Prod
A01A1S	Title V Universe: AFS Operating Majors (Current)	Data Quality	State			143	NA	NA	
A01A1C	Title V Universe: AFS Operating Majors (Current)	Data Quality	Combined			143	NA	NA	NA
A01A2S	Title V Universe: AFS Operating Majors with Air Program Code = V (Current)	Data Quality	State			142	NA	NA	NA
A01A2C	Title V Universe: AFS Operating Majors with Air Program Code = V (Current)	Data Quality	Combined			142	NA	NA	NA
A01B1S	Source Count: Synthetic Minors (Current)	Data Quality	State			899	NA	NA	NA
A01B1C	Source Count: Synthetic Minors (Current)	Data Quality	Combined			899	NA	NA	NA
A01B2S	Source Count: NESHAP Minors (Current)	Data Quality	State			23	NA	NA	NA
A01B2C	Source Count: NESHAP Minors (Current)	Data Quality	Combined			23	NA	NA	NA
A01B3S	Source Count: Active Minor facilities or otherwise FedRep, not including NESHAP Part 61 (Current)	Informational Only	State			1,186	NA	NA	NA
A01B3C	Source Count: Active Minor facilities or otherwise FedRep, not including NESHAP Part 61 (Current)	Informational Only	Combined			1,186	NA	NA	NA
A01C1S	CAA Subprogram Designations: NSPS (Current)	Data Quality	State			195	NA	NA	NA
A01C1C	CAA Subprogram Designations: NSPS (Current)	Data Quality	Combined			195	NA	NA	NA
A01C2S	CAA Subprogram Designations: NESHAP (Current)	Data Quality	State			45	NA	NA	NA
A01C2C	CAA Subprogram Designations: NESHAP (Current)	Data Quality	Combined			45	NA	NA	NA
A01C3S	CAA Subprogram Designations: MACT (Current)	Data Quality	State			84	NA	NA	NA
A01C3C	CAA Subprogram Designations: MACT (Current)	Data Quality	Combined			84	NA	NA	NA

A01C4S	CAA Subpart Designations: Percent NSPS facilities with FCEs conducted after 10/1/2005	Data Quality	State	100%	82.7 %	90.2%	110	122	12
A01C5S	CAA Subpart Designations: Percent NESHAP facilities with FCEs conducted after 10/1/2005	Data Quality	State	100%	38.6 %	26.3%	5	19	14
A01C6S	CAA Subpart Designations: Percent MACT facilities with FCEs conducted after 10/1/2005	Data Quality	State	100%	92.4 %	92.6%	63	68	5
A01C6C	CAA Subpart Designations: Percent MACT facilities with FCEs conducted after 10/1/2005	Data Quality	Combined	100%	90.3 %	84.0%	63	75	12
A01D1S	Compliance Monitoring: Sources with FCEs (1 FY)	Data Quality	State			142	NA	NA	NA
A01D2S	Compliance Monitoring: Number of FCEs (1 FY)	Data Quality	State			143	NA	NA	NA
A01D3S	Compliance Monitoring: Number of PCEs (1 FY)	Informational Only	State			1,968	NA	NA	NA
A01E0S	Historical Non-Compliance Counts (1 FY)	Data Quality	State			23	NA	NA	NA
A01E0C	Historical Non-Compliance Counts (1 FY)	Data Quality	Combined			26	NA	NA	NA
A01F1S	Informal Enforcement Actions: Number Issued (1 FY)	Data Quality	State			56	NA	NA	NA
A01F2S	Informal Enforcement Actions: Number of Sources (1 FY)	Data Quality	State			54	NA	NA	NA
A01G1S	HPV: Number of New Pathways (1 FY)	Data Quality	State			11	NA	NA	NA
A01G2S	HPV: Number of New Sources (1 FY)	Data Quality	State			11	NA	NA	NA
A01H1S	HPV Day Zero Pathway Discovery date: Percent DZs with discovery	Data Quality	State	100%	49.3 %	100.0%	11	11	0
A01H2S	HPV Day Zero Pathway Violating Pollutants: Percent DZs	Data Quality	State	100%	74.1 %	100.0%	11	11	0
A01H3S	HPV Day Zero Pathway Violation Type Code(s): Percent DZs with HPV Violation Type Code(s)	Data Quality	State	100%	78.1 %	100.0%	11	11	0
A01I1S	Formal Action: Number Issued (1 FY)	Data Quality	State			73	NA	NA	NA
A01I2S	Formal Action: Number of Sources (1 FY)	Data Quality	State			73	NA	NA	NA
A01J0S	Assessed Penalties: Total Dollar Amount (1 FY)	Data Quality	State			\$2,310,324	NA	NA	NA

A01K0S	Major Sources Missing CMS Policy Applicability (Current)	Review Indicator	State	0		1	NA	NA	NA
A02A0S	Number of HPVs/Number of NC Sources (1 FY)	Data Quality	State	<= 50%	58.8 %	85.7%	12	14	2
A02A0C	Number of HPVs/Number of NC Sources (1 FY)	Data Quality	Combined	<= 50%	59.0 %	87.5%	14	16	2
A02B1S	Stack Test Results at Federally-Reportable Sources - % Without Pass/Fail Results (1 FY)	Goal	State	0%	1.6%	0.0%	0	91	91
A02B2S	Stack Test Results at Federally-Reportable Sources - Number of Failures (1 FY)	Data Quality	State			2	NA	NA	NA
A03A0S	Percent HPVs Entered <= 60 Days After Designation, Timely Entry (1 FY)	Goal	State	100%	32.4 %	45.5%	5	11	6
A03B1S	Percent Compliance Monitoring related MDR actions reported <= 60 Days After Designation, Timely Entry (1 FY)	Goal	State	100%	53.3 %	91.1%	458	503	45
A03B2S	Percent Enforcement related MDR actions reported <= 60 Days After Designation, Timely Entry (1 FY)	Goal	State	100%	67.9 %	98.2%	110	112	2
A05A1S	CMS Major Full Compliance Evaluation (FCE) Coverage (2 FY CMS Cycle)	Goal	State	100%	86.9 %	82.6%	114	138	24
A05A1C	CMS Major Full Compliance Evaluation (FCE) Coverage (2 FY CMS Cycle)	Goal	Combined	100%	87.1 %	84.8%	117	138	21
A05A2S	CAA Major Full Compliance Evaluation (FCE) Coverage(most recent 2 FY)	Review Indicator	State	100%	82.9 %	80.0%	116	145	29
A05A2C	CAA Major Full Compliance Evaluation (FCE) Coverage(most recent 2 FY)	Review Indicator	Combined	100%	83.2 %	82.1%	119	145	26
A05B1S	CAA Synthetic Minor 80% Sources (SM-80) FCE Coverage (5 FY CMS Cycle)	Review Indicator	State	20% - 100%	82.9 %	82.5%	132	160	28
A05B1C	CAA Synthetic Minor 80% Sources (SM-80) FCE Coverage (5 FY CMS Cycle)	Review Indicator	Combined	20% - 100%	83.3 %	85.6%	137	160	23
A05B2S	CAA Synthetic Minor 80% Sources (SM-80) FCE Coverage (last full 5 FY)	Informational Only	State	100%	90.2 %	90.4%	160	177	17
A05B2C	CAA Synthetic Minor 80% Sources (SM-80) FCE Coverage (last full 5 FY)	Informational Only	Combined		90.5 %	92.1%	163	177	14
A05C0S	CAA Synthetic Minor FCE and reported PCE Coverage (last 5 FY)	Informational Only	State		81.0 %	81.1%	748	922	174
A05C0C	CAA Synthetic Minor FCE and reported PCE Coverage (last 5 FY)	Informational Only	Combined		81.3 %	82.1%	757	922	165
A05D0S	CAA Minor FCE and Reported PCE Coverage (last 5 FY)	Informational Only	State		29.8 %	31.9%	1,093	3,430	2,337

A05E0S	Number of Sources with Unknown Compliance Status (Current)	Review Indicator	State				3	NA	NA	NA
A05E0C	Number of Sources with Unknown Compliance Status (Current)	Review Indicator	Combined				3	NA	NA	NA
A05F0S	CAA Stationary Source Investigations (last 5 FY)	Informational Only	State				0	NA	NA	NA
A05G0S	Review of Self-Certifications Completed (1 FY)	Goal	State	100%	93.7 %	99.3%		134	135	1
A07C1S	Percent facilities in noncompliance that have had an FCE, stack test, or enforcement (1 FY)	Review Indicator	State	> 1/2 National Avg	22.0 %	10.6%		22	208	186
A07C2S	Percent facilities that have had a failed stack test and have noncompliance status (1 FY)	Review Indicator	State	> 1/2 National Avg	46.6 %	0.0%		0	4	4
A07C2E	Percent facilities that have had a failed stack test and have noncompliance status (1 FY)	Review Indicator	EPA	> 1/2 National Avg	33.3 %	0 / 0		0	0	0
A08A0S	High Priority Violation Discovery Rate - Per Major Source (1 FY)	Review Indicator	State	> 1/2 National Avg	7.7%	4.9%		7	143	136
A08A0E	High Priority Violation Discovery Rate - Per Major Source (1 FY)	Review Indicator	EPA		0.8%	0.7%		1	143	142
A08B0S	High Priority Violation Discovery Rate - Per Synthetic Minor Source (1 FY)	Review Indicator	State	> 1/2 National Avg	0.6%	0.3%		3	899	896
A08B0E	High Priority Violation Discovery Rate - Per Synthetic Minor Source (1 FY)	Review Indicator	EPA	> 1/2 National Avg	0.0%	0.1%		1	899	898
A08C0S	Percent Formal Actions With Prior HPV - Majors (1 FY)	Review Indicator	State	> 1/2 National Avg	74.5 %	66.7%		8	12	4
A08D0S	Percent Informal Enforcement Actions Without Prior HPV - Majors (1 FY)	Review Indicator	State	< 1/2 National Avg	45.7 %	78.6%		11	14	3
A08E0S	Percentage of Sources with Failed Stack Test Actions that received HPV listing - Majors and Synthetic Minors (2 FY)	Review Indicator	State	> 1/2 National Avg	43.1 %	25.0%		1	4	3
A10A0S	Percent HPVs not meeting timeliness goals (2 FY)	Review Indicator	State		34.9 %	42.1%		8	19	11
A12A0S	No Activity Indicator - Actions with Penalties (1 FY)	Review Indicator	State					72	NA	NA
A12B0S	Percent Actions at HPVs With Penalty (1 FY)	Review Indicator	State	>= 80%	86.1 %	72.7%		8	11	3

Resource Conservation and Recovery Act

Metric	Metric Description	Metric Type	Agency	National Goal	National Average	Mass. Metric Prod	Count Prod	Universe Prod	Not Counted Prod
R01A1S	Number of operating TSDFs in RCRAInfo	Data Quality	State			13	NA	NA	NA
R01A2S	Number of active LQGs in RCRAInfo	Data Quality	State			611	NA	NA	NA
R01A3S	Number of active SQGs in RCRAInfo	Data Quality	State			2,843	NA	NA	NA
R01A4S	Number of all other active sites in RCRAInfo	Data Quality	State			6,047	NA	NA	NA
R01A5S	Number of LQGs per latest official biennial report	Data Quality	State			432	NA	NA	NA
R01B1S	Compliance monitoring: number of inspections (1 FY)	Data Quality	State			354	NA	NA	NA
R01B1E	Compliance monitoring: number of inspections (1 FY)	Data Quality	EPA			10	NA	NA	NA
R01B2S	Compliance monitoring: sites inspected (1 FY)	Data Quality	State			324	NA	NA	NA
R01B2E	Compliance monitoring: sites inspected (1 FY)	Data Quality	EPA			9	NA	NA	NA
R01C1S	Number of sites with violations determined at any time (1 FY)	Data Quality	State			473	NA	NA	NA
R01C1E	Number of sites with violations determined at any time (1 FY)	Data Quality	EPA			9	NA	NA	NA
R01C2S	Number of sites with violations determined during the FY	Data Quality	State			179	NA	NA	NA
R01C2E	Number of sites with violations determined during the FY	Data Quality	EPA			1	NA	NA	NA
R01D1S	Informal actions: number of sites (1 FY)	Data Quality	State			127	NA	NA	NA
R01D1E	Informal actions: number of sites (1 FY)	Data Quality	EPA			2	NA	NA	NA
R01D2S	Informal actions: number of actions (1 FY)	Data Quality	State			133	NA	NA	NA
R01D2E	Informal actions: number of actions (1 FY)	Data Quality	EPA			2	NA	NA	NA
R01E1S	SNC: number of sites with new SNC (1 FY)	Data Quality	State			31	NA	NA	NA
R01E1E	SNC: number of sites with new SNC (1 FY)	Data Quality	EPA			0	NA	NA	NA
R01E2S	SNC: Number of sites in SNC (1 FY)	Data Quality	State			63	NA	NA	NA

R01E2E	SNC: Number of sites in SNC (1 FY)	Data Quality	EPA			3	NA	NA	NA
R01F1S	Formal action: number of sites (1 FY)	Data Quality	State			69	NA	NA	NA
R01F1E	Formal action: number of sites (1 FY)	Data Quality	EPA			1	NA	NA	NA
R01F2S	Formal action: number taken (1 FY)	Data Quality	State			71	NA	NA	NA
R01F2E	Formal action: number taken (1 FY)	Data Quality	EPA			2	NA	NA	NA
R01G0S	Total amount of final penalties (1 FY)	Data Quality	State			\$625,652	NA	NA	NA
R01G0E	Total amount of final penalties (1 FY)	Data Quality	EPA			\$0	NA	NA	NA
R02A1S	Number of sites SNC-determined on day of formal action (1 FY)	Data Quality	State			3	NA	NA	NA
R02A2S	Number of sites SNC-determined within one week of formal action (1 FY)	Data Quality	State			1	NA	NA	NA
R02B0S	Number of sites in violation for greater than 240 days	Data Quality	State			203	NA	NA	NA
R02B0E	Number of sites in violation for greater than 240 days	Data Quality	EPA			3	NA	NA	NA
R03A0S	Percent SNCs entered ≥ 60 days after designation (1 FY)	Review Indicator	State			66.7%	18	27	9
R03A0E	Percent SNCs entered ≥ 60 days after designation (1 FY)	Review Indicator	EPA			0 / 0	0	0	0
R05A0S	Inspection coverage for operating TSDFs (2 FYs)	Goal	State	100%	85.7%	92.3%	12	13	1
R05A0C	Inspection coverage for operating TSDFs (2 FYs)	Goal	Combined	100%	90.8%	92.3%	12	13	1
R05B0S	Inspection coverage for LQGs (1 FY)	Goal	State	20%	24.4%	13.9%	60	432	372
R05B0C	Inspection coverage for LQGs (1 FY)	Goal	Combined	20%	26.5%	14.6%	63	432	369
R05C0S	Inspection coverage for LQGs (5 FYs)	Goal	State	100%	68.4%	75.5%	326	432	106
R05C0C	Inspection coverage for LQGs (5 FYs)	Goal	Combined	100%	73.8%	77.5%	335	432	97
R05D0S	Inspection coverage for active SQGs (5 FYs)	Informational Only	State			17.0%	482	2843	2361
R05D0C	Inspection coverage for active SQGs (5 FYs)	Informational Only	Combined			17.2%	490	2843	2353
R05E1S	Inspections at active CESQGs (5 FYs)	Informational Only	State			613	NA	NA	NA
R05E1C	Inspections at active CESQGs (5 FYs)	Informational Only	Combined			623	NA	NA	NA
R05E2S	Inspections at active transporters (5 FYs)	Informational Only	State			35	NA	NA	NA
R05E2C	Inspections at active transporters (5 FYs)	Informational Only	Combined			35	NA	NA	NA

R05E3S	Inspections at non-notifiers (5 FYs)	Informational Only	State			28	NA	NA	NA
R05E3C	Inspections at non-notifiers (5 FYs)	Informational Only	Combined			28	NA	NA	NA
R05E4S	Inspections at active sites other than those listed in 5a-d and 5e1-5e3 (5 FYs)	Informational Only	State			110	NA	NA	NA
R05E4C	Inspections at active sites other than those listed in 5a-d and 5e1-5e3 (5 FYs)	Informational Only	Combined			113	NA	NA	NA
R07C0S	Violation identification rate at sites with inspections (1 FY)	Review Indicator	State			55.2%	179	324	145
R07C0E	Violation identification rate at sites with inspections (1 FY)	Review Indicator	EPA			11.1%	1	9	8
R08A0S	SNC identification rate at sites with inspections (1 FY)	Review Indicator	State	1/2 National Avg	3.1%	9.6%	31	324	293
R08A0C	SNC identification rate at sites with evaluations (1 FY)	Review Indicator	Combined	1/2 National Avg	3.3%	9.3%	31	332	301
R08B0S	Percent of SNC determinations made within 150 days (1 FY)	Goal	State	100%	76.1%	71.0%	22	31	9
R08B0E	Percent of SNC determinations made within 150 days (1 FY)	Goal	EPA	100%	64.2%	0 / 0	0	0	0
R08C0S	Percent of formal actions taken that received a prior SNC listing (1 FY)	Review Indicator	State	1/2 National Avg	61.3%	55.7%	39	70	31
R08C0E	Percent of formal actions taken that received a prior SNC listing (1 FY)	Review Indicator	EPA	1/2 National Avg	72.1%	0.0%	0	2	2
R10A0S	Percent of SNCs with formal action/referral taken within 360 days (1 FY)	Review Indicator	State	80%	35.8%	38.7%	12	31	19
R10A0C	Percent of SNCs with formal action/referral taken within 360 days (1 FY)	Review Indicator	Combined	80%	32.8%	38.7%	12	31	19
R10B0S	No activity indicator - number of formal actions (1 FY)	Review Indicator	State				71	NA	NA
R12A0S	No activity indicator - penalties (1 FY)	Review Indicator	State				\$625,652	NA	NA
R12B0S	Percent of final formal actions with penalty (1 FY)	Review Indicator	State	1/2 National Avg	63.9%	59.1%	39	66	27
R12B0C	Percent of final formal actions with penalty (1 FY)	Review Indicator	Combined	1/2 National Avg	64.3%	58.2%	39	67	28

APPENDIX C: PDA TRANSMITTAL LETTER

Appendices C, D and E provide the results of the Preliminary Data Analysis (PDA). The Preliminary Data Analysis forms the initial structure for the SRF report, and helps ensure that the data metrics are adequately analyzed prior to the on-site review. This is a critical component of the SRF process because it allows the reviewers to be prepared and knowledgeable about potential problem areas before initiating the on-site portion of the review. In addition, it gives the region focus during the file reviews and/or basis for requesting supplemental files based on potential concerns raised by the data metrics results.

This section, Appendix C, contains the letter transmitting the results of the Preliminary Data Analysis to the state. This letter identifies areas that the data review suggests the need for further examination and discussion during the review process.

Region 1 media program lead reviewers transmitted PDAs and File Selection lists to Mass DEP by e-mail. They then discussed the contents of the PDAs with their state counterparts by phone and in meetings.

APPENDIX D: PRELIMINARY DATA ANALYSIS CHARTS

This section provides the results of the Preliminary Data Analysis (PDA). The Preliminary Data Analysis forms the initial structure for the SRF report, and helps ensure that the data metrics are adequately analyzed prior to the on-site review. This is a critical component of the SRF process, because it allows the reviewers to be prepared and knowledgeable about potential problem areas before initiating the on-site portion of the review. In addition, it gives the region focus during the file reviews and/or basis for requesting supplemental files based on potential concerns raised by the data metrics results. The PDA reviews each data metric and evaluates state performance against the national goal or average, if appropriate.

The PDA Chart in this section of the SRF report only includes metrics where potential concerns are identified or potential areas of exemplary performance. However, the full PDA, which is available as a document separate from this report, contains every metric - positive, neutral or negative. Initial Findings indicate the observed results. Initial Findings are preliminary observations and are used as a basis for further investigation. Findings are developed only after evaluating them against the file review results where appropriate, and dialogue with the state has occurred. Through this process, Initial Findings may be confirmed, modified, or determined not to be supported. Findings are presented in Section IV of this report.

Clean Air Act

Metric	Metric Description	Metric Type	Agency	National Goal	National Average	Massachusetts Metric Prod	Explanation/Findings
A01A2S	Title V Universe: AFS Operating Majors with Air Program Code = V (Current)	Data Quality	State			142	Peabody Power not counted in metric- planned but not built. It is in AFS as a Major with an Operating status of planned. Since it is not built, it is not yet subject to Title V and has not been assigned program code "V".
A01A2C	Title V Universe: AFS Operating Majors with Air Program Code = V (Current)	Data Quality	Combined			142	Peabody Power not counted in metric- planned but not built. It is in AFS as a Major with an Operating status of planned. Since it is not built, it is not yet subject to Title V and has not been assigned program code "V".

A01C5S	CAA Subpart Designations: Percent NESHAP facilities with FCEs conducted after 10/1/2005	Data Quality	State	100%	38.6%	26.3%	MassDEP has 45 facilities with NESHAP designations and conducted 19 FCEs at these facilities since October 2005. Only 5 of the 19 FCEs counted in SRF metric. It is not clear why this happened, but it does appear that MassDEP is above the national average for this metric.
A01E0S	Historical Non-Compliance Counts (1 FY)	Data Quality	State			23	In FY09, 74 "updates" to facility compliance status were input into AFS. Some of these had the "5" code instead of the "1" code. MassDEP has a procedure in place to manually update compliance status for all facilities.
A01G1S	HPV: Number of New Pathways (1 FY)	Data Quality	State			11	9 new HPV pathways were started in FFY09 while only 6 had Day Zero in FFY09. It is unclear where the 11 came from.
A01G2S	HPV: Number of New Sources (1 FY)	Data Quality	State			11	see above
A01K0S	Major Sources Missing CMS Policy Applicability (Current)	Review Indicator	State	0		1	As Peabody power is "planned " and not yet built, it is not included in the CMS and should not have been counted as "missing" in the SRF.
A02A0S	Number of HPVs/Number of NC Sources (1 FY)	Data Quality	State	<= 50%	58.8%	85.7%	MassDEP has been entering the compliance status of all facilities receiving enforcement actions as "5-On schedule". The SRF metrics do not recognize this code as one of the noncompliance codes. MassDEP has fixed this in AFS.
A02A0C	Number of HPVs/Number of NC Sources (1 FY)	Data Quality	Combin ed	<= 50%	59.0%	87.5%	see above
A02B1S	Stack Test Results at Federally- Reportable Sources - % Without Pass/Fail Results (1 FY)	Goal	State	0%	1.6%	0.0%	All facility stack test have valid result codes in AFS. MassDEP neglected to add the pollutant code and so not all stack tests were counted. This has been fixed in AFS.
A03A0S	Percent HPVs Entered <= 60 Days After Designation, Timely Entry (1 FY)	Goal	State	100%	32.4%	45.5%	Because of constraints in the Massachusetts Enforcement Regulations, Statutes and policies, it is not always possible to submit an HPV designation within 60 days of the initiating action

A03B1S	Percent Compliance Monitoring related MDR actions reported <= 60 Days After Designation, Timely Entry (1 FY)	Goal	State	100%	53.3%	91.1%	The late entries are mostly the result of QC activities and making AFS match with the state's FMF system
A03B2S	Percent Enforcement related MDR actions reported <= 60 Days After Designation, Timely Entry (1 FY)	Goal	State	100%	67.9%	98.2%	The late entries are mostly the result of QC activities and making AFS match with the state's FMF system
A05A1S	CMS Major Full Compliance Evaluation (FCE) Coverage (2 FY CMS Cycle)	Goal	State	100%	86.9%	82.6%	Only 2 FY counted and not the 3 and 5 year cycle that Massachusetts uses for the CMS plan. Based on the Mass CMS, all but 3 facilities had an FCE within the proper time frame all because of on-going enforcement activity. Mass conducted 135 out of 138 FCEs in the CMS cycle.
A05A1C	CMS Major Full Compliance Evaluation (FCE) Coverage (2 FY CMS Cycle)	Goal	Combined	100%	87.1%	84.8%	see above
A05A2S	CAA Major Full Compliance Evaluation (FCE) Coverage(most recent 2 FY)	Review Indicator	State	100%	82.9%	80.0%	Only 2 FY counted and not the 3 and 5 year cycle that Massachusetts uses for the CMS plan. Based on the Mass CMS, all but 3 facilities had an FCE within the proper time frame all because of on-going enforcement activity. Mass conducted 135 out of 138 FCEs in the CMS cycle.
A05A2C	CAA Major Full Compliance Evaluation (FCE) Coverage(most recent 2 FY)	Review Indicator	Combined	100%	83.2%	82.1%	see above
A05B1S	CAA Synthetic Minor 80% Sources (SM-80) FCE Coverage (5 FY CMS Cycle)	Review Indicator	State	20% - 100%	82.9%	82.5%	AFS shows FCEs completed for 159 of 160 SM80 facilities since FY2004. State data is consistent with this. One facility (on a 3 year schedule) was due in FFY09 but this FCE was put on hold due to enforcement. Mass SM80s are on either a 3 year or 5 year on-site FCE schedule (per the negotiated CMS). Combustion sources have an off-site FCE once every 2 years per the CMS.
A05B1C	CAA Synthetic Minor 80% Sources (SM-80) FCE Coverage (5 FY CMS Cycle)	Review Indicator	Combined	20% - 100%	83.3%	85.6%	see above

A05B2S	CAA Synthetic Minor 80% Sources (SM-80) FCE Coverage (last full 5 FY)	Informational Only	State	100%	90.2%	90.4%	AFS shows FCEs completed for 159 of 160 SM80 facilities since FFY2004. State data is consistent with this. One facility (on a 3 year schedule) was due in FFY09 but this FCE was put on hold due to enforcement. Mass SM80s are on either a 3 year or 5 year on-site FCE schedule (per the negotiated CMS). Combustion sources have an off-site FCE once every 2 years per the CMS.
A05B2C	CAA Synthetic Minor 80% Sources (SM-80) FCE Coverage (last full 5 FY)	Informational Only	Combined		90.5%	92.1%	see above
A05E0S	Number of Sources with Unknown Compliance Status (Current)	Review Indicator	State			3	Gillette- Andover (CMS schedule change in FY09), Exxon- enforcement hold and Borden & Remington (missed inspection)
A05G0S	Review of Self-Certifications Completed (1 FY)	Goal	State	100%	93.7%	99.3%	One self cert was not due until Sept 09 and not reviewed until Oct 09- outside of the SRF data period.
A07C1S	Percent facilities in noncompliance that have had an FCE, stack test, or enforcement (1 FY)	Review Indicator	State	> 1/2 National Avg	22.0%	10.6%	MassDEP has been entering the compliance status of all facilities receiving enforcement actions as "5-On schedule". The SRF metrics do not recognize this code as one of the noncompliance codes. MassDEP has fixed this in AFS.
A07C2S	Percent facilities that have had a failed stack test and have noncompliance status (1 FY)	Review Indicator	State	> 1/2 National Avg	46.6%	0.0%	see above
A07C2E	Percent facilities that have had a failed stack test and have noncompliance status (1 FY)	Review Indicator	EPA	> 1/2 National Avg	33.3%	0 / 0	MassDEP has been entering the compliance status of all facilities receiving enforcement actions as "5-On schedule". The SRF metrics do not recognize this code as one of the noncompliance codes. MassDEP has fixed this in AFS.
A08E0S	Percentage of Sources with Failed Stack Test Actions that received HPV listing - Majors and Synthetic Minors (2 FY)	Review Indicator	State	> 1/2 National Avg	43.1%	25.0%	Of the 4 failed stack tests, 2 facilities were HPVs (Covanta Pittsfield and Quebecor World). The other 2 failed stack tests were not HPVs.
A10A0S	Percent HPVs not meeting timeliness goals (2 FY)	Review Indicator	State		34.9%	42.1%	Because of constraints in the Massachusetts Enforcement Regulations, Statutes and policies, it is not always possible to submit an HPV designation within 60 days of the initiating action.

A12A0S	No Activity Indicator - Actions with Penalties (1 FY)	Review Indicator	State			72	All 72 facilities had formal enforcement based on findings from an inspection or report review per AFS.
A12B0S	Percent Actions at HPVs With Penalty (1 FY)	Review Indicator	State	>= 80%	86.1%	72.7%	Of the 3 HPVs that do not have penalties in AFS, 2 facilities were self-reported violations which, under state policy, calls for stipulated penalties only if the facility fails to meet the conditions of the order. The third had multiple enforcement actions over a three year period, the first of which (FY08) carried a penalty that would not be picked up in the SRF query.

Resource Conservation and Recovery Act

Metric	Metric Description	Metric Type	Agency	National Goal	National Average	Mass Metric Prod	Initial Findings
R01A1S	Number of operating TSDFs in RCRAInfo	Data Quality	State			13	EPA accepts states change and data transmission has been addressed.
R01A2S	Number of active LQGs in RCRAInfo	Data Quality	State			611	EPA accepts states change and data transmission has been addressed.
R01A3S	Number of active SQGs in RCRAInfo	Data Quality	State			2,843	EPA accepts states change and data transmission has been addressed.
R01A4S	Number of all other active sites in RCRAInfo	Data Quality	State			6,047	EPA accepts states change and data transmission has been addressed.
R01A5S	Number of LQGs per latest official biennial report	Data Quality	State			432	EPA accepts states change and data transmission has been addressed.
R01B1S	Compliance monitoring: number of inspections (1 FY)	Data Quality	State			354	EPA accepts states change and data transmission has been addressed.
R01C1S	Number of sites with violations determined at any time (1 FY)	Data Quality	State			473	The number in OTIS changed within the month after the data was pulled which indicates data still being entered in FY10 for FY09 data.(504 on 4/30/10)
R01D1S	Informal actions: number of sites (1 FY)	Data Quality	State			127	The number in OTIS changed within the month after the data was pulled which indicates data still being entered in FY10 for FY09 data. (138 on 4/30/10)

R01D2S	Informal actions: number of actions (1 FY)	Data Quality	State			133	MassDEP number is actually less which indicates confusion. Also, the number in OTIS changed within the month after the data was pulled which indicates data still being entered in FY10 for FY09 data. (144 on 4/22/10)
R01G0S	Total amount of final penalties (1 FY)	Data Quality	State			\$625,652	MassDEP sent a list of facilities with no penalty to its Regions on 4/30/10 for correction.
R02B0S	Number of sites in violation for greater than 240 days	Data Quality	State			203	A list of open violations sent to the MassDEP's Regional Offices for correction on 5/7/10
R03A0S	Percent SNCs entered ≥ 60 days after designation (1 FY)	Review Indicator	State			66.7%	E-mail sent to MassDEP Regions for action.
R08C0S	Percent of formal actions taken that received a prior SNC listing (1 FY)	Review Indicator	State	1/2 National Avg	61.3%	55.7%	MassDEP takes formal actions at facilities that do not meet the SNC definition and do not require penalty under EPA or MassDEP policy.
R12B0S	Percent of final formal actions with penalty (1 FY)	Review Indicator	State	1/2 National Avg	63.9%	59.1%	MassDEP sent a list of facilities with no penalty to its Regions on 4/30/10 for correction.

APPENDIX E: PDA WORKSHEET (with State and EPA comments)

Clean Air Act

Metric	Metric Description	Metric Type	Agency	National Goal	National Average	Massachusetts Metric Prod	Count Prod	Universe Prod	Not Counted Prod	State Discrepancy (Yes/No)	State Correction	State Data Source	Explanation/Findings	Evaluation
A01A1S	Title V Universe: AFS Operating Majors (Current)	Data Quality	State			143	NA	NA	NA	no				Appears Acceptable
A01A1C	Title V Universe: AFS Operating Majors (Current)	Data Quality	Com bined			143	NA	NA	NA	no				Appears Acceptable
A01A2S	Title V Universe: AFS Operating Majors with Air Program Code = V (Current)	Data Quality	State			142	NA	NA	NA	yes	143	FMF	Peabody Power not counted in metric- planned but not built. It is in AFS as a Major with an Operating status of planned. Since it is not built, it is not yet subject to Title V and has not been assigned program code "V".	Appears Acceptable
A01A2C	Title V Universe: AFS Operating Majors with Air Program Code = V (Current)	Data Quality	Com bined			142	NA	NA	NA	yes	143	FMF	Peabody Power not counted in metric- planned but not built. It is in AFS as a Major with an Operating status of planned. Since it is not built, it is not yet subject to Title V and has not been assigned program code "V".	Appears Acceptable
A01B1S	Source Count: Synthetic Minors (Current)	Data Quality	State			899	NA	NA	NA	yes				Appears Acceptable
A01B1C	Source Count: Synthetic Minors (Current)	Data Quality	Com bined			899	NA	NA	NA	yes				Appears Acceptable
A01B2S	Source Count: NESHAP Minors (Current)	Data Quality	State			23	NA	NA	NA					Appears Acceptable
A01B2C	Source Count: NESHAP Minors (Current)	Data Quality	Com bined			23	NA	NA	NA					Appears Acceptable
A01B3S	Source Count: Active Minor facilities or otherwise FedRep, not including NESHAP Part 61 (Current)	Inform ational Only	State			1,186	NA	NA	NA					Appears Acceptable
A01B3C	Source Count: Active Minor facilities or otherwise FedRep, not including NESHAP Part 61 (Current)	Inform ational Only	Com bined			1,186	NA	NA	NA					Appears Acceptable

A01C1S	CAA Subprogram Designations: NSPS (Current)	Data Quality	State			195	NA	NA	NA					Appears Acceptable
A01C1C	CAA Subprogram Designations: NSPS (Current)	Data Quality	Com bined			195	NA	NA	NA					Appears Acceptable
A01C2S	CAA Subprogram Designations: NESHAP (Current)	Data Quality	State			45	NA	NA	NA					Appears Acceptable
A01C2C	CAA Subprogram Designations: NESHAP (Current)	Data Quality	Com bined			45	NA	NA	NA					Appears Acceptable
A01C3S	CAA Subprogram Designations: MACT (Current)	Data Quality	State			84	NA	NA	NA					Appears Acceptable
A01C3C	CAA Subprogram Designations: MACT (Current)	Data Quality	Com bined			84	NA	NA	NA					Appears Acceptable
A01C4S	CAA Subpart Designations: Percent NSPS facilities with FCEs conducted after 10/1/2005	Data Quality	State	100%	82.7%	90.2%	110	122	12	no				Appears Acceptable
A01C5S	CAA Subpart Designations: Percent NESHAP facilities with FCEs conducted after 10/1/2005	Data Quality	State	100%	38.6%	26.3%	5	19	14	yes	42.2%	AFS	MassDEP has 45 facilities with NESHAP designations and conducted 19 FCEs at these facilities since October 2005. Only 5 of the 19 FCEs counted in SRF metric. It is not clear why this happened, but it does appear that MassDEP is above the national average for this metric.	Appears Acceptable
A01C6S	CAA Subpart Designations: Percent MACT facilities with FCEs conducted after 10/1/2005	Data Quality	State	100%	92.4%	92.6%	63	68	5	no				Appears Acceptable
A01C6C	CAA Subpart Designations: Percent MACT facilities with FCEs conducted after 10/1/2005	Data Quality	Com bined	100%	90.3%	84.0%	63	75	12					Appears Acceptable
A01D1S	Compliance Monitoring: Sources with FCEs (1 FY)	Data Quality	State			142	NA	NA	NA	yes				Appears Acceptable
A01D2S	Compliance Monitoring: Number of FCEs (1 FY)	Data Quality	State			143	NA	NA	NA	yes				Appears Acceptable
A01D3S	Compliance Monitoring: Number of PCEs (1 FY)	Inform ational Only	State			1,968	NA	NA	NA	no				Appears Acceptable

A01E0S	Historical Non-Compliance Counts (1 FY)	Data Quality	State			23	NA	NA	NA	yes	74	AFS / State Compliance status tracking system	In FY09, 74 "updates" to facility compliance status were input into AFS. Some of these had the "5" code instead of the "1" code. MassDEP has a procedure in place to manually update compliance status for all facilities.	Appears Acceptable
A01E0C	Historical Non-Compliance Counts (1 FY)	Data Quality	Combined			26	NA	NA	NA					Appears Acceptable
A01F1S	Informal Enforcement Actions: Number Issued (1 FY)	Data Quality	State			56	NA	NA	NA	yes				Appears Acceptable
A01F2S	Informal Enforcement Actions: Number of Sources (1 FY)	Data Quality	State			54	NA	NA	NA	yes				Appears Acceptable
A01G1S	HPV: Number of New Pathways (1 FY)	Data Quality	State			11	NA	NA	NA	yes	9	HPV tracking	9 new HPV pathways were started in FFY09 while only 6 had Day Zero in FFY09. It is unclear where the 11 came from.	Appears Acceptable
A01G2S	HPV: Number of New Sources (1 FY)	Data Quality	State			11	NA	NA	NA				see above	Appears Acceptable
A01H1S	HPV Day Zero Pathway Discovery date: Percent DZs with discovery	Data Quality	State	100%	49.3%	100.0%	11	11	0	no				Appears Acceptable
A01H2S	HPV Day Zero Pathway Violating Pollutants: Percent DZs	Data Quality	State	100%	74.1%	100.0%	11	11	0	no				Appears Acceptable
A01H3S	HPV Day Zero Pathway Violation Type Code(s): Percent DZs with HPV Violation Type Code(s)	Data Quality	State	100%	78.1%	100.0%	11	11	0	no				Appears Acceptable
A01I1S	Formal Action: Number Issued (1 FY)	Data Quality	State			73	NA	NA	NA	yes				Appears Acceptable
A01I2S	Formal Action: Number of Sources (1 FY)	Data Quality	State			73	NA	NA	NA	yes				Appears Acceptable
A01J0S	Assessed Penalties: Total Dollar Amount (1 FY)	Data Quality	State			\$2,310,324	NA	NA	NA	no				Appears Acceptable
A01K0S	Major Sources Missing CMS Policy Applicability (Current)	Review Indicator	State	0		1	NA	NA	NA	yes	0	AFS	As Peabody power is "planned" and not yet built, it is not included in the CMS and should not have been counted as "missing" in the SRF	Appears Acceptable
A02A0S	Number of HPVs/Number of NC Sources (1 FY)	Data Quality	State	<= 50%	58.8%	85.7%	12	14	2	yes	100%	AFS	MassDEP has been entering the compliance status of all facilities receiving enforcement actions as "5-On schedule". The SRF metrics do not recognize this code as one of the noncompliance codes. MassDEP has fixed this in AFS.	Minor Issue

A02A0C	Number of HPVs/Number of NC Sources (1 FY)	Data Quality	Com bined	<= 50%	59.0%	87.5%	14	16	2				see above	Appears Acceptable
A02B1S	Stack Test Results at Federally-Reportable Sources - % Without Pass/Fail Results (1 FY)	Goal	State	0%	1.6%	0.0%	0	91	91	yes	100%	AFS	All facility stack test have valid result codes in AFS. MassDEP neglected to add the pollutant code and so not all stack tests were counted. This has been fixed in AFS.	Minor Issue
A02B2S	Stack Test Results at Federally-Reportable Sources - Number of Failures (1 FY)	Data Quality	State			2	NA	NA	NA	no				Appears Acceptable
A03A0S	Percent HPVs Entered <= 60 Days After Designation, Timely Entry (1 FY)	Goal	State	100%	32.4%	45.5%	5	11	6	no			Because of constraints in the Massachusetts Enforcement Regulations, Statutes and policies, it is not always possible to submit an HPV designation within 60 days of the initiating action	Appears Acceptable
A03B1S	Percent Compliance Monitoring related MDR actions reported <= 60 Days After Designation, Timely Entry (1 FY)	Goal	State	100%	53.3%	91.1%	458	503	45	no			The late entries are mostly the result of QC activities and making AFS match with the state's FMF system	Appears Acceptable
A03B2S	Percent Enforcement related MDR actions reported <= 60 Days After Designation, Timely Entry (1 FY)	Goal	State	100%	67.9%	98.2%	110	112	2				The late entries are mostly the result of QC activities and making AFS match with the state's FMF system	Appears Acceptable
A05A1S	CMS Major Full Compliance Evaluation (FCE) Coverage (2 FY CMS Cycle)	Goal	State	100%	86.9%	82.6%	114	138	24	yes	97.80%	AFS	Only 2 FY counted and not the 3 and 5 year cycle that Massachusetts uses for the CMS plan. Based on the Mass CMS, all but 3 facilities had an FCE within the proper time frame all because of on-going enforcement activity. Mass conducted 135 out of 138 FCEs in the CMS cycle.	Appears Acceptable
A05A1C	CMS Major Full Compliance Evaluation (FCE) Coverage (2 FY CMS Cycle)	Goal	Com bined	100%	87.1%	84.8%	117	138	21				see above	Appears Acceptable
A05A2S	CAA Major Full Compliance Evaluation (FCE) Coverage(most recent 2 FY)	Review Indicator	State	100%	82.9%	80.0%	116	145	29	yes	97.80%	AFS	Only 2 FY counted and not the 3 and 5 year cycle that Massachusetts uses for the CMS plan. Based on the Mass CMS, all but 3 facilities had an FCE within the proper time frame all because of on-going enforcement activity. Mass conducted 135 out of 138 FCEs in the CMS cycle.	Appears Acceptable
A05A2C	CAA Major Full Compliance Evaluation (FCE) Coverage(most recent 2 FY)	Review Indicator	Com bined	100%	83.2%	82.1%	119	145	26				see above	Appears Acceptable

A05B1S	CAA Synthetic Minor 80% Sources (SM-80) FCE Coverage (5 FY CMS Cycle)	Review Indicator	State	20% - 100%	82.9%	82.5%	132	160	28	yes	99.40%	AFS	AFS shows FCEs completed for 159 of 160 SM80 facilities since FY2004. State data is consistent with this. One facility (on a 3 year schedule) was due in FFY09 but this FCE was put on hold due to enforcement. Mass SM80s are on either a 3 year or 5 year on-site FCE schedule (per the negotiated CMS). Combustion sources have an off-site FCE once every 2 years per the CMS.	Appears Acceptable
A05B1C	CAA Synthetic Minor 80% Sources (SM-80) FCE Coverage (5 FY CMS Cycle)	Review Indicator	Combined	20% - 100%	83.3%	85.6%	137	160	23				see above	Appears Acceptable
A05B2S	CAA Synthetic Minor 80% Sources (SM-80) FCE Coverage (last full 5 FY)	Informational Only	State	100%	90.2%	90.4%	160	177	17	yes	99.40%	AFS	AFS shows FCEs completed for 159 of 160 SM80 facilities since FFY2004. State data is consistent with this. One facility (on a 3 year schedule) was due in FFY09 but this FCE was put on hold due to enforcement. Mass SM80s are on either a 3 year or 5 year on-site FCE schedule (per the negotiated CMS). Combustion sources have an off-site FCE once every 2 years per the CMS.	Appears Acceptable
A05B2C	CAA Synthetic Minor 80% Sources (SM-80) FCE Coverage (last full 5 FY)	Informational Only	Combined		90.5%	92.1%	163	177	14				see above	Appears Acceptable
A05C0S	CAA Synthetic Minor FCE and reported PCE Coverage (last 5 FY)	Informational Only	State		81.0%	81.1%	748	922	174	no				Appears Acceptable
A05C0C	CAA Synthetic Minor FCE and reported PCE Coverage (last 5 FY)	Informational Only	Combined		81.3%	82.1%	757	922	165					Appears Acceptable
A05D0S	CAA Minor FCE and Reported PCE Coverage (last 5 FY)	Informational Only	State		29.8%	31.9%	1,093	3,430	2,337	no				Appears Acceptable
A05E0S	Number of Sources with Unknown Compliance Status (Current)	Review Indicator	State			3	NA	NA	NA	no			Gillette- Andover (CMS schedule change in FY09), Exxon- enforcement hold and Borden & Remington (missed inspection)	Appears Acceptable
A05E0C	Number of Sources with Unknown Compliance Status (Current)	Review Indicator	Combined			3	NA	NA	NA					Appears Acceptable
A05F0S	CAA Stationary Source Investigations (last 5 FY)	Informational Only	State			0	NA	NA	NA	no				Appears Acceptable
A05G0S	Review of Self-Certifications Completed (1 FY)	Goal	State	100%	93.7%	99.3%	134	135	1	no			One self cert was not due until Sept 09 and not reviewed until Oct 09- outside of the SRF data period	Appears Acceptable

A07C1S	Percent facilities in noncompliance that have had an FCE, stack test, or enforcement (1 FY)	Review Indicator	State	> 1/2 National Avg	22.0%	10.6%	22	208	186	yes	64 have had PCE,FCE or stack test, 100% have enforcement	AFS/ State Compliance status update tracking	MassDEP has been entering the compliance status of all facilities receiving enforcement actions as "5-On schedule". The SRF metrics do not recognize this code as one of the noncompliance codes. MassDEP has fixed this in AFS.	Minor Issue
A07C2S	Percent facilities that have had a failed stack test and have noncompliance status (1 FY)	Review Indicator	State	> 1/2 National Avg	46.6%	0.0%	0	4	4	yes	1	AFS/ State Compliance status update tracking	see above	Appears Acceptable
A07C2E	Percent facilities that have had a failed stack test and have noncompliance status (1 FY)	Review Indicator	EPA	> 1/2 National Avg	33.3%	0 / 0	0	0	0	yes	1	AFS/ State Compliance status update tracking	MassDEP has been entering the compliance status of all facilities receiving enforcement actions as "5-On schedule". The SRF metrics do not recognize this code as one of the noncompliance codes. MassDEP has fixed this in AFS.	Minor Issue
A08A0S	High Priority Violation Discovery Rate - Per Major Source (1 FY)	Review Indicator	State	> 1/2 National Avg	7.7%	4.9%	7	143	136	no				Appears Acceptable
A08A0E	High Priority Violation Discovery Rate - Per Major Source (1 FY)	Review Indicator	EPA		0.8%	0.7%	1	143	142					Appears Acceptable
A08B0S	High Priority Violation Discovery Rate - Per Synthetic Minor Source (1 FY)	Review Indicator	State	> 1/2 National Avg	0.6%	0.3%	3	899	896	no				Appears Acceptable
A08B0E	High Priority Violation Discovery Rate - Per Synthetic Minor Source (1 FY)	Review Indicator	EPA	> 1/2 National Avg	0.0%	0.1%	1	899	898					Appears Acceptable
A08C0S	Percent Formal Actions With Prior HPV - Majors (1 FY)	Review Indicator	State	> 1/2 National Avg	74.5%	66.7%	8	12	4	no				Appears Acceptable
A08D0S	Percent Informal Enforcement Actions Without Prior HPV - Majors (1 FY)	Review Indicator	State	< 1/2 National Avg	45.7%	78.6%	11	14	3	no				Appears Acceptable

A08E0S	Percentage of Sources with Failed Stack Test Actions that received HPV listing - Majors and Synthetic Minors (2 FY)	Review Indicator	State	> 1/2 National Avg	43.1%	25.0%	1	4	3	yes	2	AFS	Of the 4 failed stack tests, 2 facilities were HPVs (Covanta Pittsfield and Quebecor World). The other 2 failed stack tests were not HPVs.	Appears Acceptable
A10A0S	Percent HPVs not meeting timeliness goals (2 FY)	Review Indicator	State		34.9%	42.1%	8	19	11	no			Because of constraints in the Massachusetts Enforcement Regulations, Statutes and policies, it is not always possible to submit an HPV designation within 60 days of the initiating action	Appears Acceptable
A12A0S	No Activity Indicator - Actions with Penalties (1 FY)	Review Indicator	State			72	NA	NA	NA	yes	72	AFS	All 72 facilities had formal enforcement based on findings from an inspection or report review per AFS.	Appears Acceptable
A12B0S	Percent Actions at HPVs With Penalty (1 FY)	Review Indicator	State	>= 80%	86.1%	72.7%	8	11	3	no			Of the 3 HPVs that do not have penalties in AFS, 2 facilities were self-reported violations which, under state policy, calls for stipulated penalties only if the facility fails to meet the conditions of the order. The third had multiple enforcement actions over a three year period, the first of which (FY08) carried a penalty that would not be picked up in the SRF query.	Appears Acceptable

Resource Conservation and Recovery Act

Metric	Metric Description	Metric Type	Agency	National Goal	National Average	MassDEP Metric Prod	Count Prod	Universe Prod	Not Counted Prod	State Discrepancy (Yes/No)	State Correction	State Data Source	Discrepancy Explanation	Evaluation	Initial Findings
R01A1S	Number of operating TSDFs in RCRAInfo	Data Quality	State			13	NA	NA	NA	Yes	12		one TSD regulated by EPA only	appears acceptable	EPA accepts states change and data transmission has been addressed.
R01A2S	Number of active LQGs in RCRAInfo	Data Quality	State			611	NA	NA	NA	Yes	415	FMF-State Database	data transmission problems	appears acceptable	EPA accepts states change and data transmission has been addressed.
R01A3S	Number of active SQGs in RCRAInfo	Data Quality	State			2,843	NA	NA	NA	Yes	2,469	FMF-State Database	data transmission problems	appears acceptable	EPA accepts states change and data transmission has been addressed.
R01A4S	Number of all other active sites in RCRAInfo	Data Quality	State			6,047	NA	NA	NA	Yes	6331	FMF-State Database	data transmission problems	appears acceptable	EPA accepts states change and data transmission has been addressed.
R01A5S	Number of LQGs per latest official biennial report	Data Quality	State			432	NA	NA	NA	Yes	396	FMF-State Database	data transmission problems	appears acceptable	EPA accepts states change and data transmission has been addressed.
R01B1S	Compliance monitoring: number of inspections (1 FY)	Data Quality	State			354	NA	NA	NA	Yes	367	FMF-State Database	data transmission problems	appears acceptable	EPA accepts states change and data transmission has been addressed.
R01B1E	Compliance monitoring: number of inspections (1 FY)	Data Quality	EPA			10	NA	NA	NA						
R01B2S	Compliance monitoring: sites inspected (1 FY)	Data Quality	State			324	NA	NA	NA	Yes				appears acceptable	
R01B2E	Compliance monitoring: sites inspected (1 FY)	Data Quality	EPA			9	NA	NA	NA						
R01C1S	Number of sites with violations determined at any time (1 FY)	Data Quality	State			473	NA	NA	NA					minor issue	The number in OTIS changed within the month after the data was pulled which indicates data still being entered in FY10 for FY09 data.(504 on 4/30/10)
R01C1E	Number of sites with violations determined at	Data Quality	EPA			9	NA	NA	NA						

	any time (1 FY)														
R01C2S	Number of sites with violations determined during the FY	Data Quality	State			179	NA	NA	NA					appears acceptable	
R01C2E	Number of sites with violations determined during the FY	Data Quality	EPA			1	NA	NA	NA						
R01D1S	Informal actions: number of sites (1 FY)	Data Quality	State			127	NA	NA	NA					minor issue	The number in OTIS changed within the month after the data was pulled which indicates data still being entered in FY10 for FY09 data. (138 on 4/30/10)
R01D1E	Informal actions: number of sites (1 FY)	Data Quality	EPA			2	NA	NA	NA						
R01D2S	Informal actions: number of actions (1 FY)	Data Quality	State			133	NA	NA	NA					minor issue	MassDEP number is actually less which indicates confusion. Also, the number in OTIS changed within the month after the data was pulled which indicates data still being entered in FY10 for FY09 data. (144 on 4/22/10)
R01D2E	Informal actions: number of actions (1 FY)	Data Quality	EPA			2	NA	NA	NA						
R01E1S	SNC: number of sites with new SNC (1 FY)	Data Quality	State			31	NA	NA	NA					appears acceptable	
R01E1E	SNC: number of sites with new SNC (1 FY)	Data Quality	EPA			0	NA	NA	NA						
R01E2S	SNC: Number of sites in SNC (1 FY)	Data Quality	State			63	NA	NA	NA					appears acceptable	
R01E2E	SNC: Number of sites in SNC (1 FY)	Data Quality	EPA			3	NA	NA	NA						
R01F1S	Formal action: number of sites (1 FY)	Data Quality	State			69	NA	NA	NA					appears acceptable	
R01F1E	Formal action: number of sites (1 FY)	Data Quality	EPA			1	NA	NA	NA						
R01F2S	Formal action: number taken (1 FY)	Data Quality	State			71	NA	NA	NA					appears acceptable	
R01F2E	Formal action: number taken (1 FY)	Data Quality	EPA			2	NA	NA	NA						

R01G0S	Total amount of final penalties (1 FY)	Data Quality	State			\$625,652	NA	NA	NA				This is difficult for MassDEP to verify because of multi-media actions.	appears acceptable	MassDEP sent a list of facilities with no penalty to its Regions on 4/30/10 for correction.
R01G0E	Total amount of final penalties (1 FY)	Data Quality	EPA			\$0	NA	NA	NA						
R02A1S	Number of sites SNC-determined on day of formal action (1 FY)	Data Quality	State			3	NA	NA	NA					appears acceptable	
R02A2S	Number of sites SNC-determined within one week of formal action (1 FY)	Data Quality	State			1	NA	NA	NA					appears acceptable	
R02B0S	Number of sites in violation for greater than 240 days	Data Quality	State			203	NA	NA	NA					potential concern	A list of open violations sent to the MassDEP's Regional Offices for correction on 5/7/10
R02B0E	Number of sites in violation for greater than 240 days	Data Quality	EPA			3	NA	NA	NA						
R03A0S	Percent SNCs entered ≥ 60 days after designation (1 FY)	Review Indicator	State			66.7%	18	27	9					potential concern	E-mail sent to MassDEP Regions for action.
R03A0E	Percent SNCs entered ≥ 60 days after designation (1 FY)	Review Indicator	EPA			0 / 0	0	0	0						
R05A0S	Inspection coverage for operating TSDFs (2 FYs)	Goal	State	100 %	85.7 %	92.3%	12	13	1					appears acceptable	
R05A0C	Inspection coverage for operating TSDFs (2 FYs)	Goal	Combined	100 %	90.8 %	92.3%	12	13	1						
R05B0S	Inspection coverage for LQGs (1 FY)	Goal	State	20%	24.4 %	13.9%	60	432	372	Yes	16.2 0%	FMF-State Database	State Database shows 67 LQGs inspected out of 414 facilities. Also, the state is under a LQG flexibility agreement.	appears acceptable	
R05B0C	Inspection coverage for LQGs (1 FY)	Goal	Combined	20%	26.5 %	14.6%	63	432	369						
R05C0S	Inspection coverage for LQGs (5 FYs)	Goal	State	100 %	68.4 %	75.5%	32 6	432	106	Yes	385	FMF-State Database	FMF shows 385 inspected. Also, of the 102 not inspected in OTIS, only 68 are currently open and only 15 of those have been open since	appears acceptable	

													2005.		
R05C0C	Inspection coverage for LQGs (5 FYs)	Goal	Combined	100%	73.8%	77.5%	335	432	97						
R05D0S	Inspection coverage for active SQGs (5 FYs)	Informational Only	State			17.0%	482	2843	2361						
R05D0C	Inspection coverage for active SQGs (5 FYs)	Informational Only	Combined			17.2%	490	2843	2353						
R05E1S	Inspections at active CESQGs (5 FYs)	Informational Only	State			613	NA	NA	NA						
R05E1C	Inspections at active CESQGs (5 FYs)	Informational Only	Combined			623	NA	NA	NA						
R05E2S	Inspections at active transporters (5 FYs)	Informational Only	State			35	NA	NA	NA	Yes	46	FMF-State Database	EPA does not count out-of-state transporters inspected by MassDEP		
R05E2C	Inspections at active transporters (5 FYs)	Informational Only	Combined			35	NA	NA	NA						
R05E3S	Inspections at non-notifiers (5 FYs)	Informational Only	State			28	NA	NA	NA						
R05E3C	Inspections at non-notifiers (5 FYs)	Informational Only	Combined			28	NA	NA	NA						
R05E4S	Inspections at active sites other than those listed in 5a-d and 5e1-5e3 (5 FYs)	Informational Only	State			110	NA	NA	NA						
R05E4C	Inspections at active sites other than those listed in 5a-d and 5e1-5e3 (5 FYs)	Informational Only	Combined			113	NA	NA	NA						
R07C0S	Violation identification rate at sites with inspections (1 FY)	Review Indicator	State			55.2%	179	324	145					appears acceptable	
R07C0E	Violation identification rate at sites with inspections (1 FY)	Review Indicator	EPA			11.1%	1	9	8						

R08A0S	SNC identification rate at sites with inspections (1 FY)	Review Indicator	State	1/2 National Avg	3.1 %	9.6%	31	324	293				data shows a significant improvement from the last review when this rate was at 2.8%.	appears acceptable	
R08A0C	SNC identification rate at sites with evaluations (1 FY)	Review Indicator	Combined	1/2 National Avg	3.3 %	9.3%	31	332	301						
R08B0S	Percent of SNC determinations made within 150 days (1 FY)	Goal	State	100 %	76.1 %	71.0%	22	31	9					appears acceptable	
R08B0E	Percent of SNC determinations made within 150 days (1 FY)	Goal	EPA	100 %	64.2 %	0 / 0	0	0	0						
R08C0S	Percent of formal actions taken that received a prior SNC listing (1 FY)	Review Indicator	State	1/2 National Avg	61.3 %	55.7%	39	70	31					appears acceptable	MassDEP takes formal actions at facilities that do not meet the SNC definition and do not require penalty under EPA or MassDEP policy.
R08C0E	Percent of formal actions taken that received a prior SNC listing (1 FY)	Review Indicator	EPA	1/2 National Avg	72.1 %	0.0%	0	2	2						
R10A0S	Percent of SNCs with formal action/referral taken within 360 days (1 FY)	Review Indicator	State	80%	35.8 %	38.7%	12	31	19					appears acceptable	
R10A0C	Percent of SNCs with formal action/referral taken within 360 days (1 FY)	Review Indicator	Combined	80%	32.8 %	38.7%	12	31	19						
R10B0S	No activity indicator - number of formal actions (1 FY)	Review Indicator	State			71	NA	NA	NA					appears acceptable	
R12A0S	No activity indicator - penalties (1 FY)	Review Indicator	State			\$625,652	NA	NA	NA					appears acceptable	
R12B0S	Percent of final formal actions with penalty (1 FY)	Review Indicator	State	1/2 National Avg	63.9 %	59.1%	39	66	27					potential concern	MassDEP sent a list of facilities with no penalty to its Regions on 4/30/10 for correction.
R12B0C	Percent of final formal actions with penalty (1 FY)	Review Indicator	Combined	1/2 National Avg	64.3 %	58.2%	39	67	28						

APPENDIX F: FILE SELECTION

Files to be reviewed are selected according to a standard protocol (available to EPA and state users here: http://www.epa-otis.gov/srf/docs/fileselectionprotocol_10.pdf) and using a web-based file selection tool (available to EPA and state users here: http://www.epa-otis.gov/cgi-bin/test/srf/srf_fileselection.cgi). The protocol and tool are designed to provide consistency and transparency in the process. Based on the description of the file selection process in section A, states should be able to recreate the results in the table in section B.

A File Selection Process

CLEAN AIR ACT (CAA)

File Selection Logic	# of Files
selected 1 SM80 from each DEP region	4
selected 1 Major from each DEP region	4
selected 1 federally reportable minor or SM from each DEP region with penalty	4
selected 1 HPV from each DEP region	4
selected 4 additional HPVs at majors	4
selected 1 formal enforcement action with penalty from each DEP region	4

Results of File Selection by File Type	# of Files
Total # of majors	13
Total # of SM80s	7
Total # of SMs	2
Total # of federally reportable minors	2

24

6 files from each DEP region

Resource Conservation and Recovery Act

The total number of facilities in Massachusetts with RCRA activities in FY2009 was 445. MassDEP has four regional offices that conduct compliance/enforcement activities. EPA sorted the list of files first regionally, so that activities in each region would be represented. There were six files reviewed for each of the four regions. The files reviewed in each Region included randomly selected TSDs, LQGs, SQGs and facilities that had received no enforcement, low-level enforcement and higher-level enforcement. This resulted in a total of 24 files reviewed.

B. File Selection Table
Clean Air Act

AFS #	Facility Name	Street	City	State Region	Zip Code	FCE	PCE	Violation	Failure Test	Stack Deviation	HPV	Informal Action	Formal Action	Penalty	Universe
2504200014	CALLAWAY GOLF BALL OPERATIONS	425 MEADOW STREET	CHICOPEE	1	01013	0	4	2	0	0	1	0	1	\$5,750	MAJR
2511700004	COVANTA PITTSFIELD	500 HUBBARD AVENUE	PITTSFIELD	1	01201	1	16	1	0	1	0	0	1	\$1,000	MAJR
2504200006	COVANTA SPRINGFIELD	188 M STREET	AGAWAM	1	01001	1	14	7	0	1	1	0	1	\$4,000	MAJR
2511700082	HOLLAND COMPANY INC	153 HOWLAND AVENUE	ADAMS	1	01220	0	1	0	0	0	0	0	1	\$16,000	FRMI
2504200438	HOLYOKE COMMUNITY COLLEGE	303 HOMESTEAD AVENUE	HOLYOKE	1	01040	1	2	0	0	0	0	0	0	\$0	SM80
2511700012	OLD CASTLE STONE PRODUCTS	110 MARBLE ST	LEE	1	01238	0	4	1	0	1	1	2	0	\$0	MAJR
2511800313	CENTRAL COATING COMPANY	165 SHREWSBURY ST	WEST BOYLSTON	2	01583	0	1	0	0	0	0	0	1	\$14,000	SM80
2511900945	EL PASO ENERGY-STATI	54 WILSON STREET	HOPKINTON	2	01748	1	3	0	0	0	0	0	0	\$0	MAJR
2511904011	MASS CONTAINER CORP	300 CEDAR HILL ROAD	MARLBOROUGH	2	01752	0	0	0	0	0	0	0	1	\$1,000	SM
2511800115	ST GOBAIN ABRASIVES, INC	1 NEW BOND STREET	WORCESTER	2	01606	0	27	3	0	1	1	0	1	\$15,989	MAJR
2511800937	UPPER BLACKSTONE SSI	50 ROUTE 20	MILLBURY	2	01527	1	22	0	0	1	0	0	0	\$0	MAJR
2511800337	WORCESTER STATE COLLEGE	486 CHANDLER ST	WORCESTER	2	01602	1	2	0	0	0	0	0	0	\$0	SM80
2511901435	ATLANTIC MARINE BOSTON LLC	32A DRYDOCK AVE	BOSTON	3	02210	0	2	4	0	0	0	0	1	\$45,900	MAJR
2511900159	BOSTIK INCORPORATED	BOSTON STREET	MIDDLETON	3	01949	0	3	2	0	0	1	1	0	\$0	MAJR
2511900814	DISTRIGAS OF MASSACHUSETTS LLC	18 ROVER ST	EVERETT	3	02149	0	4	2	0	1	1	0	1	\$0	MAJR
2511900779	EASTERN CHEM LAC	1100 EASTERN AVE	MALDEN	3	02148	1	3	0	0	0	0	0	0	\$0	SM80
2511900405	NEW ENGLAND BAPTIST HOSPITAL	125 PARKER HILL AVENUE	BOSTON	3	02120	1	3	0	0	0	0	0	1	\$20,150	SM
2511900009	TRIGEN BOSTON ENERGY CORP	19-27 SCOTIA STREET	BOSTON	3	02115	1	3	0	0	1	0	0	0	\$0	MAJR
2511902250	BFINA-EAST BRIDGEWATER	234 THATCHER STREET	EAST BRIDGEWATER	4	02333	0	4	6	0	1	1	1	0	\$0	MAJR
2512000061	DOMINION ENERGY-BRAYTON POINT LLC	BRAYTON POINT STATION	SOMERSET	4	02726	1	12	0	0	1	0	1	0	\$0	MAJR
2512000985	ELECTROCHEM SOLUTIONS	670 PARAMOUNT DR	RAYNHAM	4	02767	0	1	0	1	0	0	0	1	\$17,250	FRMI
2511900047	FLEXCON INDUSTRIES	300 POND STREET	RANDOLPH	4	2368	0	1	0	0	0	0	0	1	16,504	SM80
2512000068	QUEBECOR WORLD RPC	50 JOHN HANCOCK ROAD	TAUNTON	4	02780	1	1	3	0	0	1	0	1	\$17,430	SM80
2511902435	ITW TACC	56 AIR STATION INDUSTRIAL PARK	ROCKLAND	4	2370	1	1	0	0	0	0	0	0	0	SM80

Resource Conservation and Recovery Act

FACILITY NAME	PROGR AM ID		CITY	State District	Evaluation	Informal Action	Formal Action	Universe	SELECTION BASIS
OSTER MILLER	MAC300010 493	15 FORGE PKWY	FRANKLIN	C	1	1	0	SQG	accepted- representative
INCOM INC	MAC300004 850	242 STURBRIDGE RD	CHARLTON	C	0	0	1	LQG	accepted- representative
IPG PHOTONICS	MAR000502 310	50 OLD WEBSTER RD	OXFORD	C	0	0	1	SQG	accepted- representative
MACE POLYMERS & ADDITIVES INC	MAD004530 895	38 ROBERTS RD	DUDLEY	C	1	0	0	LQG	accepted- representative
MUNKSJO PAPER INC	MAR000500 686	642 RIVER ST	FITCHBURG	C	1	1	1	CES	accepted- representative
SE SHIRES CO	MAC300012 333	4A SPACEWAY LN	HOPEDALE	CE	1	0	0	SQG	accepted- representative
AULSON COMPANY	MAR000012 450	49 DANTON DR	METHUEN	N	1	0	0	LQG	accepted- representative
EASTERN PACKAGING INC	MAD981897 044	283 LOWELL ST	LAWRENCE	N	2	1	0	LQG	accepted- representative
KIRKWOOD PRINTING COMPANY INC	MAR000005 728	904 MAIN ST	WILMINGTO N	N	1	0	1	SQG	accepted- representative
SPIRE PRINTING	MAD001033 349	65 BAY ST	BOSTON- DORCHESTE R	N	2	1	0	SQG	accepted- representative
TRIUMVIRATE ENVIRONMENTAL MERRIMACK INC	MAD047075 734	263 HOWARD ST	LOWELL	N	1	0	0	TSD (TSF)	accepted- representative
74 CUMMINGS PK	MAD981208 713	74 CUMMINGS PARK	WOBURN	N	1	0	1	SQG	accepted- representative
CYN OIL CORPORATION	MAD082303 777	1771 WASHINGTON ST	STOUGHTO N	S	3	2	0	TSD	accepted- representative
DARTMOUTH POWER ASSOC	MA5000000 174	1 ENERGY RD	DARTMOUT H	S	1	0	1	SQG	accepted- representative
DURO FINISHING	MAD001035 898	110 CHACE ST	FALL RIVER	S	1	0	0	LQG	accepted- representative
INTERNATIONAL METAL CORP	MAC300011 236	150 OLD PAGE ST	STOUGHTO N	S	1	0	0	LQG	accepted- representative
ROLLS ROYCE NAVAL MARINE INC	MAD001006 311	110 NORFOLK ST	WALPOLE	S	1	0	0	LQG	accepted- representative
SYMMONS IND INC	MAD001010 826	31 BROOKS DR	BRAINTREE	S	1	0	0	SQG	accepted- representative
ADHESIVE APPLICATIONS INC	MAD050587 641	218 RACE ST	HOLYOKE	W	1	1	0	LQG	accepted- representative
ASTRO CHEMICALS INC	MAC300007 937	126 MEMORIAL DR	SPRINGFIEL D	W	1	1	0	LQG	accepted- representative
BOSTON & MAINE RAILROAD DIVISION	MAD991289 018	38 RAILROAD YARD RD	DEERFIELD	W	1	0	0	SQG	accepted_supplemen tal
HAMPDEN FENCE SUPPLY INC	MAD019146 158	80 INDUSTRIAL LN	AGAWAM	W	1	0	1	SQG	accepted- representative
RATHBONE PRECISION METALS INC	MAD001113 588	1241 PARK ST	PALMER	W	1	0	0	LQG	accepted- representative
SMITH COLLEGE - CLARK SCIENCE CENTER	MAD066989 427	76 ELM ST	NORTHAMP TON	W	1	1	0	SQG	accepted- representative
SUPERIOR CARRIERS INC	MAD000846 162	85-121 SHAWS LN	SPRINGFIEL D	W	0	0	1	SQG	accepted- representative

APPENDIX G: FILE REVIEW ANALYSIS

This section presents the initial observations of the Region regarding program performance against file metrics. Initial Findings are developed by the Region at the conclusion of the File Review process. The Initial Finding is a statement of fact about the observed performance, and should indicate whether the performance indicates a practice to be highlighted or a potential issue, along with some explanation about the nature of good practice or the potential issue. The File Review Metrics Analysis Form in the report only includes metrics where potential concerns are identified, or potential areas of exemplary performance.

Initial Findings indicate the observed results. Initial Findings are preliminary observations and are used as a basis for further investigation. Findings are developed only after evaluating them against the PDA results where appropriate, and dialogue with the state has occurred. Through this process, Initial Findings may be confirmed, modified, or determined not to be supported. Findings are presented in Section IV of this report.

The quantitative metrics developed from the file reviews are initial indicators of performance based on available information and are used by the reviewers to identify areas for further investigation. Because of the limited sample size, statistical comparisons among programs or across states cannot be made.

Clean Air Act

CAA Metric #	CAA File Review Metric:	Metric Value	Initial Findings and Conclusions
Metric 2c	% of files reviewed where MDR data are accurately reflected in AFS.	100%	Of the 24 files reviewed, all files contained the minimum data requirements outlined in the metric 2c check list. Not all minor sources contain MACT subparts, but this is not an MDR. In addition, the state updates the compliance status of all sources.
Metric 4a	% of planned evaluations (negotiated FCEs, PCEs, investigations) completed for the review year pursuant to a negotiated CMS plan.	97.8%	Massachusetts has an alternative CMS plan. All majors and SM80s are on either a 3 year or 5 year on-site FCE schedule. MassDEP conducts an off-site FCE at major combustion sources once every 2 years per the CMS. Based on the state specific CMS, all but 3 facilities had an FCE within the proper time frame. MassDEP completed 135 out of 138 required inspections in the CMS cycle.
Metric 4b	Delineate the air compliance and enforcement (c/e) commitments for the FY under review. This should include commitments in PPAs, PPGs, grant agreements, MOAs, or other relevant agreements. The C/E commitments should be delineated.	100%	Massachusetts appears to have met the commitments outlined in the PPA.

CAA Metric #	CAA File Review Metric:	Metric Value	Initial Findings and Conclusions
Metric 6a	# of files reviewed with FCEs.	58%	Of the 24 files reviewed, 14 had FCEs. One file had an off-site FCE. Two files had reports completed beyond 30 days (one in 44 and one in 42). One file did not have a date on the report.
Metric 6b	% of FCEs that meet the definition of an FCE per the CMS policy.	100%	Of the 14 FCEs, all met the definition of the CMS.
Metric 6c	% of CMRs or facility files reviewed that provide sufficient documentation to determine compliance at the facility.	100%	State inspectors seem to do a good job documenting observations and determining compliance.
Metric 7a	% of CMRs or facility files reviewed that led to accurate compliance determinations.	100%	State inspectors seem to do a good job documenting observations and determining compliance.
Metric 7b	% of non-HPVs reviewed where the compliance determination was timely reported to AFS.	100%	State does a good job maintaining compliance status. These updates have to be conducted manually. The state system does not maintain this type of information.
Metric 8h	% of violations in files reviewed that were accurately determined to be HPV.	100%	8 out of 8 files were accurately determined to be HPVs.
Metric 9a	# of formal and informal enforcement responses reviewed.	67%	Of the 24 files reviewed, 16 had either formal or informal actions.
Metric 9b	% of formal enforcement responses that have returned or will return a source to physical compliance.	100%	All formal actions returned the sources to compliance.
Metric 10e	% of HPVs reviewed that are addressed in a timely manner.	100%	8 out of 8 HPVs were addressed within 270 days.

CAA Metric #	CAA File Review Metric:	Metric Value	Initial Findings and Conclusions
Metric 10f	% of enforcement responses reviewed at HPVs that are appropriate. The number of appropriately addressed HPVs over the number of HPVs addressed during the review year.	100%	8 out of 8 HPVs were appropriately addressed. 4 HPVs were addressed with an informal action. However, because of constraints in the Massachusetts Enforcement Regulations, Statutes and policies, in some cases, MassDEP must first pursue informal enforcement prior to a formal action.
Metric 11a	% of reviewed penalty calculations that consider and include where appropriate gravity and economic benefit.	100%	11 out of 11 penalty actions include a gravity component and at least a brief discussion of economic benefit. MassDEP's penalty calculator (PENCALC) requires that an entry be made for economic benefit. However, in the case where economic benefit is zero, the state does not always explain how it came to that conclusion.
Metric 12a	% of penalties reviewed that document the difference and rationale between the initial and final assessed penalty.	82%	Of the 24 files reviewed, 11 were formal actions with penalty. There were 3 files that did not contain a description of the rationale between the initial and final penalty. MassDEP has 4 regional offices and in each office an enforcement review committee reviews and discusses every penalty action. These committees establish a dollar range for settlement. Penalties may also change during settlement negotiations. Some DEP regions document these discussions in the file and others do not.
Metric 12b	% of files that document collection of penalty.	100%	All files either contained documentation or referenced the location of documentation of collection of the final penalty. The state has a separate database for tracking penalty collection.

Resource Conservation and Recovery Act

RCRA Metric #	RCRA File Review Metric Description:	Metric Value	Initial Findings
Metric 2c	% of files reviewed where mandatory data are accurately reflected in the national data system.	79%	Twenty-four facility files were reviewed. Of the 24 facility files reviewed, twenty (20) enforcement actions were issued by MassDEP. Five out of the 24 individual facility files reviewed did not have accurate information in the RCRAINFO database. Four of the files did not have return to compliance dates for identified violations (two of the four were SNCs that also did not have "SNN" to designate the facility as no longer in significant non-compliance.) One facility file did not have an inspection entered. This inspection was not in the review year, but the report was written to include both inspections.
Metric 4a	Planned inspections completed	100%	<p>MassDEP committed to conduct a total of one hundred twenty-one (121) inspections in FY09, including twenty-nine (29) large quantity generator (LQG) inspections, sixty (60) small quantity generator (SQG) inspections, twelve (12) TSD inspections, four (4) transporter inspections and fifteen to twenty inspections at facilities covered under the MassDEP Environmental Results Program (ERP.) The inspection commitments were negotiated as part of the RCRA LQG flexibility.</p> <p>MassDEP completed 396 inspections in FY09, including 12 TSDs, 67 LQGs and 108 SQGs.</p>
Metric 4b	Planned commitments completed	Yes	Planned commitments for the RCRA enforcement program include only the inspection requirements. MassDEP conducted all planned inspections in FY09.
Metric 6a	# of inspection reports reviewed.	22	24 files were reviewed. All inspections reports were reviewed. One file that was selected because of an enforcement action in FY09 resulted from a facility self-disclosure rather than an inspection. A second file was a result of a "Common Measures" audit and a checklist and Compliance Evaluation Cover Sheet were

			documentation of inspections. The files reviewed reflected the full range of types of RCRA facilities and the full range of enforcement responses.
Metric 6b	% of inspection reports reviewed that are complete and provide sufficient documentation to determine compliance at the facility.	50%	11 of the 22 files reviewed did not have specific details about wastes observed on-site, no specific details about violations (rather they included a general statement, such as "training violation",) missing facility identification information, and few diagrams, photos or photocopies for documentation of violations.
Metric 6c	Inspections reports completed within a determined time frame.	100%	MassDEP inspectors complete reports in a very timely manner. The average length of time to complete an inspection report for Mass DEP inspectors was twenty-five (25) days. Several reports were not dated, but the enforcement actions were issued within an acceptable time period for completing the report.
Metric 7a	% of accurate compliance determinations based on inspection reports.	100%	Of the twenty-two report (23) reports/documentation reviewed, it appears that MassDEP made the appropriate enforcement decision for the information provided in the report.

Metric 7b	% of violation determinations in the files reviewed that are reported timely to the national database (within 150 days).	100%	All files reviewed reported violation determination in the database within 150 days.
Metric 8h	% of violations in files reviewed that were accurately determined to be SNC.	100%	Of the twenty (20) enforcement responses reviewed, seven (7) were determined to be SNC. Two (2) facilities received formal actions under MassDEP's enforcement response policy, but were SNCs. One (1) facility had a violation for waste that EPA does not regulate.
Metric 9a	# of enforcement responses reviewed.	18	
Metric 9b	% of enforcement responses that have returned or will return a source in SNC to compliance.	100%	Of the twenty (20) enforcement responses reviewed, MassDEP determined that seven (7) of the facilities were SNC. All of the facilities were returned to compliance.
Metric 9c	% of enforcement responses that have returned or will return Secondary Violators (SV's) to compliance.	100%	Of the twenty (20) enforcement responses reviewed, ten (10) were determined to be SV's. All nine of these SV's returned to compliance.
Metric 10c	% of enforcement responses reviewed that are taken in a timely manner.	100%	Of the twenty enforcement responses reviewed, all actions were taken in a timely manner.
Metric 10d	% of enforcement responses reviewed that are appropriate to the violations.	100%	MassDEP appears to be taking the appropriate action for those violations that are identified. Note: There is a concern about inspection documentation which could lead to unidentified violations.
Metric 11a	% of reviewed penalty calculations that consider and include where appropriate gravity and economic benefit.	70%	EPA reviewed ten enforcement case files where penalties were assessed. MassDEP is considering both economic benefit and gravity as part of its automated penalty calculations sheet; however, the only instances of assessment of economic benefit appear to be when there are missed

			fees. In two instances, there was no economic benefit assessed for missed fees for facilities that had acted out of status, and in a third case there was no avoided cost assessed for a facility that was "baking" hazardous waste.
Metric 12a	% of penalties reviewed that document the difference and rationale between the initial and final assessed penalty.	70%	EPA reviewed 10 cases where penalties were assessed. Three of these cases did not have documentation either of the settlement amount or of a portion of the penalty that had been suspended. In general, the documentation of the rationale between assessed and final penalty varies significantly. A standard memo memorializing the decisions of the manager and/or Regional Enforcement Review Committee would be sufficient. The automated penalty calculation PENCALC system is very good, but does not document the reason for the difference between assessed and final penalties.
Metric 12b	% of files that document collection of penalty.	90%	All but one of ten files with penalties had either a copy of a check, a memo or a print-out from the MMARs database in the file to document payment of the penalty.



APENDIX G: CORRESPONDENCE

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
New England Region 1
5 Post Office Square, Suite 100
Boston Massachusetts, 02109-3912**

April 27, 2010

Mr. Gary Moran, Deputy Commissioner, Operations and Environmental Compliance
Massachusetts Department of Environmental Protection
One Winter Street, 2nd Floor
Boston, MA 02108

Dear Mr. Moran:

Through this letter, EPA Region 1 New England (Region 1) is initiating a review of the Massachusetts Department of Environmental Protection (MassDEP) RCRA Subtitle C Enforcement, Clean Air Act Stationary Source Enforcement and the Massachusetts Water Enforcement Programs. We will review inspection and enforcement activity from Federal Fiscal Year 2009.

In 2007, EPA regions completed the first round of reviews using the State Review Framework (SRF) protocol. This work created a baseline of performance from which future oversight of state compliance and enforcement programs can be tracked and managed. In 2008, the first round of reviews was evaluated and a work group composed of EPA headquarters, regional managers and staff, ECOS, state media associations, and other state representatives revised the SRF elements, metrics, process and guidance.

In the second round of the SRF (SRF/2), the review cycle has been extended by a year such that all states will be reviewed within a 4 year cycle, or by the end of Fiscal Year 2012.

SRF/2 is a continuation of a national effort that allows Region 1 to ensure that MassDEP meets agreed upon minimum performance levels in providing environmental and public health protection. The review will include:

- < examination of inspection and enforcement activity from Federal Fiscal Year 2009 and any available more recent information on current operations;
- < discussions between Region 1 and MassDEP program managers and staff;
- < review of selected MassDEP inspection and enforcement files and policies;
- < examination of data in EPA and MassDEP data systems, and
- < review of MassDEP's follow-up to the recommendations made by Region 1 after SRF/1.

Region 1 and MassDEP have the option of agreeing to examine state programs that broaden the scope of traditional enforcement. This may include programs such as pollution prevention, compliance assistance, and innovative approaches to achieving compliance, documenting and reporting outputs, outcomes and indicators, or supplemental environmental projects. We welcome MassDEP suggesting other compliance programs for Region 1 review.

We expect to complete the MassDEP review, including the final report, by December 15, 2010.

Our intent is to assist MassDEP in achieving implementation of programs that meet federal standards and are based on the goals we have agreed to in MassDEP =s Performance Partnership Agreement. Region 1 and MassDEP are partners in carrying out the review. If we find issues, we want to address them in the most constructive manner possible.

Region 1 has established a cross-program team of managers and senior staff to implement the MassDEP review. Mark Mahoney will be Region 1's primary contact for the review. He will lead the review team, directing all aspects of the review for the Region. Sam Silverman, Deputy Director, Office of Environmental Stewardship, is the Region 1 senior manager with overall responsibility for the review. The program experts on the review team will be:

- X Lisa Papetti, RCRA
- X George Harding, DEP Water Enforcement
- X Christine Sansevero, Clean Air Act

We look forward to meeting with you and your senior managers to go over the review expectations, procedures, and schedule. Our review team will participate in this meeting and we hope that MassDEP managers and staff involved in the review can join us.

The SRF/2 protocol includes numerous program specific worksheets, metrics, and report templates that Region 1 and MassDEP will use to complete the review. We believe it will assist us in carrying out an efficient, focused review. All of these materials have been developed jointly by EPA regional and HQ staff and numerous state officials.

Attachment A, with this letter, transmits the Official Data Set (ODS) that will be used in the review, the files that have been selected for review, and our focus areas for the upcoming on-site file review. Please respond by May 17, 2009 with an indication that you agree with the ODS or with a spreadsheet indicating any discrepancies. Please send your response by e-mail to Mark Mahoney (Mahoney.mark@epa.gov). If you do not respond by this date, we will proceed with our preliminary data analysis under the assumption that the ODS is correct.

EPA has designed the SRF Tracker as a repository for holding all SRF products including draft and final documents, letters, data sets, etc. It is also a management tool used to track the progress of a state review and to follow-up on the recommendations. Regions will enter and update all information for their states in the SRF Tracker. OECA will use the Tracker to monitor implementation of SRF/2. States can view and comment on their information securely on the internet.

We look forward to working with you on this project.

Sincerely,

Susan Studlien, Director
Office of Environmental Stewardship

Attachment A: Official Data Set

cc: By E-mail
Philip Weinberg, Associate Commissioner
Curt Spalding, Regional Administrator
Ira Leighton, Deputy Regional Administrator
Region 1 New England Office Directors and Deputies
Lisa Lund, Director, Office of Compliance, OECA
Mark Mahoney, Region 1

ATTACHMENT A

The Official Data Set (ODS) was pulled from the Online Tracking Information System (OTIS) Web site. We also will send an electronic version in Excel format by email. States can access these reports online with additional links and information on the OTIS site. (Note that the data may slightly change after each monthly data refresh.)

Please confirm that the data shown in the enclosed ODS spreadsheet accurately depicts state activity. Please pay particular attention to numbers shown under Elements 1 and 2. For example, do you agree with the number of inspections performed, violations found, actions taken, etc.? Significant discrepancies could have a bearing on the results of the SRF/2 review. If significant discrepancies exist (i.e., the state count of an activity is +/- 10 percent of the number shown, or the facility lists accessed in OTIS for a particular metric do not closely match state records), please note this on the spreadsheet in the columns provided to the right of the data. Please note that you do not need to provide exact counts when your numbers do not differ much from those provided – minor differences in the numbers are often the result of inherent lags between the time a state enters data in its system and when the data is uploaded to the program system and OTIS.

We encourage you to document significant differences between EPA and state numbers using the reporting format included with the spreadsheet. There are two major reasons for this. (1) It is important for EPA to understand these differences in the course of its work. (2) In the event of a Freedom of Information Act (FOIA) request, the official record would include the disputed number along with the correct number according to the state and an explanation of the discrepancy.

If you would like to get a sense of the facilities behind the numbers shown, you can use OTIS (<http://www.epa-otis.gov/otis/stateframework.html>). SRF data metrics results are shown on the OTIS SRF Web site on the first screen that is returned after a search is run. Lists of facilities that make up the ODS results are provided in most cases by clicking an underlined number. (Please note that OTIS data are updated monthly, so differences may exist between the hard copy and the site.) If core inspection, violation, or enforcement actions totals shown on the spreadsheet are not close to what you believe the true counts to be, please consider providing accurate facility lists to assist us with file selection.

Please respond by May 17, 2010 with an indication that you agree with the ODS or with a spreadsheet indicating any discrepancies. Please send your response by e-mail to Mark Mahoney (Mahoney.mark@epa.gov). If you do not respond by this date, we will proceed with our preliminary data analysis under the assumption that the ODS is correct.

Appendix I - Massachusetts Department of Environmental Protection Priorities and Accomplishments



Massachusetts Department of Environmental Protection

ENFORCEMENT

2009 Compliance and Enforcement Report: A Cornerstone of Environmental Protection

MassDEP is the state agency responsible for ensuring clean air and water, the safe management of toxics and hazards, the recycling of solid and hazardous wastes, the timely cleanup of hazardous waste sites and spills, and the preservation of wetlands and coastal resources. To achieve these goals, MassDEP employs a comprehensive, integrated ***Compliance Assurance Strategy*** focused on the achievement of environmental results. This strategy incorporates protective and innovative environmental standards and policies; effective compliance assistance and outreach efforts; timely and efficient permits; and robust compliance and enforcement efforts.

In FY09, MassDEP's ***Compliance Assurance Strategy*** continued to achieve our goal of environmental protection and, with the help of targeted inspections and innovative compliance and enforcement strategies, achieved impressive results.

This report provides an overview of key compliance and enforcement efforts and results from Fiscal Year 2009, including:

- ***Compliance Assurance:*** A look at how we best achieve compliance and environmental results.
- ***FY09 Compliance and Enforcement Results:*** a quantitative look at our enforcement in FY09.
- ***Achieving Goals through Strategic C&E:*** an overview of MassDEP's FY09 strategic compliance and enforcement goals, as well as significant cases and initiatives that helped us achieve these goals.

I. Compliance Assurance:

Our Compliance Assurance Strategy includes a number of tools to ensure environmental compliance, including protective and innovative permitting; compliance assessment and

enforcement; technical assistance; and public education. The following is an example of how we put what we have learned into practice in Fiscal Year 2009. In the Hauler and Generator Initiative, MassDEP developed an integrated, tailored compliance assurance strategy to address a specific environmental performance issue, and utilized a number of enforcement strategies, ranging from technical assistance to enforcement.

Compliance Assurance Highlight: The Hauler and Generator Initiative

In 1990, the Massachusetts Department of Environmental Protection (MassDEP) introduced its first bans on landfilling and combustion of easy-to-recycle and toxic material, such as recyclable paper and cardboard, lead acid batteries, white goods and whole tires. “Waste bans” are restrictions on the disposal, transfer for disposal, and contracting for disposal of certain hazardous and recyclable items at solid waste facilities in Massachusetts.

The waste bans are designed to:

- Conserve capacity at existing disposal facilities.
- Minimize the need for new facility construction.
- Provide recycling markets with large volumes of material on a consistent basis.
- Prevent certain toxic substances or materials from adversely affecting our environment when landfilled or incinerated.
- Promote business and residential recycling efforts.

“Generators and Haulers” are the people who generate solid waste and the people who transport solid waste to disposal facilities. Each is subject to waste ban requirements.

Over the past few years, MassDEP has implemented a comprehensive compliance assurance strategy, utilizing a number of different “tools” to achieve compliance with waste bans. These tools include outreach and technical assistance, increased compliance assessment, enforcement, and evaluation of future compliance assurance strategies.

Outreach and Technical Assistance: In early phases of implementation of the waste ban, MassDEP focused compliance assurance resources on the provision of outreach and technical assistance to haulers and generators, and on efforts to support development of a new collection infrastructure and recycling markets.

Increased Compliance Assessment: In recent years, based on results of inspections at solid waste facilities, plateauing recycling rates, and concerns expressed by stakeholders and citizens, MassDEP became increasingly aware of compliance issues relative to haulers and generators. In FY09, MassDEP developed a new compliance assurance strategy, with an emphasis on increased waste ban compliance assessment efforts, intended to:

- Increase diversion of all waste ban materials through increased DEP presence and enforcement of all banned materials on haulers and generators of solid waste
- Create a culture change with haulers on their interactions with their customers that supports compliance with waste bans.
- Assess compliance performance and collect baseline statistics to help develop and evaluate future compliance assurance strategies.

Beginning in January of 2009, MassDEP inspectors inspected the 10 largest solid waste facilities for hauler and generator compliance with the waste bans, observing 1,358 loads of waste. While all loads included at least some banned materials, inspectors determined that 263 loads were failed loads, resulting in a **19.4% waste ban failure rate** for haulers and generators of solid waste.

Enforcement: In follow-up to the inspections, a review of these 263 failed loads revealed that approximately 50% of these failed for the presence of a relatively small quantity of restricted materials. MassDEP targeted the most egregious violations for enforcement, and issued Notices of Noncompliance to 78 businesses or generators and 23 waste haulers. Businesses that receive a notice of non-compliance are required to respond to MassDEP with their plan of action to stop the disposal of banned materials.

Evaluating Future Compliance Assurance Strategies: Increased inspection and enforcement activity, like MassDEP's Hauler and Generator Initiative, send a clear message—compliance with these important recycling regulations is mandatory, and MassDEP will aggressively enforce them.

In addition, this initiative provided valuable information about compliance performance and how to ensure improved compliance in the future. Based on the results of this initiative, MassDEP opened new discussions with the hauler industry to discuss potential regulatory changes to better facilitate compliance and accountability by haulers and their customers, the generators.



A load clearly violating the waste ban for cardboard.

II. Fiscal Year 2009 Compliance and Enforcement Results

The cornerstone of any effective compliance assurance strategy is a robust compliance and enforcement program that maintains a highly visible presence in the regulated community,

includes the issuance of timely and appropriate penalties, and takes other enforcement actions against environmental scofflaws. The goal is to deter current and would-be rule-breakers by finding violators, making those violators return to compliance, restore any damage caused, and pay a penalty that exceeds the economic benefit of non-compliance.

Measuring the performance of our compliance assurance strategy includes an evaluation of both the number and type of activities that MassDEP conducts. Output accounting offers one perspective on compliance and enforcement efforts' strategic contribution to an integrated problem solving strategy. Output accounting can also help inform the public of the focus and results of DEP's compliance and enforcement resource allocation, quantifying the level of the Department's field presence and illustrating how the agency's compliance inspection and monitoring translates into enforcement actions. Output accounting also illustrates the cost to violators of significant non-compliance. Such output measurements also help instill the credibility that regulatory limits and permit conditions designed to protect public health and the environment are being enforced.

The key output performance areas DEP measures are:

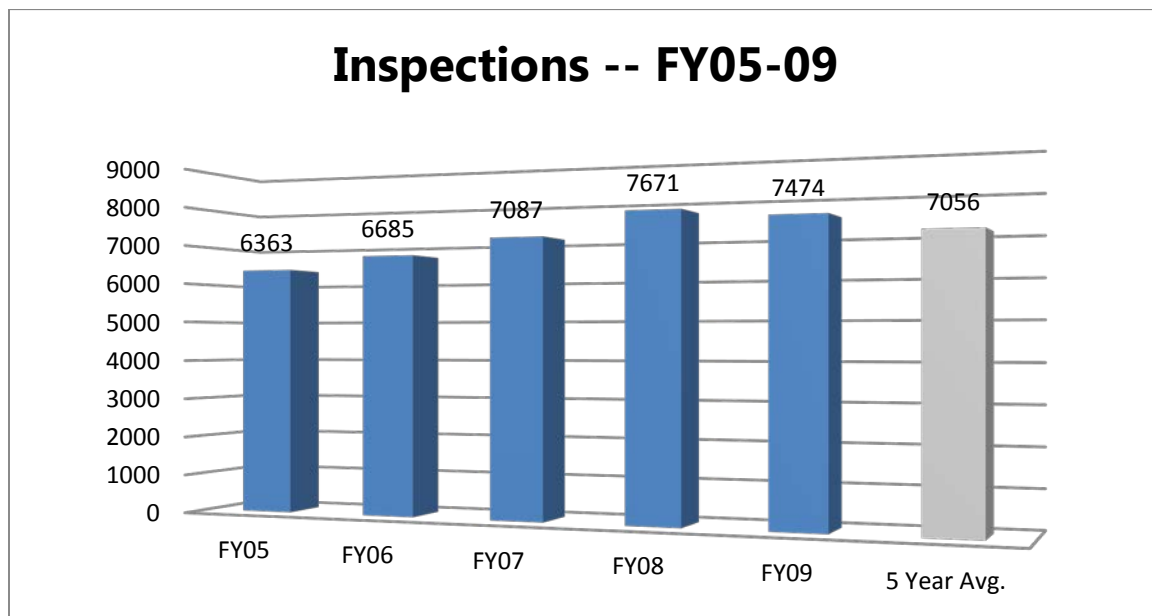
- Total number of inspections conducted;
- Total Number of Enforcement Actions (Including Lower Level Enforcement (LLE) actions taken and Higher Level Enforcement (HLE) actions taken);
- Monetary amount of administrative and judicial penalties assessed and collected.
- Alternative Compliance and Enforcement Measures

Measuring Our Enforcement Presence—Inspections

One important goal for our compliance and enforcement efforts is to maintain a robust enforcement presence – to be the “cop on the beat.” A good measurement of our presence is the number of inspections we perform.

The traditional inspection, a physical visit to review a regulated site’s or facility’s compliance status, remains the mainstay of DEP’s compliance assessment program. As noted above, inspections are conducted for a variety of reasons, such as: planned as part of a program’s standard compliance assurance targeting of a sector; program-specific follow-up at a facility that has been the subject of a prior compliance assurance inspection; or an investigation in response to citizen complaints.

As shown in this chart, in FY09 MassDEP performed **7474 inspections, a level of inspections that greatly exceeds the 5 years average (7056)**. This demonstrates that despite the resource constraints that began to impact MassDEP in FY09, we continued to maintain a robust C&E presence.



FY2009 Enforcement Actions

While inspections can be utilized for a number of strategic goals, a primary goal is to discover noncompliance. MassDEP is committed to undertaking timely and appropriate enforcement in such instances, in order to:

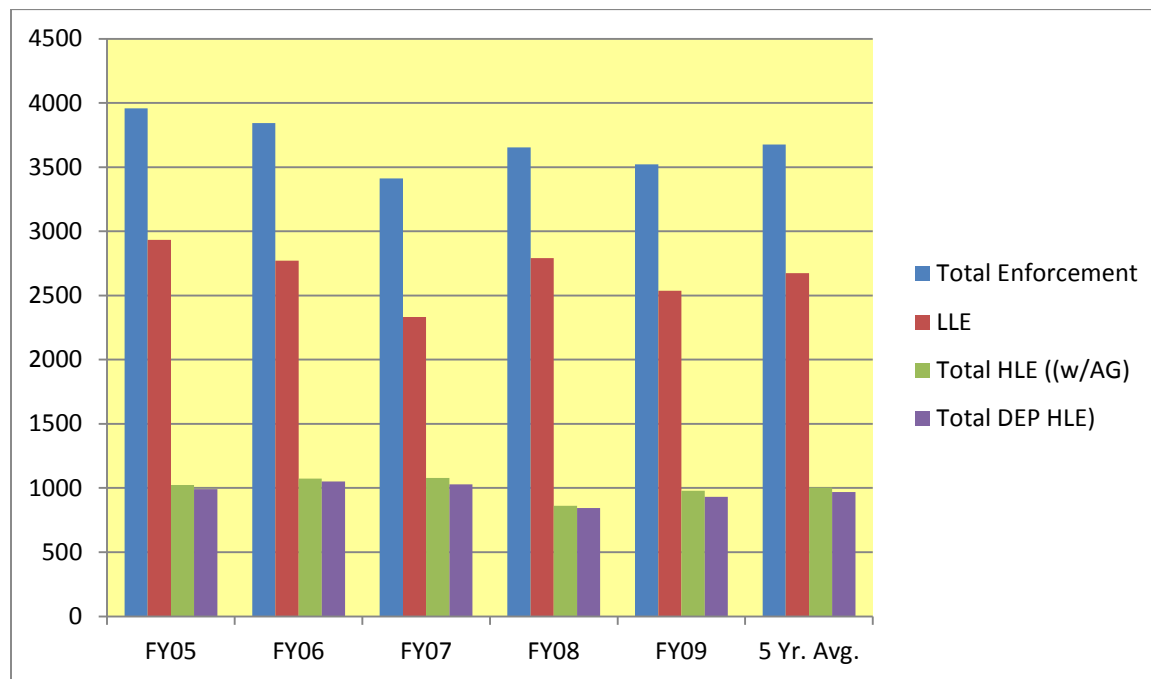
- ensure that the violator takes necessary steps to address any environmental impacts and return to compliance;

- promote compliance with regulations by sending a strong deterrence message, including demonstrating that noncompliance is substantially more costly than compliance; and
- capitalize on opportunities to induce violators to and go beyond compliance.

In Fiscal Year 2009, MassDEP continued a robust enforcement program, undertaking a level of enforcement activity consistent with recent trends. Specifically, MassDEP’s compliance enforcement efforts have resulted in significant outputs, including Lower Level Enforcement, Higher Level Enforcement, and Penalties.

<i>Enforcement Actions</i>	FY05	FY06	FY07	FY08	FY09	5 Yr Ave
Lower Level Enforcement LLE (NONs)	2934	2771	2333	2791	2537	2673
Higher Level Enforcement	992	1050	1029	844	932	969
HLE including AG/EPA Referrals/Settlements	1023	1073	1079	862	978	1003
Total Enforcement Actions	3957	3844	3412	3653	3521	3676

Enforcement Actions--FY05--FY09



Lower level enforcement (LLE): Lower level enforcement actions include a variety of “Notices of Noncompliance” (NONs), which are generally used to require correction of minor compliance problems, provide notice that an existing practice is unacceptable, and/or take the first step before issuing administrative orders and penalties if problems are not corrected. In FY09, MassDEP issued 2537 LLEs, a slight decrease from FY08, but generally consistent with the 5-year average.

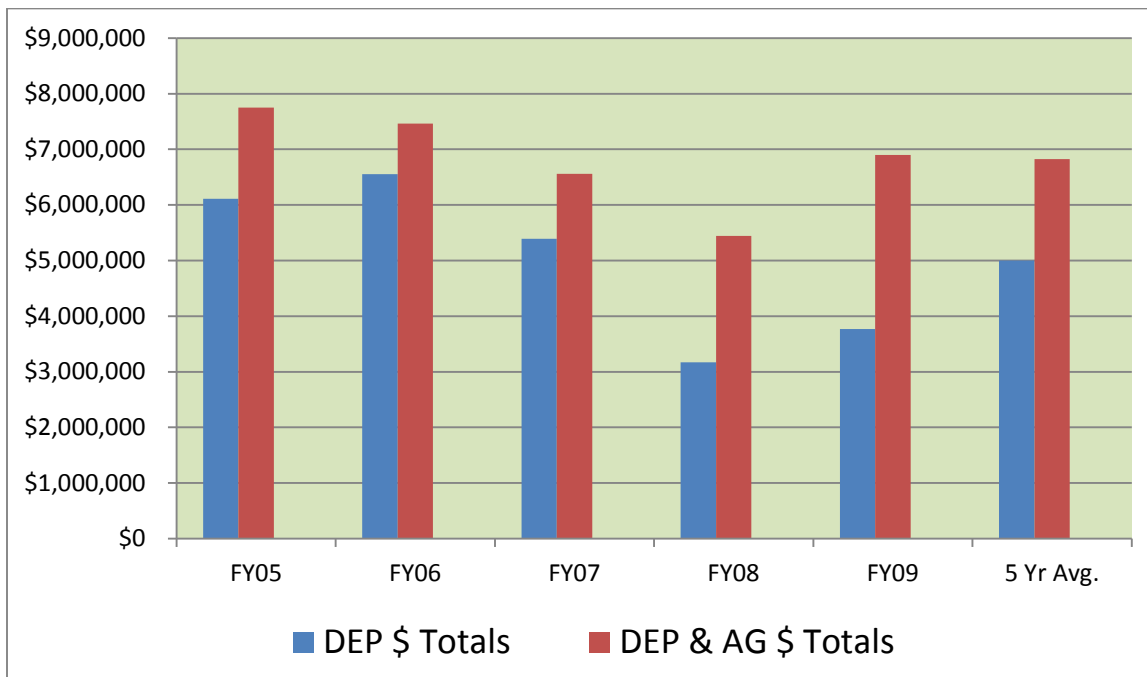
Higher level enforcement (HLE): HLE includes the range of enforcement actions generally utilized for more serious violations and includes actions such as administrative consent orders with or without a penalty (ACO(P), penalty assessments (PAN), permit and licensure sanctions (e.g. suspensions or revocations) and referral to the Attorney General or the Environmental Protection Agency. In FY09, MassDEP issued 932 HLE, a figure generally consistent with 5 year average, and a marked increase from the previous year (10.4%).

Penalties and Fines

The assessment of monetary penalties is an important element of a credible enforcement program. Assessment of penalties creates a deterrent effect by exacting a price for noncompliance beyond the expenditures required to return to compliance and remediate any damage caused. In appropriate cases, a penalty reflects the economic benefit a violator obtains by avoiding or deferring compliance related costs or investments. Effective use of penalties and fines sends a strong message to the regulated community – avoiding compliance with environmental regulation will not provide an economic advantage, and in fact will be more costly.

In FY09, MassDEP assessed approximately \$3.77 million through MassDEP administrative enforcement (actions taken by MassDEP independently). Actions initiated by MassDEP and pursued by MassDEP jointly with the Attorney General’s Office resulted in an additional **\$3.1 million**, for a total of nearly **\$6.9 million in penalties** assessed through environmental enforcement action. This represents an increase of almost **27% over FY08** and is consistent with the 5-year average for total penalties assessed.

Penalties Assessed--FY05--FY09



While MassDEP administrative penalties also increased from FY08 (19%), the total remains below the 5-year average. Lower administrative numbers can be attributed to a number of potential factors, including:

- lower average penalty assessments per penalty cases: Penalty assessments for cases involving penalties were 12.4% lower in FY09 than 5-year average.
- substantially reduced average penalty assessments for unilateral penalties: In FY09, average unilateral penalty assessments were 41% lower than the 5-year average. This reflects both fewer cases triggering need to impose large unilateral penalties, and MassDEP’s strategic use of smaller penalties in certain sectors to increase compliance and provide a level playing field.
- The expenditure of significant enforcement resources on completing complex, high profile cases in coordination with the Attorney General’s office (penalty assessments for these cases are not reflected in MassDEP administrative penalty numbers).

MassDEP Penalty Assessments--FY05-FY09

	FY05	FY06	FY07	FY08	FY09	5 Yr Ave
Administrative (ACOP total)	\$3,599,550	\$3,994,673	\$3,455,983	\$2,375,063	\$2,570,698	\$3,199,194
PAN \$ (as of FY99)	\$2,297,542	\$2,000,845	\$1,562,112	\$641,890	\$997,456	\$1,499,969
Stipulated+ Suspended Penalties \$ (as of FY03)	\$213,480	\$556,718	\$373,120	\$151,600	\$202,275	\$299,439
DEP \$ Totals	\$6,110,572	\$6,552,236	\$5,391,216	\$3,168,553	\$3,770,429	\$4,998,601
AG Civil/Crim \$ Totals	\$1,639,275	\$912,391	\$1,167,500	\$2,277,000	\$3,127,000	\$1,824,633
DEP & AG \$ Totals	\$7,749,847	\$7,464,627	\$6,558,716	\$5,445,553	\$6,897,429	\$6,823,234

Beyond “Outputs”— Alternative Compliance and Enforcement Measures

MassDEP continues to work to quantify the non-traditional measures of success that result directly from enforcement actions. These measures, combined with traditional measures such as penalty dollars and compliance rates, provide a more three-dimensional view of MassDEP’s

work. In 2009, our enforcement actions yielded important environmental benefits, including reduced ozone emissions, reduced asbestos particles released to the air, proper cleanup of contaminated soils, and protected drinking water for Massachusetts citizens.

To give just a “snapshot” of some of these benefits, we estimate that our enforcement actions resulted in:

Restoration and Cleanup of Environment

- Cleanup of **27,200 gallons** of chemicals released to the environment (petroleum and/or hazardous materials);
- Treatment of **585,000 gallons** of contaminated groundwater;
- Removal and proper management of **70,750 cubic yards** of contaminated soils;
- Removal of **72,000 pounds** of illegally disposed solid waste, preventing contamination of soil and ground water; and
- Restoration of approximately **14.2 acres of wetland resource areas**, including **590,209** square feet of wetlands; **11,449** square feet of land under water; **16,581** square feet of riverfront area; and 3,425 linear feet of bank across the state.

Pollution Prevention/Public Health Protection

- Reduction from the ambient air of **322,000 pounds** of ozone precursors, particulate matter, carbon monoxide, sulfur dioxide and toxic compounds;
- Drinking Water – approximately **543,000 people** served by **87 public water systems** (PWSs) will benefit from mandatory improvements that ensure they will receive water that is safe and fit to drink; and
- Improved **management** of **5,967,000 million cubic feet** of landfill space and solid waste.

III. Achieving Environmental Goals through Strategic Compliance and Enforcement

In addition to considering traditional enforcement metrics, MassDEP works to better track, evaluate, and communicate other measures of success for compliance assurance activities. As we take steps to improve our strategic environmental compliance assurance efforts and fully integrate compliance and enforcement activities, we also need to ensure that we effectively evaluate and communicate the success of these efforts.

In undertaking compliance assessment activities in FY09, MassDEP focused on a number of priorities, including:

- *Environmental Results*
- *Compliance Assessment and Verification*
- *Leveraging Environmental Goals through Partnerships*

The following examples illustrate how MassDEP has achieved these strategic goals through compliance and enforcement initiatives and cases.

Environmental Results

A major goal in the design and implementation of compliance and enforcement strategies is the achievement of tangible environmental results. In many cases, we implement certain initiatives and strategies designed to achieve specific environmental goals. Some examples of these strategies in FY09 include: our ongoing Wetlands Loss enforcement initiative; a collaborative compliance effort intended to improve water quality at White Island Pond; and the strategic utilization of Supplemental Environmental Projects (SEP), which are individually tailored at the micro-level, aimed at specific environmental goals for specific projects.

5 years of Success — Massachusetts Wetlands Loss Initiative

Wetlands are valuable natural resources found throughout Massachusetts, from the Atlantic coast to the Berkshires. Wetlands help clean drinking water supplies, prevent flooding and storm damage, and support a variety of wildlife. When wetlands are filled or altered, these valuable functions can be impaired.

Well over half of all wetlands loss in Massachusetts occurs as a result of illegal wetlands filling. Five years ago MassDEP targeted this problem and developed the “Wetlands Loss Initiative,” an innovative aerial surveillance program where MassDEP staff analyze “before” and “after” aerial photographs to identify and prioritize wetlands enforcement based on impact and science.

This Initiative has become an established and critical aspect of MassDEP’s efforts to protect wetlands resources. Since its inception, MassDEP has executed 61 wetlands loss cases. These 61 cases will result in restoration of more than 60 acres of wetlands resource areas.

MassDEP levied over \$2.6 million in penalties for these cases, including approximately \$600,000 in suspended penalties (see chart on next page)

Enforcement cases identified through aerial imagery program

Date	# Wetlands Loss Cases	Penalties*	Acres Restored
7/1/03- 6/30/04	10	\$ 650,750	23.52
7/1/04 - 6/30/05	12	\$1,104,100	21.41
7/1/05 - 6/30/06	8	\$ 102,500	3.35
7/1/06- 6/30/07	12	\$ 186,500	5.68
7/1/07 – 6/30/08	9	\$ 104,225	1.87
7/1/08 – 6/30/09	10	\$ 492,082	4.49
TOTALS	61	\$2,640,157*	60.32 acres

* Includes \$612,942 in suspended penalties, \$212,000 in SEPs, and additional SEPs with as-yet undetermined value.

FY09 Wetlands Loss Case: Brandywine Corporation: In FY 2009, MassDEP worked closely with the Attorney General’s Office to reach a settlement in a significant wetlands enforcement case against the Brandywine Corporation. This case involved the unpermitted alteration of 5 acres of wetlands on a parcel in Billerica used for automobile auctions. The settlement required the owner to restore a portion of the altered wetlands, pay \$200,000 towards additional wetlands enhancement in the Concord River Watershed, and pay a \$50,000 penalty, plus \$50,000 upon failure to complete the agreed-upon restoration.

Successful Wetlands Restoration – 201 Concord Road in Carlisle: These photos graphically demonstrate the environmental benefits of the Wetlands Loss initiative. A MassDEP investigation found that the property owners had constructed a large pond, altering nearly an acre of Bordering Vegetated Wetland (BVW) and 460 linear feet of an intermittent stream. The aerial photograph shows the area of alteration (yellow crosshatch), and the following photo shows the pond and surrounding grassy, filled wetland area. After successful negotiation with the property owner, a large restoration project was performed on the site in 2009 that included: ongoing maintenance of a small pond to provide for fire



The aerial photograph shows the area of alteration (yellow crosshatch), where property owners installed a large pond and altered

protection; enhancement of the wildlife habitat values of the pond; excavation of fill and recreation of 12,369 square feet of Red Maple swamp, 14,370 square feet of wet meadow, and 3,408 square feet of shrub swamp; and removal of culverts for restoration of a meandering stream channel. This case was settled through execution of an Administrative Consent Order that included a penalty of \$25,755 paid, plus an additional \$25,755 suspended upon full compliance.



Before: pond and surrounding grassy, filled wetland area



After: Large restoration includes enhanced wildlife habitats, wet meadow, swamp and restoration of a

White Island Pond—A Collaborative Compliance Approach

While MassDEP’s enforcement efforts can yield impressive environmental results, we do not always rely on enforcement. Compliance with environmental standards can be obtained through collaborative efforts with regulated parties and other agencies to meet environmental goals. Efforts in 2009 to improve water quality at White Island Pond provide a good illustration of such productive collaboration.

White Island Pond is a 291-acre pond located in Plymouth and Wareham. The pond has a long history of nutrient-related impairment which has resulted in algal blooms, including blooms of toxic blue-green cyanobacteria (as shown in photo). In 2009, MassDEP developed a Total Maximum Daily Load for the pond. The TMDL is essentially a “pollution budget” designed to restore the health of an impaired waterbody.

The TMDL report outlined proposed controls to address excessive algae and weeds. These growths impair aquatic life and recreational uses in White Island Pond such as swimming. The report focused on phosphorus inputs from commercial cranberry bogs, as well as phosphorus from homes.

MassDEP estimated that the TMDL will require comprehensive actions for reducing watershed sources of total phosphorus by up to 73 percent to meet the TMDL target concentration in the pond. Recognizing the likely contribution from bog operations, MassDEP initiated discussions with the owners of two bogs that contribute to the pond’s nutrient load. A.D. Makepeace Company cultivates approximately 42 acres on the northwest side of the pond and Federal Furnace Cranberry Company cultivates approximately 47 acres on the northeast side of the pond. The TMDL provided documentation for the two companies that additional management practices at the bogs are required to reach the goals of the TMDL.



White Island Pond is a 291-acre pond located in Plymouth and Wareham. The pond has a long history of nutrient-related impairment, which has resulted in algal blooms, including blooms of toxic blue-green

Achieving Results through Supplemental Environmental Projects

“Supplemental Environmental Projects” (SEP) are another tool by which MassDEP achieves maximum environmental benefit through enforcement efforts. SEPs are used as part of negotiated settlements of enforcement matters. A SEP is a project that may be proposed in lieu of a portion of a penalty, and that benefits public health, safety and welfare, and the environment. Where possible, MassDEP seeks to have the environmental benefit of a SEP significantly outweigh the benefit that would be derived from a cash

penalty alone and, where possible, go beyond compliance.

SEPs can also provide opportunities to support MassDEP's specific environmental goals. For example, water conservation efforts have taken on increasing importance in recent years, as demonstrated by 2006 amendments to the Toxics Use Reduction Act (TURA) that allowed companies to develop Resource Conservation Plans (addressing water, energy, or solid waste) in addition to traditional Toxics Use Reduction Plans. In 2009, as part of our ongoing enforcement of the TURA program (in which certain companies must report and seek ways to reduce their toxics use), MassDEP was able to work with two companies that had failed to file their annual toxics use reports on time, and obtained commitments from those companies to go beyond compliance and achieve important, ongoing environmental improvements, including water conservation.

Superior Printing Inc. of Marlborough agreed to implement a \$98,000 closed-loop non-contact cooling-water recycling system that will save between 3.5 million and 8.3 million gallons of water per year (MassDEP agreed to waive all but \$9,857 of the \$37,607 penalty proposed for the violation).

Coca-Cola Bottling of New England agreed to implement a three-part, \$16,857 water conservation project to reduce water use through recovery and recycling of wastewater. The company has reported saving over 4.6 million gallons annually, with a projected energy savings of 410,000,000 BTUs annually (the company also paid a \$13,043 fine).

Compliance Assessment

Compliance assessment initiatives are intended to assess how a sector or group of sources is performing, or the effectiveness of a particular compliance assurance strategy. An example of MassDEP's Compliance Assessment in Fiscal Year 2009 initiatives was our assessment of the Environmental Results Program.

Checking Business Performance under the ERP Program

The Environmental Results Program (ERP) is a unique environmental performance initiative developed by MassDEP. ERP features a multimedia, sector-based regulatory approach that replaces facility-specific state permits with industry-wide environmental performance standards and annual certifications of compliance. ERP has been particularly helpful in addressing compliance assurance at smaller firms. Smaller firms may not individually emit significant pollution, but collectively can have environmental impacts equivalent to several larger sources.

ERP applies three innovative tools to enhance and measure environmental performance. These tools supplement MassDEP's traditional compliance inspection and compliance assistance efforts:

- An annual self-certification of compliance by companies to increase self-evaluation and accountability;
- Compliance assistance from the agency through outreach and innovative workbooks; and

- A new performance measurement methodology to track results, determine priorities, and strategically target inspections and compliance assistance efforts.

ERP has proven to be very successful, bringing hundreds of small businesses into compliance with applicable environmental regulations. To ensure the continued effectiveness of the program, MassDEP performs a periodic compliance verification using random inspections and statistical analysis to measure the performance of ERP sectors and facilities. This methodology validates the performance of regulated businesses and the program itself, and is used to target facilities for inspections and compliance assistance. The evaluation tracks a number of sector-specific performance measures called “Environmental Business Practice Indicators” that provide “snapshots” of the sector’s environmental performance before and after certification and on a long-term basis.

In FY09, MassDEP completed its most recent performances analysis for two of the sectors where ERP is applied: Printers and Dry Cleaners. Inspections were performed at a sufficient number of randomly selected ERP Printers and ERP Dry Cleaners to allow statistical techniques to estimate the performance of the entire sector from the results of the inspections, with a high degree of certainty. Key findings include:

Achievement Rate on Environmental Business Practice Indicators: The achievement rate is the percentage of facilities that “achieved” the Environmental Business Practice Indicators (EBPI’s), which are the most significant regulatory and beyond compliance measures that are tracked through ERP.

For both sectors, the achievement rate measure was above or very nearly above 80%, meaning the facilities were doing the “right thing” over 80% of the time. This is consistent with previous compliance assessments, although there were statistically significant declines in each sector for some specific indicators. For example, both sectors showed declines in indicators related to proper hazardous-waste labeling and storage requirements.

Distribution of Facility Scores: In addition to looking at the performance of the entire universe of facilities, the performance of individual facilities was assessed through the calculation of a “facility score” for each facility. The facility score is the proportion of applicable indicators that the facility successfully achieved (complied with or implemented) multiplied by ten. For both sectors, out of a maximum score of 10, the average facility score was 8 or above for the EPBIs.

Comparison of Certifications and Inspector Findings: A key component of the ERP program is a requirement that facilities submit self-certified compliance reports. One purpose of the random inspections is to determine the reliability of the self certifications, a key component of the ERP program.

MassDEP found statistically significant differences between the achievement rates for specific indicators in each sector based on what was reported on the certifications versus what the inspectors found on their site visits. In both sectors, for example, facilities were statistically more likely to claim compliance with certain recordkeeping and hazardous-waste labeling requirements than were observed by the MassDEP inspectors.

Putting the Assessment Results to Work:

A key strategy of the ERP approach is to use performance data to strategically direct MassDEP resources to specific problem areas. Based on the finding of this assessment, the

agency has already made or plans to make a number of adjustments to bring greater focus by the regulated community on the identified areas of poorer compliance. Actions include changing the ERP Dry Cleaner compliance certification form to ask more specific questions about hazardous waste and recordkeeping requirements. MassDEP also plans to amend the ERP Printer compliance certification form in 2011 to both incorporate new program requirements and better address the problem areas identified by the assessment. Finally, a special Compliance Fact Sheet will be mailed to all ERP Dry Cleaners and Printers with the notices for the next round of compliance certification. The fact sheet information will also be posted on the eDEP web filing site so that facilities that file electronic compliance certifications are made aware of the particular areas of concern.

Leveraging Goals through Environmental Partnerships

Collaboration with other agencies, both state and federal, as well as with municipalities, is an excellent way to consolidate enforcement resources, target inspections and enforcement, and achieve impressive results. During difficult economic times, when state and local governments face significant budgetary and resource constraints, such partnerships are even more critical. MassDEP's work with its partners yielded significant enforcement and environmental results in Fiscal Year 2009.

MassDEP's Environmental Strike Force

The Environmental Strike Force (ESF) is a valuable resource at MassDEP. The ESF teams up DEP, the Environmental Police, and the Office of the Attorney General (OAG) to investigate and prosecute criminal and major civil environmental violations. Chartered in 1989 and headquartered at DEP, the ESF focuses on violations where there is a high risk to human health or sensitive resources, including illegal discharges/disposal of toxics or asbestos, and where there is knowing and intentional fraudulent activity designed to circumvent compliance. The importance of ESF's collaborative efforts is illustrated by several FY09 cases:

Stopping Illegal Discharges of Medical Waste — Associated Processor Service

In FY09 Ed Small of Dover, the former owner and operator of Associated Processor Service (APS), a medical waste disposal company in Natick, pleaded guilty in Middlesex Superior Court on several charges, including unlawful storage and disposal of medical waste, as well as unlawful dumping of hazardous waste, including mercury. Mr. Small plead guilty to violating the Hazardous Waste Management Act (7 counts), the Clean Water Act (2 counts), the State Sanitary Code (2 counts), and the Solid Waste Management Act (1 count). Mr. Small was sentenced to 18 months in the House of Correction, suspended for a probationary period of five years. Under the terms of the probation conditions, Small must pay \$50,000 into a trust set up by the Attorney General's office to pay for some of the cost of remediation of the former APS facility; for expenses related to the prosecution of this case; and for continued training and legal education in the area of environmental enforcement.

This matter first came to the attention of MassDEP in 2006 when the ESF learned from contacts in New York that Small had illegally disposed of red-bagged medical waste, including syringes and blood-contaminated gauze, in a dumpster that was hauled to an Auburn, New York landfill. A subsequent comprehensive investigation revealed that Small not only illegally stored medical waste at the facility, but that he illegally treated hazardous waste on-site and then discharged the waste water down the sink and into floor drains which discharged into the Massachusetts Water Resource Authority sewer system. ESF participated in a criminal search warrant of Small's storage facility, where incriminating materials were discovered, and partnered with MWRA TRAC investigators to trace the source and the trail of the illegal disposal.

The Fraudulent “Auto Inspection Sticker” Initiative

In addition to routine coordination with the Attorney General's Office, MassDEP's ESF works closely with other state and local agencies to develop initiatives and cases that protect the public health, safety, and the environment. One example of such collaboration is the Fraudulent Sticker Initiative, where the ESF partnered with the Registry of Motor Vehicles, the Attorney General, and local and state police.

The Massachusetts automobile emissions test is designed to ensure that vehicles run as cleanly as they were designed to run, which in turn protects the air we breathe. On October 1, 2008, MassDEP and the RMV rolled out the “next generation” Vehicle Emission Test and Safety Inspection Program. Most automobiles in Massachusetts (model year 1996 and new) receive an annual on-board diagnostic (OBD) emissions test. The OBD test is a simple test in which an inspector plugs the scan tool from an inspection workstation into a vehicle's OBD connector, and the workstation's computer queries the vehicle's computer for the status of the emissions control system monitors.

The new program enables MassDEP and the Registry of Motor Vehicles to better detect any fraudulent emissions inspections and to take the appropriate enforcement action. In Fiscal Year 2009, ESF investigators conducted a series of comprehensive inspections of suspect stations across the Greater Boston area. Some of these investigations involved local and state police. To date, this effort has resulted in over 20 cases and numerous ongoing investigations. ESF has partnered with the Registry of Motor Vehicles to ensure that license revocation and suspension is conducted in tandem with Attorney General or MassDEP enforcement. Fines have ranged from \$6,000 to \$30,000.

One notable case in FY09 involved Dorchester Auto Service, Inc. In April 2009, the Attorney General's Office reached a settlement agreement with Dorchester Auto and an inspector who was employed by the station. The settlement resolved allegations that the defendants were responsible for conducting at least 72 illegal emission inspections. The investigation showed that rather than conducting an OBD test on motor vehicles being inspected, Dorchester Auto tested a “clean” vehicle, one that they knew would pass the test, and then used the results from that test to issue a passing inspection sticker to the vehicle that came in for the inspection. This illegal practice is known as “clean scanning.”

Under the terms of the settlement, Dorchester Auto agreed to a \$144,000 penalty and a six-

month suspension of its inspection station license. The license of the inspector employed at the station who allegedly conducted the fraudulent inspections was revoked as part of the settlement agreement.

Mantrose-Haeuser and Zinsser Co.—Second Largest Environmental Protection Settlement in Massachusetts History

In October 2008, MassDEP and the Attorney General's office approved a landmark settlement agreement with Mantrose-Haeuser Co, Inc. and Zinsser Co., Inc. concerning allegations that the companies violated several of the state's air pollution and other environmental laws at their Attleboro manufacturing facility, located in a residential area adjacent to the Ten Mile River.

The Attleboro facility has long manufactured materials used to produce and enhance pharmaceuticals, health supplements, foods, and non-edible products, such as wall spackle, and has emitted volatile organic compounds (VOCs) to the ambient air. MassDEP began investigating after Mantrose submitted inconsistent reports about the facility's solvent use. The complaint alleged that MassDEP found that the facility used outmoded equipment, including meters that could not accurately record solvent use, and that since 1998 the facility has annually emitted, at a minimum, two to three times more VOCs than the permit allowed. The complaint also alleged that MassDEP uncovered violations at the facility of water pollution, hazardous waste management, toxics use reduction, and oil and hazardous material release prevention laws and regulations.

The settlement required the companies to obtain a new air permit; limit facility air emissions; modify operations, manufacturing equipment, and record-keeping practices; and to otherwise bring the facility into compliance with the environmental laws. In addition, the companies agreed to pay \$2 million in civil penalties and \$300,000 toward two supplemental environmental projects that will benefit public health and the environment. The first SEP would pay \$150,000 to help fund the installation of auxiliary power units on Providence and Worcester Railroad diesel-powered locomotives, reducing locomotive idling and excess diesel-particulate emissions. The second SEP would send \$150,000 to the Attleboro Redevelopment Authority to help fund a riverbank-restoration project on the Ten Mile River as part of the downtown urban renewal plan.

This settlement is the second largest ever reached by the Attorney General's Environmental Protection Division.

APPENDIX J:

SUMMARY OF IMPLEMENTATION OF ENVIRONMENTAL JUSTICE PRIORITIES THROUGH COMPLIANCE AND ENFORCEMENT

Compliance assurance activity is evaluated for each Bureau. Compliance inspection data was evaluated to determine whether the Department is inspecting regulated facilities in EJ areas at a level which is equal to or greater than the percentage of regulated facilities located in those areas. Due to the volume of submissions and our data system limits, the Department's annual review of tens of thousands of compliance reporting and monitoring documents is generally not reflected in this report. Additionally, the enforcement data management system does not collect location information that would allow us to analyze the number or types of enforcement actions taken in EJ communities.

Bureau of Resource Protection

The Bureau of Resource Protection (BRP) regulates public water drinking water systems and wastewater treatment facilities, operations that discharge wastewater into the ground, and activities that impact wetlands and waterways.

Drinking Water Systems Inspections

Sanitary Surveys of source water, distribution system, treatment facilities as well as managerial capacity are required by the Safe Drinking Water Act. All "community PWSs" serving residential consumers are subject to this comprehensive inspection every three years. Consequently, every system in an EJ community is inspected at least once every three years.

Wastewater Treatment Facilities' Inspections (Surface water discharges)

NPDES major inspections are planned with EPA annually. Major surface water dischargers are inspected on five year basin cycle, but the Department's practice is to inspect all major facilities every year. Of the 124 major facilities, 75 are in or serve EJ areas. The total number of major facilities includes approximately 100 wastewater facilities regulated by BRP and approximately 24 industrial facilities regulated by BWP.

Report Reviews from Surface water discharge permittees and public drinking water systems.

100% of the results of water quality testing (drinking water) and effluent monitoring (ground and surface water discharges) reports are reviewed. These are submitted both electronically and on paper. BRP reviews approximately 98,000 such reports each year. Screening and analysis is the same whether the discharge or facilities is in or out of an EJ area.

Combined Sewer Overflows:

BRP is monitoring 21 Consent Orders requiring improvements to reduce the number and volume of overflows of raw sewage during wet weather events. These discharges occur in EJ communities, or the facilities that serve EJ communities (See, attached table)

Public Access enforcement actions (Chapter 91). Five enforcement cases have recently been concluded that assure public access to the waterfront. The walkways and access amenities that were obtained are located in: Boston, Milton, Salem, Fall River and Charlestown.

Wetlands Change initiative

The Wetlands Change initiative analyzes aerial surveillance data statewide and compares that data to permitting records to identify violators. Of the 33 cases executed since January 2007, nine involved work in municipalities with EJ communities. (See attached list).

Bureau of Waste Site Cleanup

The Bureau of Waste Site Clean (BWSC) conducts compliance oversight through actions to compel privatized site assessment and remediation in accordance with performance standards and schedules established in the Massachusetts Contingency Plan.

Site Remediation

Of the 4,114 sites have been reported to the Department, 3,258 (or 79%) of those sites were in municipalities with EJ neighborhoods. 2,389 of the 4,114 reported sites have been cleaned up (*i.e.*, achieved a Response Action Outcome) to date. 78% of the 2,389 cleaned sites were in municipalities with EJ neighborhoods. The Bureau also audits the RAO submissions to ensure that the assessment and remediation complies with the MCP's performance standards.

Vapor Intrusion

BWSC staff have been directly involved in addressing residential buildings where toxic vapors have intruded as a result of previously undetected releases of chemicals from underground storage tanks and commercial activities (See MassDEP Fact Sheet at <http://www.mass.gov/dep/cleanup/laws/vifs.htm>). Many of these residences are in older, densely populated urban areas where past waste handling and disposal practices, combined with high population densities and antiquated zoning laws, have resulted in residential neighborhoods located adjacent to or in close proximity to hazardous waste sites. Examples in EJ areas include:

- ❑ 50 Tufts Street site in East Somerville, past spills of chlorinated solvents at a former dry cleaning supply facility have resulted in groundwater contamination beneath 70-80 homes and an early childhood learning center.
- ❑ Other vapor intrusion response actions in EJ communities such as Hyde Park (Boston), East Boston, Allston (Boston), Charlestown (Boston), Dorchester (Boston) and Lowell.

Bureau of Waste Prevention

The Bureau of Waste Prevention (BWP) regulates air pollution emissions, industrial wastewater discharges, hazardous and solid waste management, and toxics use reduction at businesses,

government agencies and institutions throughout the state. Because individual facilities can engage in activities that are regulated by more than one program, the location of facilities in EJ/non-EJ areas has been analyzed at both the facility and program (pollution source) level. The information on inspection rates in EJ/non-EJ areas is also broken out by the type of compliance oversight BWP applies to the facility or sector.

The most significant pollution sources are categorized as “Direct Involvement” facilities. Direct Involvement facilities include those that manage, treat or dispose of large quantities of hazardous or solid waste, emit large quantities of air pollutants, or discharge wastewater directly to a waterbody. These facilities are inspected on a regular basis because one or more of their pollution sources is large enough to create a potentially significant risk to public health and/or the environment if the facility does not comply with MassDEP regulations. Most (65%) of BWP’s inspections are of Direct Involvement Facilities.

A separate group of sources are categorized as “Report Review” facilities. Report Review facilities emit small quantities of air pollution and generate small quantities of hazardous waste and wastewater. This sector includes many small businesses such as dry cleaners, printers, photocopiers and dentists regulated through the Environmental Results Program. Because this group is composed of a large universe of facilities that each generate lower quantities of pollution and waste they individually pose less risk from noncompliance. The compliance status of this group is monitored because, as a group, adverse environmental and health impacts can result from noncompliance. Compliance is typically monitored through review of reports, monitoring data, and periodic certifications submitted by the facility. Inspections are typically conducted if there is reason to believe the facility is out of compliance due to reported information, receipt of a complaint, or in order to evaluate the overall compliance performance of the sector. 35% of BWP inspections are at Report Review facilities.

The data shows that:

- 28% of the facilities are located in an EJ census tract.
- 23% of the inspections conducted were at facilities located in EJ census tracts.
- 2% of the Direct Involvement facilities are located in EJ census tracts. 14% of Direct Involvement inspections were conducted at facilities located in these areas.
- 26% of the Report Review facilities are located in EJ areas. 9% of Report Review inspections were of facilities located in these areas.

Other Compliance Activities

School Bus Idling Inspections:

As part of the strategy to reduce diesel emissions, MassDEP conducts school bus inspections for excessive idling across the state. All planned inspections are targeted at schools in EJ and high asthma areas.

Illegal Dumping Video Surveillance

This is a cooperative program with municipalities led by Environmental Strike Force using hidden surveillance cameras to identify and prosecute illegal dumping in urban communities. The ESF has deployed cameras in over 20 communities including: Boston (Dorchester, Roxbury), Everett, Lowell Lawrence, Springfield, Worcester and Lynn which has led to the prosecution of nearly 40 violators.

Supplemental Environmental Projects

Supplemental Environmental Projects (“SEPs”) are negotiated resolutions of enforcement cases where the violator agrees to mitigate its penalty by providing or funding equipment, services or activities that will serve the interests of the community in which the violation occurred. Over the past three years, 24 out of 54 SEPs were instituted in EJ communities. The SEPs provided, for example, asbestos and hazardous waste training, tree planting, brownfields GIS mapping, solid waste recycling, energy efficiency, retrofits of diesel engines and low impact development techniques for storm water management.

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region 1
5 Post Office Square, Suite 100
Boston, MA 02109-3912

FEB 03 2012

Mr. Gary Moran, Deputy Commissioner, Operations and Environmental Compliance
Massachusetts Department of Environmental Protection
One Winter Street, 2nd Floor
Boston, MA 02108

Dear Mr. Moran:

Enclosed is an addendum to the Review of the Massachusetts Department of Environmental Protection FY 2009 Enforcement and Compliance Programs prepared by the Region 1, New England Office of the U.S. Environmental Protection Agency. This addendum clarifies several issues and was drafted following consultation with the Office of Enforcement and Compliance Assurance (OECA) at EPA Headquarters.

EPA will post the addendum along with the report and recommendations on the Internet. Region 1 will follow up with MassDEP on the recommendations and report their progress on the State Review Framework (SRF) Tracker.

Thank you for your continued cooperation on this project.

Sincerely,

Susan Studlien

Susan Studlien, Director
Office of Environmental Stewardship

cc: Philip Weinberg, Associate Commissioner, Operations and Environmental Compliance, MassDEP

By E-mail

Curt Spalding, Regional Administrator
Ira Leighton, Deputy Regional Administrator
Region 1 New England Office Directors and Deputies
Lisa Lund, Director, Office of Compliance, OECA
Mark Mahoney, Region 1 New England

MassDEP Revised Findings – January 30, 2011

Program	Element & Page	Finding 9/29/11	Finding 1/30/12	Explanation
RCRA	1- Data Completeness Page 27	Area for State Attention	Area for State Improvement	<p>Region 1 amends the last paragraph of the Finding to read “Evaluation of this Element indicates a finding “Area for State Improvement.” Because MassDEP has already addressed the matter, Region 1 has determined the recommendation below was completed prior to September 29, 2011.”</p> <p>Region 1 amends the Action Box by including the following. “EPA conducted training on RCRAInfo C, M&E for MassDEP inspectors and data managers on September 23, 2010. The training clarified the importance of RCRAInfo, the differences between RCRAInfo and FMF, the timing of data entry and relevant guidance documents.”</p>
RCRA	2 – Data Accuracy Page 29	Area for State Attention	Area for State Improvement	<p>Region 1 amends the last paragraph of the Finding to read “Evaluation of this Element indicates a finding “Area for State Improvement.” Because MassDEP has already addressed the matter, Region 1 has determined the recommendation below was completed prior to September 29, 2011.”</p> <p>Region 1 amends the Action Box by including the following. “EPA conducted training on RCRAInfo C, M&E for MassDEP inspectors and data managers on September 23, 2010. The training clarified the importance of RCRAInfo, the differences between RCRAInfo and FMF, the timing of data entry and relevant guidance documents.”</p>
RCRA	3 – Data Timeliness Page 30	Area for State Attention	Area for State Improvement	<p>Region 1 adds the following new paragraph at the end of the Finding. “Evaluation of this Element indicates a finding “Area for State Improvement.” Because MassDEP has already addressed the matter, Region 1 has determined the recommendation below was completed prior to September 29, 2011.”</p> <p>Region 1 amends the Action Box by including the following. “EPA conducted training on RCRAInfo C, M&E for MassDEP inspectors and data managers on September 23, 2010. The training clarified the importance of RCRAInfo, the differences between RCRAInfo and FMF, the timing of data entry and relevant guidance documents.”</p>
RCRA	8 - Identification of SNC or HPV Page 36	Meets Program Requirements	Area for State Attention	<p>Region 1 adds the following at the end of the Finding.</p> <p>“The Massachusetts Administrative Penalty Act requires MassDEP enforcement staff to maintain enforcement confidentiality for all alleged violations until they have</p>

				<p>conducted enforcement conference with the alleged violator to discuss the nature of the violation. EPA considers information entered into the RCRAInfo data base to be public information. MassDEP's position is that entry of SNC information in RCRAInfo prior to the required enforcement conference would constitute public release of the violator's identity and be a violation of the Massachusetts Administrative Penalty Act. In some instances, because of scheduling problems, the enforcement conferences do not occur until more than 150 days have elapsed.</p> <p>The result of this situation is that only 71% of MassDEP's RCRA SNCs are entered in RCRAInfo in the requisite 150 days. Region 1 has observed that MassDEP routinely identifies SNC in a timely manner and enters this information in RCRAInfo as soon as possible while complying with the requirements of the Administrative Penalty Act."</p>
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State Review Framework Round 2

Direct Implementation of CWA/NPDES
Enforcement and Compliance Program

Region 1: Massachusetts

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FINAL 8/20/2013

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I. EXECUTIVE SUMMARY

This report covers the Massachusetts Clean Water Act – National Pollutant Discharge Elimination System (CWA-NPDES) program. While EPA Region 1 directly implements this program, the Massachusetts Department of Environmental Protection (MassDEP) supplements EPA compliance and enforcement activity by conducting inspections of Publicly Owned Treatment Systems. The report distinguishes between EPA and state activity where applicable and possible.

Major Issues

The SRF review of the Massachusetts CWA program identified the following major issues:

- Several elements could not be fully evaluated due to incomplete information in files.

Summary of Programs Reviewed

Clean Water Act/National Pollutant Discharge Elimination System Program

The problems which necessitate state improvement and require recommendations and actions include:

- Element 2 — Data Accuracy: Data in the national data system are not consistently accurate. Information in files was not complete, which hindered our ability to review this element.
- Element 6 — Quality of Inspection Reports: Inspection reports were often incomplete, lacked sufficient information to determine facility compliance, and were not completed in a timely manner.
- Element 7 — Identification of Violations:
 - Finding 7-1: Inspection reports were often not sufficiently complete to make accurate compliance determinations. Many compliance schedule violations are unresolved.
 - Finding 7-2: Single-event violations (SEVs) are not entered into ICIS-NPDES. Since the review year, Region 1 has received training and has adopted a pilot procedure for SEV entry.
- Element 8 — Identification of SNC: Incomplete state inspection files precluded full review under this element.
- Element 9 — Enforcement Actions Promote Return to Compliance: Inability to determine whether enforcement responses return sources to compliance. Due to a lack

of complete inspection reports, the review team was in many instances unable to determine if the enforcement response taken by Region 1 will return a facility to compliance.

- Element 10 — Timely and Appropriate Action: Inability to determine timeliness and appropriateness of actions taken due to lack of documentation.

Areas meeting SRF program requirements or with minor issues for correction include:

- Element 1: Data Completeness
- Element 3: Data Timeliness
- Element 4: Completion of Commitments
- Element 5: Inspection Coverage
- Element 11: Penalty Calculation Method
- Element 12: Final Penalty Assessment and Collection

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II. BACKGROUND INFORMATION ON DIRECT IMPLEMENTATION PROGRAM AND REVIEW PROCESS

A. GENERAL PROGRAM OVERVIEW

Agency Structure

Region 1 directly implements the NPDES program in Massachusetts. The NPDES responsibilities are handled by four offices in Region 1. **Permits** are issued by the Office of Environmental Protection (OEP) with legal support from the Office of Regional Counsel. The Office of Environmental Stewardship (OES) handles **inspections** with some support from OEP for pre-treatment inspections and from the Office of Environmental Measurement and Evaluation for sampling and other inspections. OES employs both technical and legal experts, who develop and settle **enforcement** cases. OES **data** staff code Massachusetts permits into ICIS-NPDES and enter Massachusetts discharge monitoring report data, enforcement milestones, and report receipt dates.

Compliance/Enforcement Program Structure

The Office of Environmental Stewardship (OES) is an enforcement and assistance office with both attorneys and technical staff. Within OES, Technical Enforcement is split into four groups: air, water, RCRA/EPCRA, and Toxics/Pesticides. OES has a regulatory legal group which takes cases developed by the technical groups.

Roles and Responsibilities

Because the program is not delegated, Region 1 does not conduct regular reviews of the Massachusetts water enforcement program under the State Review Framework. Although it does not have authorization for the NPDES program, Massachusetts conducts water, municipal and wet weather inspections and takes numerous water enforcement actions. However, the state does not provide documentation to Region 1 of all of its activities. Region 1 enters Massachusetts state inspections into ICIS-NPDES when MA-DEP provides 3560 forms, but MA-DEP does not report enforcement and penalties to Region 1, nor does it provide copies of enforcement documents or inspection reports.

Resources

Region 1 employs approximately 3 FTE for data entry and data management for Massachusetts, 3 FTE for technical enforcement in Massachusetts, and 2 FTE for legal support for the direct implementation of NPDES enforcement in Massachusetts.

Staffing/Training

Region 1 water enforcement staffing levels have fallen in the last few years by 25%. Two senior technical staff retired in January 2010. In 2011, a data specialist retired. In 2013, the senior enforcement coordinator retired. Since 2011, Region 1 has hired two new water enforcement staff.

Data Reporting Systems/Architecture

Region 1 enters all Massachusetts NPDES data into ICIS-NPDES, including DMR data, and some state inspections.

B. MAJOR REGIONAL PRIORITIES AND ACCOMPLISHMENTS

Priorities

Region 1 implements the EPA national priorities and also carries out regional strategies. In 2010, these included:

- **Concentrated Animal Feeding Operations:** In 2012, Region 1 settled the highest penalty single-facility CAFO case in the history of the national CAFO program. This Massachusetts case was initiated during the review year.
- **Sanitary Sewer Overflows:** Work in Massachusetts in the review year focused on the satellite communities of the Metropolitan Water Reclamation District, and on discharges to the Mystic, Charles and Neponset Rivers.
- **Combined Sewer Overflows,** with a focus on revisiting existing orders and consent decrees to require further work.
- **Municipal Stormwater:** Issued eight penalty orders for violations of the 2003 MS4 permit in the review year.
- **Stormwater from the Aggregate Sector:** Major settlement with Aggregate Industries. Region 1 assisted with the national outreach webinar.
- **Construction Stormwater:** Region 1 continued in FY 2009 to have an active inspection and enforcement presence despite decreased construction activity due to the recession.

Accomplishments

In FY 2009, Region 1 filed a consent decree with Aggregate Industries, which operates approximately 43 facilities in New England, many of them in Massachusetts. Aggregate Industries is one of the largest producers of aggregates (crushed stone, sand, and gravel), asphalt batching, and ready-mix concrete in New England.

The Aggregate Industries case was based on extensive Clean Water Act violations discovered by inspections of 23 Aggregate-NE facilities. Under the terms of the settlement, the company has eliminated all of its process water discharges, and will implement pollution control measures to eliminate discharges into surface waters. These measures will require expenditures of over \$6 million and will result in the annual elimination of approximately 158,854 pounds of total suspended solids, 2,195 pounds of oil and grease, 1,143 pounds of iron, and 495 pounds of nitrate and nitrogen from the environment. The company agreed to pay a penalty of \$2.75 million, one of the largest penalties ever obtained in a Region 1 civil case and the largest ever assessed nationally to a ready-mix concrete company for stormwater violations. This is also significantly larger than penalties obtained in five recently concluded national stormwater cases.

Best Practices:

Region 1 best practices for Massachusetts include:

- **Water Quality Based Permits:** Region 1 states have made excellent progress in assessing water quality, which in turn drives water quality-based permit limits. Region 1 permits issued in Massachusetts include stringent copper and nutrient limits. They require estimation of flow from combined sewer overflows, and capacity management and operation & maintenance plans for sewers to prevent overflows. A new MS4 permit for Massachusetts also sets stringent monitoring and control practices.
- **NetDMR:** Newly reissued Massachusetts permits require use of NetDMR. Region 1 reports as of March 2013 that it has 50 percent of its permit holders using NetDMR.
- **Enforcement:** Region 1 instituted electronic storage of all inspection reports and support documents such as photos and sampling data. The electronic storage system allows:
 - Inspectors to read a facility's history before inspecting
 - Attorneys access to the entire technical file without duplication
 - Coordination and organization between technical staff and attorneys
- **Combined Sewer Overflows:** Region 1 started early on CSO enforcement and is now working on second-generation enforcement actions to further eliminate CSOs.
- **Citizen Monitoring:** During FY 2009, Region 1 water inspectors conducted over 100 sampling events for volunteers and community officials at stormwater outfalls in Massachusetts. These were done to expand assessments, locate pollution sources, and track the improvement of streams and fields. The sampling events aided in demonstrating simple sampling methods for human indicators. These methods can be used by volunteers and communities to provide the quality of data needed for enforcement.

Region 1 inspectors also evaluated over 20 field and lab screening methods to assess

the possibility of creating sampling kits that can be used by volunteers. These methods were evaluated based on accuracy, ease of use, and cost.

C. PROCESS FOR SRF REVIEW

Describe key steps in the reviews of each media program, including:

- **Review Period:** Reviewed files and data for FY 2009.
- **Key Dates:** Initial state notification was sent March 17, 2010, the data pull and analysis was sent May 10, 2010, on-site review was May 24-26, 2010, and the draft report was completed June 11, 2010.
- **Communication with the Region:** OECA and Region 1 began planning for the review in March 2010 with initial discussions to discuss the SRF review process.

OECA sent a formal letter to Region 1 on May 10 with the data metric analysis and file selection list. It began its file review on May 24 with an entrance meeting with Region 1. OECA concluded the file review was concluded on May 26 when it held an exit meeting with Region 1 to discuss initial findings.

- **EPA headquarters and regional lead contacts for review:** The EPA headquarters review team consisted of Susan Gilbertson, Allison Donohue, Jim Pendergast, Melissa Saddler, Paul Karaffa, and Greg Siedschlag. The regional contacts were Denny Dart, Susan Studlien, Mike Fedak, Edith Goldman, Mark Mahoney, and Sam Silverman.

III. STATUS OF OUTSTANDING RECOMMENDATIONS FROM PREVIOUS REVIEWS

During the first SRF review of Region 1's Direct Implementation of Massachusetts CWA/NPDES compliance and enforcement program, EPA identified a number of actions to be taken to address issues found during the review. The table below shows the actions that have not been completed at the time of the current SRF review. (Appendix A contains a comprehensive list of completed and outstanding actions for reference).

Status	Due Date	E#	Element	Finding	Explanation
Long Term Resolution	12/31/2010	E2 , E10	Violations ID'ed Appropriately, Data Timely	Inspection Documentation	MassDEP should consider developing a standardized inspection reporting protocol that specifies the items and level of detail that should be included in all inspection reports. Where a standard reporting form exists, the inspectors should be trained to use it.
Long Term Resolution	12/31/2010	E2	Violations ID'ed Appropriately	Inspection Report Timeliness	MassDEP should strive to have all inspection reports completed within thirty days of the inspection. The inspection reports should indicate the date on which the report was completed.
Long Term Resolution	9/30/2010	E12	Data Complete	Data quality issues	The Region should work with Massachusetts DEP to include data entry for enforcement actions into ICIS/NPDES as part of the 106 grant work plans.
Being Negotiated	9/30/2010	E12	Data Complete	Data quality issues	The Region should work with Massachusetts DEP to include data entry for enforcement actions into ICIS/NPDES as part of the 106 grant work plans.
Long Term Resolution	12/31/2010	E2 , E10	Violations ID'ed Appropriately, Data Timely	Inspection Documentation	MassDEP should consider developing a standardized inspection reporting protocol that specifies the items and level of detail that should be included in all inspection reports. Where a standard reporting form exists, the inspectors should be trained to use it.

IV. FINDINGS

Findings represent the Region’s conclusions regarding the issue identified. Findings are based on the Initial Findings identified during the data or file review, as well as from follow-up conversations or additional information collected to determine the severity and root causes of the issue. There are four types of findings, which are described below:

Findings	Description
Good Practice	This describes activities, processes, or policies that the SRF data metrics and/or the file reviews show are being implemented exceptionally well and which the State is expected to maintain at a high level of performance. Additionally, the report may single out specific innovative and noteworthy activities, process, or policies that have the potential to be replicated by other States and that can be highlighted as a practice for other states to emulate. No further action is required by either EPA or the State.
Meets SRF Program Requirements	This indicates that no issues were identified under this Element.
Area for State* Attention *Or, EPA Region’s attention where program is directly implemented.	This describes activities, processes, or policies that the SRF data metrics and/or the file reviews show are being implemented with minor deficiencies that the State needs to pay attention to strengthen its performance, but are not significant enough to require the region to identify and track state actions to correct. This can describe a situation where a State is implementing either EPA or State policy in a manner that requires self-correction to resolve concerns identified during the review. These are single or infrequent instances that do not constitute a pattern of deficiencies or a significant problem. These are minor issues that the State should self-correct without additional EPA oversight. However, the State is expected to improve and maintain a high level of performance.
Area for State * Improvement – Recommendations Required *Or, EPA Region’s attention where program is directly implemented.	This describes activities, processes, or policies that the metrics and/or the file reviews show are being implemented by the state that have significant problems that need to be addressed and that require follow-up EPA oversight. This can describe a situation where a state is implementing either EPA or State policy in a manner requiring EPA attention. For example, these would be areas where the metrics indicate that the State is not meeting its commitments, there is a pattern of incorrect implementation in updating compliance data in the data systems, there are incomplete or incorrect inspection reports, and/or there is ineffective enforcement response. These would be significant issues and not merely random occurrences. Recommendations are required for these problems that will have well defined timelines and milestones for completion. Recommendations will be monitored in the SRF Tracker.

CWA NPDES Program

Element 1 Data Completeness. Degree to which the minimum Data Requirements are complete.

1-1	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for Regional Attention <input type="checkbox"/> Area for Regional Improvement – Recommendations Required
	Finding	Permits are being correctly coded into ICIS and the region has demonstrated sufficient DMR data entry.
	Explanation	Major and non-major individual permit limits were correctly coded into ICIS in all cases. DMR entry rates for major individual permits met national goals.
	Metric(s) and Quantitative Value	<p>1b1 — Major individual permits: correctly coded limits (current)</p> <ul style="list-style-type: none"> • Region 1: 108/108 = 100% • National Goal ≥ 95% • National Average = 99.9% <p>1b2 — Major individual permits: DMR entry rate based on MRs expected</p> <ul style="list-style-type: none"> • Region 1: 739/778 = 95.0% • National Goal ≥ 95% • National Average = 94.6% <p>1b3 — Major individual permits: DMR entry rate based on DMRs expected</p> <ul style="list-style-type: none"> • Region 1: 107/109 = 98.2% • National Goal ≥ 95% • National Average = 93.3% <p>1c1 — Non-major individual permits: correctly coded limits: 121/121 = 100%</p> <p>1c2 — Non-major individual permits: DMR entry rate based on DMRs expected: 669/756 = 88.5%</p> <p>1c3 — Non-major individual permits: DMR entry rate based on DMRs expected: 106/136 = 77.9%</p>
	Regional Response	
	Recommendation(s)	

Element 2 Data Accuracy. Degree to which data reported into the national system is accurately entered and maintained (example, correct codes used, dates are correct, etc.).

2-1	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for Regional Attention <input checked="" type="checkbox"/> Area for Regional Improvement – Recommendations Required
	Finding	Data in national data system are not consistently accurate. Information in files was not complete, which hindered the review of this element.
	Explanation	<p>Incomplete inspection report information in the files posed an obstacle when reviewing this element. While the MassDEP 3560 inspection report cover sheets were generally found, other documentation — such as the final permit, narrative information, and dates and signatures — was lacking.</p> <p>The review team checked Region 1’s shared drive for copies of inspection report narratives. Five of the 12 EPA-led inspection reports reviewed were generally complete and available on the shared drive. All but one of the MassDEP-led reports lacked essential documentation.</p> <p>Using the information available, the review team found that 16 of 30 files reviewed had accurately reflected data in the national system. Region 1 also did not link its formal enforcement actions to violations.</p>
	Metric(s) and Quantitative Value	2a — Actions linked to violations: major facilities (1 FY) <ul style="list-style-type: none"> • Region 1: 0/3 = 0% • National Goal ≥ 80%
		2b — Files reviewed where data is accurately reflected in the national data system: 16/30 = 53.3%
	Regional Response	<p>2.1.1: Region 1 should continue to populate its shared drive with all inspection reports (state and EPA) and develop an internal policy governing all aspects of writing and completing electronic inspection reports within 120 days of the date this report is finalized.</p> <p>2.1.2: Region 1 should develop an internal policy to govern physical files and all aspects of writing and completing inspection reports by within 150 days of report finalization</p> <p>2.1.3: Region 1 should obtain copies of complete inspection reports from the state and include them in its files within 210 days of report finalization.</p> <p>2.1.4: Region 1 should submit copies to OECA of a sampling of complete files to demonstrate complete inspection reports once internal</p>

	policy governing completing reports is approved and functioning by within 240 days of report finalization.
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Element 3 Timeliness of Data Entry. Degree to which the Minimum Data Requirements are timely.

3-1	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for Regional Attention <input type="checkbox"/> Area for Regional Improvement – Recommendations Required
	Finding	There were no significant differences in the FY 2009 production and frozen data sets in OTIS.
	Explanation	Production data for FY 2009 was compared to the FY 2009 frozen data set used for this review. Frozen data represents the data that existed in the system on a date soon after the close of FY 2009, whereas production data reflects current values. There were no serious discrepancies between the two data sets, which demonstrates that Region 1 entered its Massachusetts FY 2009 data in a timely manner.
	Metric(s) and Quantitative Value	
	Regional Response	
	Recommendation(s)	

Element 4 Completion of Commitments. Degree to which all enforcement/compliance commitments in relevant agreements (i.e., PPAs, PPGs, categorical grants, CMS plans, authorization agreements, etc.) are met and any products or projects are completed.

4-1	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for Regional Attention <input type="checkbox"/> Area for Regional Improvement – Recommendations Required
	Finding	Region 1 met its commitments for all relevant agreements.
	Explanation	Combined state and EPA inspection coverage exceeded the national goal and average for major facilities. Coverage of minor facilities was also satisfactory.
	Metric(s) and Quantitative Value	5a — Inspection coverage: NPDES majors <ul style="list-style-type: none"> • Combined State and EPA (FY 2009): 72/105 = 68.6% • National Goal = 100% every two years • National Average = 66.7% per year 5b1 — Inspection coverage: NPDES non-major individual permits

	<ul style="list-style-type: none"> • Combined State and EPA (FY 2009): 35/134 = 26.1% <p>5b2 — Inspection coverage: NPDES non-major general permits</p> <ul style="list-style-type: none"> • Combined State and EPA (FY 2009): 9/184 = 4.9% <p>5c — Inspection coverage: NPDES other facilities</p> <ul style="list-style-type: none"> • Combined State and EPA (FY 2009): 4/10 = 40%
Regional Response	
Recommendation(s)	

Element 5 Inspection Coverage. Degree to which state completed the universe of planned inspections/compliance evaluations (addressing core requirements and federal, state and regional priorities).

5-1	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for Regional Attention <input type="checkbox"/> Area for Regional Improvement – Recommendations Required
	Finding	Inspection coverage for major facilities exceeds national goal. Coverage for minor facilities is adequate.
	Explanation	Inspection coverage for Massachusetts exceeded the national goal of 100 percent every two years. Region 1 and MassDEP combined to inspect 68.6 percent of major facilities in FY 2009. For NPDES non-major individual permits, 26.1 percent were inspected.
	Metric(s) and Quantitative Value	<p>5a — Inspection coverage: NPDES majors</p> <ul style="list-style-type: none"> • Combined State and EPA (FY 2009): 72/105 = 68.6% • National Goal = 100% every two years • National Average = 66.7% per year <p>5b1 — Inspection coverage: NPDES non-major individual permits</p> <ul style="list-style-type: none"> • Combined State and EPA (FY 2009): 35/134 = 26.1% <p>5b2 — Inspection coverage: NPDES non-major general permits</p> <ul style="list-style-type: none"> • Combined State and EPA (FY 2009): 9/184 = 4.9% <p>5c — Inspection coverage: NPDES other facilities</p> <ul style="list-style-type: none"> • Combined State and EPA (FY 2009): 4/10 = 40%
	Regional Response	
	Recommendation(s)	

Element 6 Quality of Inspection or Compliance Evaluation Reports. Degree to which inspection or compliance evaluation reports properly document observations, are completed in a timely manner, and include accurate description of observations.

6-1	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for Regional Attention <input checked="" type="checkbox"/> Area for Regional Improvement – Recommendations Required
	Finding	Inspection reports were often incomplete, lacked sufficient information to determine facility compliance, and were not completed in a timely manner.
	Explanation	<p>Only one of the 26 inspection reports reviewed was complete. The 3560 inspection report cover sheets were found in many files. However, supporting documentation, including narrative information, was typically absent from the files reviewed.</p> <p>Six of 25 reports reviewed contained sufficient information to make a compliance determination. Information from Region 1 inspections was available on the region’s shared drive, but only 5 of 12 reports contained sufficient documentation. Information from the MassDEP inspections was generally unavailable in the facility files or on the shared drive.</p> <p>Seven of 25 reports reviewed were completed in a timely manner.</p>
	Metric(s) and Quantitative Value	<p>6b — % of inspection reports reviewed that are complete: $1/26 = 3.8\%$</p> <ul style="list-style-type: none"> • Facilities inspected by EPA: $1/13 = 7.7\%$ • Facilities inspected by state: $0/8 = 0\%$ • Facilities inspected by both EPA and state: $0/5 = 0\%$ <p>6c — % of inspection reports reviewed that provide sufficient documentation to lead to an accurate compliance determination: $6/25 = 24\%$</p> <ul style="list-style-type: none"> • Facilities inspected by EPA: $5/12 = 41.7\%$ • Facilities inspected by state: $1/8 = 12.5\%$ • Facilities inspected by both EPA and state: $0/5 = 0\%$ <p>6d — % of inspection reports reviewed that are timely: $7/25 = 28\%$</p> <ul style="list-style-type: none"> • Facilities with EPA inspections: $5/13 = 38.5\%$ • Facilities with state inspections: $0/7 = 0\%$ • Facilities inspected by both EPA and state: $2/5 = 40\%$
	Regional Response	
	Recommendation(s)	Same as Element 2-1.

Element 7 Identification of Alleged Violations. Degree to which compliance determinations are accurately made and promptly reported in the national database based upon compliance monitoring report observations and other compliance monitoring information (e.g., facility-reported information).

7-1	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for Regional Attention <input checked="" type="checkbox"/> Area for Regional Improvement – Recommendations Required
	Finding	Inspection reports were not sufficiently complete to make accurate compliance determinations. Many compliance schedule violations are unresolved.
	Explanation	<p>Metric 6c shows that only 6 of 25 facility files reviewed contained sufficient information to make an accurate compliance determination. (This problem is addressed in Element 6.) This posed a significant challenge to compiling metric 7e, which is the percentage of inspection reports reviewed that led to accurate compliance determinations. Due to the lack of documentation in the files, the review team could only verify that 7 of the 26 inspection reports reviewed led to accurate compliance determinations.</p> <p>There were also a high number of facilities with unresolved compliance schedule and permit schedule violations at the end of FY 2009.</p>
	Metric(s) and Quantitative Value	<p>7b — Facilities with unresolved compliance schedule violations (at end of FY)</p> <ul style="list-style-type: none"> • Region 1: 8/17 = 47.1% • National Average = 28.2% <p>7c — Facilities with unresolved permit schedule violations (at end of FY)</p> <ul style="list-style-type: none"> • Region 1: 56/149 = 37.6% • National Average = 27% <p>7e — % of inspection reports or facility files reviewed that led to accurate compliance determinations: 7/26 = 26.9%</p> <ul style="list-style-type: none"> • Facilities inspected by EPA: 6/13 = 46.2% • Facilities inspected by state: 1/8 = 12.5% • Facilities inspected by both EPA and state: 0/5 = 0%
	Regional Response	
	Recommendation(s)	Same as Element 2-1.

Element 7 Identification of Alleged Violations. Degree to which compliance determinations are accurately made and promptly reported in the national database based upon compliance monitoring report observations and other compliance monitoring information (e.g., facility-reported information).

7-2	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for Regional Attention <input checked="" type="checkbox"/> Area for Regional Improvement – Recommendations Required
	Finding	Single-event violations (SEVs) are not entered into ICIS-NPDES.
	Explanation	
	Metric(s) and Quantitative Value	7a1 — SEVs at majors: 0 entered 7a2 — SEVs at non-majors: 0 entered
	Regional Response	
	Recommendation	7.2.1: Region 1 should send to OECA its SOP for entering single-event violations into ICIS within 30 days of the date this report is finalized. OECA will review to confirm that the SOP is in line with national policy. 7.2.2: Region 1 should begin entering all single-event violations into ICIS within 120 days of report finalization. 7.2.3: Region 1 should link single-event violations to the enforcement action in ICIS within 120 days of report finalization.

Element 8 Identification of SNC and HPV. Degree to which the state accurately identifies significant noncompliance/high priority violations and enters information into the national system in a timely manner.

8-1	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for Regional Attention <input checked="" type="checkbox"/> Area for Regional Improvement – Recommendations Required
	Finding	Incomplete inspection files precluded a full review under this element.
	Explanation	Due to a lack of complete inspection reports, the review team was often unable to determine if SEVs were accurately identified as SNC or non-SNC. Only 7 of 20 facility files reviewed contained sufficient information to accurately identify single-event violations as SNC or non-SNC.
	Metric(s) and Quantitative Value	8b — % of SEVs accurately identified as SNC or non-SNC: 7/20 = 35% <ul style="list-style-type: none"> • Facilities inspected by EPA: 5/11 = 45.4%

	<ul style="list-style-type: none"> Facilities inspected by state: 1/7 = 14.3% Facilities inspected by both EPA and state: 1/2 = 50% <p>8c — % of SEVs identified as SNC and reported timely: 4/7 = 57.1%</p> <ul style="list-style-type: none"> Facilities inspected by EPA: 2/3 = 66.7% Facilities inspected by state: 1/3 = 33.3% Facilities inspected by both EPA and state: 1/1 = 100%
Regional Response	
Recommendation(s)	Same as Element 2-1.

Element 9 Enforcement Actions Promote Return to Compliance. Degree to which state enforcement actions include required corrective action (i.e., injunctive relief or other complying actions) that will return facilities to compliance in a specific time frame.

9-1	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for Regional Attention <input checked="" type="checkbox"/> Area for Regional Improvement – Recommendations Required
	Finding	Inability to determine whether enforcement responses return sources to compliance due to lack of documentation.
	Explanation	<p>Due to a lack of complete inspection reports, the review team was in many instances unable to determine if the enforcement response taken by Region 1 will return a facility to compliance.</p> <p>For some of the facilities inspected by Region 1, the information available on the region's shared drive allowed the review team to determine that the enforcement responses have returned or will return those facilities to compliance.</p>
	Metric(s) and Quantitative Value	<p>9b — % of enforcement responses that have returned or will return a source in SNC to compliance: 4/10 = 40%</p> <p>9c — % of enforcement responses that have returned or will return a source with non-SNC violations to compliance: 11/18 = 61.1%</p>
	Regional Response	
	Recommendation(s)	Same as Element 2-1.

Element 10 Timely and Appropriate Action. Degree to which a state takes timely and appropriate enforcement actions in accordance with policy relating to specific media.

10-1	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for Regional Attention <input checked="" type="checkbox"/> Area for Regional Improvement – Recommendations Required
	Finding	Inability to determine timeliness and appropriateness of actions taken due to lack of documentation.
	Explanation	<p>Due to a lack of complete inspection reports, the review team was unable to determine the timeliness and appropriateness of many of the enforcement responses taken by Region 1.</p> <p>Where Region 1 performed inspections, the information available on the shared drive allowed the review team to determine that some of the enforcement responses were timely and appropriate.</p>
	Metric(s) and Quantitative Value	<p>10a — Major facilities without timely action</p> <ul style="list-style-type: none"> • Region 1: 29/109 = 26.6% • National Goal < 2% • National Average = 18.6% <p>10b — Percentage of enforcement responses reviewed that address SNC that are taken in a timely manner: 3/10 = 30%</p> <p>10c — % of enforcement responses reviewed that address SNC that are appropriate to the violations: 4/9 = 44.4%</p> <p>10d — % of enforcement responses reviewed that appropriately address non-SNC violations: 14/20 = 70%</p> <p>10e — % enforcement responses for non-SNC violations where a response was taken in a timely manner: 12/18 = 66.7%</p>
	Regional Response	
	Recommendation(s)	Same as Element 2-1.

Element 11 Penalty Calculation Method. Degree to which state documents in its files that initial penalty calculation includes both gravity and economic benefit calculations, appropriately using the BEN model or other method that produces results consistent with national policy.

11-1	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for Regional Attention <input type="checkbox"/> Area for Regional Improvement – Recommendations Required
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	Finding	Penalty calculations are generally consistent with national policies.
	Explanation	Region 1 penalty calculations generally include gravity and economic benefit. One of five files reviewed did not contain information sufficient to determine if gravity and benefit were considered.
	Metric(s) and Quantitative Value	11a — % of penalty calculations that consider and include where appropriate gravity and economic benefit: 4/5 = 80%
	Regional Response	
	Recommendation(s)	

Element 12 Final Penalty Assessment and Collection. Degree to which differences between initial and final penalty are documented in the file along with a demonstration in the file that the final penalty was collected.

12-1	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input checked="" type="checkbox"/> Area for Regional Attention <input type="checkbox"/> Area for Regional Improvement – Recommendations Required
	Finding	Inconsistent documentation in files demonstrating final collected penalties.
	Explanation	Two of three files reviewed documented the calculation and decision process used to arrive at the final assessed penalty. Two of three files reviewed included copies of checks received in payment of the final assessed penalty.
	Metric(s) and Quantitative Value	12a — % of penalties reviewed that document difference between and rationale for the initial and final assessed penalty: 2/3 = 66.7% 12b — % of enforcement actions with penalties that document collection of penalty: 2/3 = 66.7%
	Regional Response	
	Recommendation(s)	12.1.1: Region 1 will send an SOP for documenting penalty collection and the difference between initial and final penalty amounts when the final is less than the initial amount. 12.2.2: Region 1 should follow the SOP to ensure these items are consistently documented in the files.

V. Element 13 Submission

No relevant EPA documentation for this section.

APPENDIX A: STATUS OF RECOMMENDATIONS FROM PREVIOUS REVIEWS

During the first SRF review of Massachusetts compliance and enforcement programs, EPA identified a number of actions to be taken to address issues found during the review. The table below shows the status of progress toward completing those actions.

Status	Due Date	Media	E#	Element	Finding	Explanation
Long Term Resolution	12/31/2010	CWA	E2 , E10	Violations ID'ed Appropriately, Data Timely	Inspection Documentation	MassDEP should consider developing a standardized inspection reporting protocol that specifies the items and level of detail that should be included in all inspection reports. Where a standard reporting form exists, the inspectors should be trained to use it.
Long Term Resolution	12/31/2010	CWA	E2	Violations ID'ed Appropriately	Inspection Report Timeliness	MassDEP should strive to have all inspection reports completed within thirty days of the inspection. The inspection reports should indicate the date on which the report was completed.
Completed	8/3/2011	CWA	E4	SNC Accuracy	SEV Reporting	EPA should provide training to MassDEP regarding Single Event Violation reporting. MassDEP should be provided with copies of the updated Form 3560 for use by its inspectors. (IWW) Note: DEP may elect not to do single event violation reporting in IWW because of its multimedia program.
Completed	9/30/2007	CWA	E1	Insp Universe	NPDES Inspection Commitments	MassDEP should conduct compliance evaluation inspections each year at a larger percentage of its NPDES facilities. The appropriate coverage level can be negotiated as part of the Performance Partnership Agreement.
Completed	9/30/2007	CWA	E1	Insp Universe	Inspection Resource Commitments	MassDEP should evaluate the level of resources devoted to NPDES inspections.
Completed	8/3/2010	CWA	E6	Timely & Appropriate Actions	Timely and Appropriate Actions	MASSDEP should consider developing interim limits for all (Response to MassDEP comment) facilities under a compliance schedule to remove these facilities from the SNC list.

Status	Due Date	Media	E#	Element	Finding	Explanation
Completed	8/3/2010	CWA	E7	Penalty Calculations	Penalty Calculation	MassDEP should use its information gathering authority under 314 CMR 3.03 to obtain information on the cost of corrective actions and avoided costs that can be used to calculate the economic benefit of the violation(s). Alternatively MassDEP could calculate the economic benefit based on its best estimate of the cost of corrective action and avoided costs and adjust the calculation with more accurate information obtained during settlement negotiations.
Completed	9/30/2007	CWA	E8	Penalties Collected	Documentation of Penalty Calculations	MassDEP should ensure that any changes from the original penalty to the final penalty are properly documented in the case file.
Completed	9/30/2007	CWA	E8	Penalties Collected	Economic Benefit Calculations	MassDEP should ensure that economic benefit is calculated for all penalty calculations. Significant economic benefit and at least some gravity component should be recovered absent compelling justification.
Completed	9/30/2007	CWA	E1	Insp Universe	Form 3560 data entry	MassDEP should provide EPA with a Form 3560 for all NPDES inspections. Alternatively, MassDEP should begin directly entering its inspections into ICIS-NPDES.
Completed	12/31/2007	CWA	E13	Other	Enforcement and compliance files were in different places and difficult to locate.	Region 1 should develop a plan for organizing and maintaining the historical compliance and enforcement files to ensure that they have the requisite documentation. Files should contain historical records for a facility so that Regional inspectors and managers have ready access to these materials.
Completed	11/30/2007	CWA	E1	Insp Universe	It appears that a number of non-major facilities have not been inspected.	Region 1 should assess the situation for the 444 minors that appear to have never been inspected. The Region will provide a detailed discussion of this finding as well as a plan to inspect holders of general permits.
Completed	3/31/2008	CWA	E2	Violations ID'ed Appropriately	Not all of the Region 1 inspection reports are complete.	Region 1 needs to ensure that inspection reports are complete. One way to do this is to prepare a plan for maintaining information in the inspection files in order to have complete reports (i.e., the form 3560 and the requisite narrative reports). In the long run, the files should contain the historic record of the facility and to assure that future inspectors can easily find inspection reports, notes to the file and other files information. This will help inspectors to understand the compliance history of a facility.

Status	Due Date	Media	E#	Element	Finding	Explanation
Completed	10/31/2007	CWA	E2	Violations ID'ed Appropriately	Region does not document when violations are determined.	Region 1 needs to document when a violation and SNC are determined based on the findings in an inspection report. Violations identified through the SSO Tracking system and CEIs need to be entered into ICIS.. This will help establish the date SNC is identified and aid in reporting these violations, including SEVs, into the database. The Region should develop an SOP for doing this. The Region indicates that they will identify SNC for SSOs, CSOs, stormwater and CAFOs upon finalization of the Wet-Weather SNC Policy.
Completed	3/31/2008	CWA	E3	Violations ID'ed Timely	Inspection reports take longer to complete than the standard.	Region 1 should develop an SOP or a system to track the process for conducting inspections, completing inspection reports, and documenting determinations of violations. It is important to identify SNCs and SEVs as quickly as possible in order to adhere to the timeliness criteria for issuing enforcement actions. In the long run, the files should contain the historic record of the facility to ensure that future inspectors can easily find inspection reports, notes to the file and other files information. This will help inspectors to understand the compliance history of a facility. The Region should implement procedures and management controls to improve the 53 day average for completing reports.
Completed	3/31/2008	CWA	E4	SNC Accuracy	Single Event Violations are not entered into the data system.	The Region needs to begin entering single event violations into ICIS-NPDES as soon as possible. They should also be using CEIs to identify SNC. The Region should submit a timetable to OECA on when this will occur and when OECA can assess Regional implementation of this recommendation.
Completed	10/31/2007	CWA	E4	SNC Accuracy	CSO-SSO data not in national data system.	Information currently available only in the Region's CSO-SSO database needs to be entered into the national data system so that it will be accessible by OECA and the public. The new 3560 form (distributed in January 2006) contains a list of single event violations to facilitate data entry.

Status	Due Date	Media	E#	Element	Finding	Explanation
Completed	12/31/2007	CWA	E6	Timely & Appropriate Actions	Region 1 uses compliance orders that do not require compliance that may not be appropriate.	<p>OECA recommends that Region 1 should no longer use the practice of issuing compliance orders that do not require compliance. In all six of the problematic orders, permit appeal legal/resource pressures adversely affected the enforcement choices. The Region should work with WED to agree on a more appropriate response to this type of issue. Region 1 disagrees with OECA on this recommendation. The Region 1 response is that:</p> <p>The report recommends that Region 1 cease issuing administrative orders that do not specifically require final compliance with the permittee's water-quality-based effluent limits for copper. The Region has grappled with the issue of very stringent water-quality-based copper limits for a number of years and has found its approach to be appropriate and effective. We have found that the copper limitations are so stringent that technologies are not currently available to meet the limits. Our approach has allowed the Region to have a tiered compliance approach. We require facilities to enhance operation and maintenance, improve corrosion control, to implement pretreatment programs and maximize treatment to reduce levels of copper in the discharge. Although total compliance may not be achievable at this time, this approach has been successful in maximizing pollutant reduction pending the development of new treatment technologies.</p> <p>This issue was discussed with OECA's Water Enforcement Division, which still does not agree with Region 1's approach to the problem. WED will discuss this issue further with Region 1 will resolve the issue by December 1, 2007.</p>
Completed	12/31/2007	CWA	E6	Timely & Appropriate Actions	Region 1 is working to improve its timeliness of addressing SNC.	Region I should continue to improve its timeliness of addressing SNC. The work group already in place to look at this issue should be encouraged. The group should share its findings and implementation schedule to OECA for review and comment.

Status	Due Date	Media	E#	Element	Finding	Explanation
Completed	12/31/2007	CWA	E8	Penalties Collected	Penalties are not always entered into the data system	Reporting penalties into ICIS-NPDES is not a requirement, but OECA suggest that Region 1 begin to report them in order to show the complete picture of their enforcement activities. The Region will enter penalty information into ICIS as it has in the past.
Completed	12/31/2007	CWA	E11	Data Accurate	Not all enforcement actions are linked to violations in the data system.	The Region should develop an SOP or management process to assure that actions in ICIS-NPDES are appropriately linked to NPDES facility or permit violations, that all violation are entered in the data systems, and that inspections are reported in the data systems in a timely manner. The Region should submit a timetable to OECA on when this will occur and when OECA can assess Regional implementation of this recommendation.
Completed	10/31/2007	CWA	E12	Data Complete	Data quality issues	Region 1 should analyze why the non compliance rates in metric 12 g1 and g2 are so high and report on this to OECA.
Completed	10/31/2007	CWA	E12	Data Complete	Data quality issues.	The Region needs to improve its rate for "correctly coded limits" and begin tracking the items referred to as "informal actions" (described above) in the national data system. If resources are an issue in implementing these recommendations, the Region may consider asking the State to assume some data entry responsibilities.
Long Term Resolution	9/30/2010	CWA	E12	Data Complete	Data quality issues	The Region should work with Massachusetts DEP to include data entry for enforcement actions into ICIS/NPES as part of the 106 grant work plans.
Being Negotiated	9/30/2010	CWA	E12	Data Complete	Data quality issues	The Region should work with Massachusetts DEP to include data entry for enforcement actions into ICIS/NPES as part of the 106 grant work plans.
Long Term Resolution	12/31/2010	CWA	E2 , E10	Violations ID'ed Appropriately, Data Timely	Inspection Documentation	MassDEP should consider developing a standardized inspection reporting protocol that specifies the items and level of detail that should be included in all inspection reports. Where a standard reporting form exists, the inspectors should be trained to use it.

APPENDIX B: OFFICIAL DATA PULL

Metric	Metric Description	Metric Type	Agency	National Goal	National Average	MA Metric	Count	Universe	Not Counted
P01A1C	Active facility universe: NPDES major individual permits (Current)	Data Quality	Combined			109	NA	NA	NA
P01A2C	Active facility universe: NPDES major general permits (Current)	Data Quality	Combined			0	NA	NA	NA
P01A3C	Active facility universe: NPDES non-major individual permits (Current)	Data Quality	Combined			140	NA	NA	NA
P01A4C	Active facility universe: NPDES non-major general permits (Current)	Data Quality	Combined			184	NA	NA	NA
P01B1C	Major individual permits: correctly coded limits (Current)	Goal	Combined	≥ 95%	99.9%	100.0%	108	108	0
C01B2C	Major individual permits: DMR entry rate based on MRs expected (Forms/Forms) (1 Qtr)	Goal	Combined	≥ 95%	94.6%	95.0%	739	778	39
C01B3C	Major individual permits: DMR entry rate based on DMRs expected (Permits/Permits) (1 Qtr)	Goal	Combined	≥ 95%	93.3%	98.2%	107	109	2
P01B4C	Major individual permits: manual RNC/SNC override rate (1 FY)	Data Quality	Combined			8.8%	3	34	31
P01C1C	Non-major individual permits: correctly coded limits (Current)	Informational Only	Combined			100.0%	121	121	0

Metric	Metric Description	Metric Type	Agency	National Goal	National Average	MA Metric	Count	Universe	Not Counted
C01C2C	Non-major individual permits: DMR entry rate based on DMRs expected (Forms/Forms) (1 Qtr)	Informational Only	Combined			88.5%	669	756	87
C01C3C	Non-major individual permits: DMR entry rate based on DMRs expected (Permits/Permits) (1 Qtr)	Informational Only	Combined			77.9%	106	136	30
P01D1C	Violations at non-majors: noncompliance rate (1 FY)	Informational Only	Combined			80.7%	113	140	27
C01D2C	Violations at non-majors: noncompliance rate in the annual noncompliance report (ANCR)(1 CY)	Informational Only	Combined			0 / 0	0	0	0
P01D3C	Violations at non-majors: DMR non-receipt (3 FY)	Informational Only	Combined			76	NA	NA	NA
P01E1S	Informal actions: number of major facilities (1 FY)	Data Quality	State			0	NA	NA	NA
P01E1E	Informal actions: number of major facilities (1 FY)	Data Quality	EPA			0	NA	NA	NA
P01E2S	Informal actions: number of actions at major facilities (1 FY)	Data Quality	State			0	NA	NA	NA

Metric	Metric Description	Metric Type	Agency	National Goal	National Average	MA Metric	Count	Universe	Not Counted
P01E2E	Informal actions: number of actions at major facilities (1 FY)	Data Quality	EPA			0	NA	NA	NA
P01E3S	Informal actions: number of non-major facilities (1 FY)	Data Quality	State			0	NA	NA	NA
P01E3E	Informal actions: number of non-major facilities (1 FY)	Data Quality	EPA			0	NA	NA	NA
P01E4S	Informal actions: number of actions at non-major facilities (1 FY)	Data Quality	State			0	NA	NA	NA
P01E4E	Informal actions: number of actions at non-major facilities (1 FY)	Data Quality	EPA			0	NA	NA	NA
P01F1S	Formal actions: number of major facilities (1 FY)	Data Quality	State			0	NA	NA	NA
P01F1E	Formal actions: number of major facilities (1 FY)	Data Quality	EPA			3	NA	NA	NA
P01F2S	Formal actions: number of actions at major facilities (1 FY)	Data Quality	State			0	NA	NA	NA
P01F2E	Formal actions: number of actions at major facilities (1 FY)	Data Quality	EPA			3	NA	NA	NA
P01F3S	Formal actions: number of non-major facilities (1 FY)	Data Quality	State			0	NA	NA	NA
P01F3E	Formal actions: number of non-major facilities (1 FY)	Data Quality	EPA			25	NA	NA	NA

Metric	Metric Description	Metric Type	Agency	National Goal	National Average	MA Metric	Count	Universe	Not Counted
P01F4S	Formal actions: number of actions at non-major facilities (1 FY)	Data Quality	State			0	NA	NA	NA
P01F4E	Formal actions: number of actions at non-major facilities (1 FY)	Data Quality	EPA			26	NA	NA	NA
P01G1S	Penalties: total number of penalties (1 FY)	Data Quality	State			0	NA	NA	NA
P01G1E	Penalties: total number of penalties (1 FY)	Data Quality	EPA			10	NA	NA	NA
P01G2S	Penalties: total penalties (1 FY)	Data Quality	State			\$0	NA	NA	NA
P01G2E	Penalties: total penalties (1 FY)	Data Quality	EPA			\$86,500	NA	NA	NA
P01G3S	Penalties: total collected pursuant to civil judicial actions (3 FY)	Data Quality	State			\$127,000	NA	NA	NA
P01G3E	Penalties: total collected pursuant to civil judicial actions (3 FY)	Data Quality	EPA			\$432,000	NA	NA	NA
P01G4S	Penalties: total collected pursuant to administrative actions (3 FY)	Informational Only	State			\$0	NA	NA	NA
P01G4E	Penalties: total collected pursuant to administrative actions (3 FY)	Informational Only	EPA			\$431,526	NA	NA	NA
P01G5S	No activity indicator - total number of penalties (1 FY)	Data Quality	State			\$0	NA	NA	NA

Metric	Metric Description	Metric Type	Agency	National Goal	National Average	MA Metric	Count	Universe	Not Counted
P01G5E	No activity indicator - total number of penalties (1 FY)	Data Quality	EPA			\$86,500	NA	NA	NA
P02A0S	Actions linked to violations: major facilities (1 FY)	Data Quality	State	≥ 80%		0 / 0	0	0	0
P02A0E	Actions linked to violations: major facilities (1 FY)	Data Quality	EPA	≥ 80%		0.0%	0	3	3
P05A0S	Inspection coverage: NPDES majors (1 FY)	Goal	State	100%	63.9%	53.3%	56	105	49
P05A0E	Inspection coverage: NPDES majors (1 FY)	Goal	EPA	100%	5.8%	23.8%	25	105	80
P05A0C	Inspection coverage: NPDES majors (1 FY)	Goal	Combined	100%	66.7%	68.6%	72	105	33
P05B1S	Inspection coverage: NPDES non-major individual permits (1 FY)	Goal	State			24.6%	33	134	101
P05B1E	Inspection coverage: NPDES non-major individual permits (1 FY)	Goal	EPA			2.2%	3	134	131
P05B1C	Inspection coverage: NPDES non-major individual permits (1 FY)	Goal	Combined			26.1%	35	134	99
P05B2S	Inspection coverage: NPDES non-major general permits (1 FY)	Goal	State			1.6%	3	184	181
P05B2E	Inspection coverage: NPDES non-major general permits (1 FY)	Goal	EPA			3.3%	6	184	178
P05B2C	Inspection coverage: NPDES non-major general permits (1 FY)	Goal	Combined			4.9%	9	184	175

Metric	Metric Description	Metric Type	Agency	National Goal	National Average	MA Metric	Count	Universe	Not Counted
P05C0S	Inspection coverage: NPDES other (not 5a or 5b) (1 FY)	Informational Only	State			40.0%	4	10	6
P05C0E	Inspection coverage: NPDES other (not 5a or 5b) (1 FY)	Informational Only	EPA			0.0%	0	10	10
P05C0C	Inspection coverage: NPDES other (not 5a or 5b) (1 FY)	Informational Only	Combined			40.0%	4	10	6
P07A1C	Single-event violations at majors (1 FY)	Review Indicator	Combined			0	NA	NA	NA
P07A2C	Single-event violations at non-majors (1 FY)	Informational Only	Combined			0	NA	NA	NA
P07B0C	Facilities with unresolved compliance schedule violations (at end of FY)	Data Quality	Combined		28.2%	47.1%	8	17	9
P07C0C	Facilities with unresolved permit schedule violations (at end of FY)	Data Quality	Combined		27.0%	37.6%	56	149	93
P07D0C	Percentage major facilities with DMR violations (1 FY)	Data Quality	Combined		53.0%	74.3%	81	109	28
P08A1C	Major facilities in SNC (1 FY)	Review Indicator	Combined			32	NA	NA	NA
P08A2C	SNC rate: percent majors in SNC (1 FY)	Review Indicator	Combined		23.2%	29.4%	32	109	77
P10A0C	Major facilities without timely action (1 FY)	Goal	Combined	< 2%	18.6%	26.6%	29	109	80

APPENDIX C: PDA TRANSMITTAL LETTER

Appendices C, D and E provide the results of the Preliminary Data Analysis (PDA). The Preliminary Data Analysis forms the initial structure for the SRF report, and helps ensure that the data metrics are adequately analyzed prior to the on-site review. This is a critical component of the SRF process because it allows the reviewers to be prepared and knowledgeable about potential problem areas before initiating the on-site portion of the review. In addition, it gives the region focus during the file reviews and/or basis for requesting supplemental files based on potential concerns raised by the data metrics results.

This section, Appendix C, contains the letter transmitting the results of the Preliminary Data Analysis to the state. This letter identifies areas that the data review suggests the need for further examination and discussion during the review process.

DRAFT

May 10, 2010

Susan Studien
Enforcement Division Director
EPA New England, Region 1
Suite 100
5 Post Office Square
Boston, MA 02109-3912

Dear Susan:

In our opening letter of March 25, 2010, EPA's Office of Enforcement and Compliance Assurance (OECA) notified EPA Region 1 of its intention to begin the State Framework Review of Regions 1's Clean Water Act NPDES Enforcement Program in Massachusetts. As noted, the base year for review will be federal fiscal year 2009. Thank you for providing the requested information and your response to the official data metrics results sent on May 4, 2010. OECA has analyzed the data against set goals and commitments, and with this letter, are transmitting our analysis and the file selection to you.

This follow-up letter includes our preliminary analysis of the EPA Region data metrics results, the official data metrics results spreadsheet(s) with any EPA Region-provided data corrections/discrepancies, our focus areas for the upcoming on-site file review, and the files that have been selected for review.

In this transmittal, we also are outlining any specific conditions or information that we are aware of and may be relevant to the review (for example, credits under Element 13, special situations regarding data flow, etc). We are providing this information to you in advance so that you have adequate time to compile the files that we will review and can begin pulling together any supplemental information that you think may be of assistance during the review. After reviewing the enclosed information, if there are additional circumstances that OECA should consider during the review, please provide that information to us prior to the on-site file review.

OECA has established a cross program team of managers and senior staff to implement the Region 1 review. Melissa Saddler will be OECA's primary contact for the review. She will lead the review team, directing all aspects of the review for the region. Susan Gilbertson is OECA's SRF Team Leader with overall responsibility for the review. The NPDES program expert on the review team will be Allison Donohue. All team members will perform their onsite review of Region 1's Clean Water Act NPDES Enforcement Program of Massachusetts beginning May 24, 2010 and ending May 27, 2010. OECA is requesting that a room with secure Internet accessibility be available.

Please note that the enclosed preliminary findings are based only on the data metrics results themselves. Final findings may be significantly different based upon the results of the file review and ongoing discussions with you and your staff. If you have any questions about the process that we intend to use, please contact Melissa Saddler.

All information and material used in this review may be subject to federal and/or state disclosure laws. While EPA intends to use this information only for discussions with EPA Region 1, it may be necessary to release information in response to a properly submitted request.

Sincerely,

Chris Knopes, Director, NPMAS

Enclosure 1 – CWA Preliminary Data Analysis of EPA Region’s SRF Data Metrics
Enclosure 2 – CWA Data Metrics Preliminary Data Analysis Worksheet
Enclosure 3 – CWA Explanation of File Selection
Enclosure 4 – CWA Table of Selected Files

cc: Lisa Lund, Director, Office of Compliance
David Hindin, Deputy Director, Office of Compliance

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Clean Water Act Enclosure 1 Preliminary Data Analysis of EPA Region's SRF Data Metrics

I. Introduction – Purpose of Preliminary Data Analysis

To adequately prepare for OECA's on-site review and discussions of findings/recommendations, the SRF process calls for OECA to: (1) perform preliminary analysis of the SRF data metrics to identify potential areas of concern and (2) identify the number and specific facility list of files to be reviewed during the on-site file review step. The following preliminary data analysis provides the EPA Region with a preliminary look at how OECA interprets Regional performance relevant to each SRF element that has an associated data metric. EPA's preliminary review of the data is only the first step in the review process, and is primarily used to frame key discussion topics during the on-site review. Elements that do not have data metrics will be evaluated during the file reviews. Actual findings will be developed only after the file reviews and dialogue with the Region have occurred. Data metrics results were pulled from the Online Tracking Information System (OTIS) SRF data metrics Web site (<http://www.epa-otis.gov/otis/stateframework.html>) on May 4, 2010.

Preliminary review by OECA of CWA SRF data metrics results for the FY 2009 period has identified both positive accomplishments and potential areas of concern that will require a focused dialogue. The SRF on-site file review meeting(s) will cover all SRF metrics (data and file review), including additional Element 13 information if submitted by the Region. This enclosure provides a detailed look at OECA's preliminary data analysis.

II. Acknowledgement of Prior Issues, Commitments, or Ongoing Accomplishments

The following issues or accomplishments are acknowledged here to provide context for the review.

- The SRF Tracker includes the following items that OECA kept in mind during the preliminary data analysis:
 - Region 1 should consider developing a standardized inspection reporting protocol that specifies the items and level of detail that should be included in all inspection reports. Where a standard reporting form exists, the inspectors should be trained.
 - Region 1 should strive to have all inspection reports completed within thirty days of the inspection. The inspection reports should indicate the date on which the report was completed.
 - Region 1 should provide training regarding Single Event Violation reporting. MassDEP should be provided with copies of the updated Form 3560 for use by its inspectors. (IWW) Note: DEP may elect not to do single event violation reporting in IWW because of its multimedia program.
 - Region 1 should consider developing interim limits for all facilities under a compliance schedule to remove these facilities from the SNC list.
 - Region 1 should use its information gathering authority under 314 CMR 3.03 to obtain information on the cost of corrective actions and avoided costs that can be used to calculate the economic benefit of the violation(s). Alternatively, calculate the economic benefit based on its best estimate of the cost of corrective action and

avoided costs and adjust the calculation with more accurate information obtained during settlement negotiations.

- Region 1 should work with Massachusetts to include data entry for enforcement actions into ICIS/NPES as part of the 106 grant work plans.

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III. Preliminary Data Analysis of EPA Region’s Data Metrics Results

OECA has reviewed the SRF data metrics in relation to national goals and averages. Below are highlights and potential areas of concern. OECA intends to focus on these areas of concern during the on-site review. The enclosed worksheet contains more detail.

Original Data Pulled from Online Tracking Information System (OTIS)									EPA Preliminary Analysis
Metric	Metric Description	Metric Type	Agency	National Goal	National Average	MA Metric	Count	Universe	Initial Findings
P01D3C	Violations at non-majors: DMR non-receipt (3 FY)	Informational Only	Combined			76	NA	NA	large number may need to evaluate data quality
P01E4E	Informal actions: number of actions at non-major facilities (1 FY)	Data Quality	EPA			0	NA	NA	no data for number of informal actions – this is a required metric
P01F1E	Formal actions: number of major facilities (1 FY)	Data Quality	EPA			3	NA	NA	formal actions have little data entered for a required metric
P01F2E	Formal actions: number of actions at major facilities (1 FY)	Data Quality	EPA			3	NA	NA	formal actions have little data entered for a required metric
P01G5E	No activity indicator - total number of penalties (1 FY)	Data Quality	EPA			\$86,500	NA	NA	as this is activity indicator - need to determine whether or not a state is entering any penalty data
P02A0S	Actions linked to violations: major facilities (1 FY)	Data Quality	State	≥ 80%		0 / 0	0	0	no data entered to indicate actions linked to violations
P02A0E	Actions linked to violations: major facilities (1 FY)	Data Quality	EPA	≥ 80%		0.0%	0	3	no data entered to indicate actions linked to violations
P05A0S	Inspection coverage: NPDES majors (1 FY)	Goal	State	100%	63.9%	53.3%	56	105	well below national goal and national average
P05A0E	Inspection coverage: NPDES majors (1 FY)	Goal	EPA	100%	5.8%	23.8%	25	105	well below national goal but above the national average
P05A0C	Inspection coverage: NPDES majors (1 FY)	Goal	Combined	100%	66.7%	68.6%	72	105	below national goal but about national average
P05B1E	Inspection coverage: NPDES non-major individual permits (1 FY)	Goal	EPA			2.2%	3	134	percent of facilities inspected below 20%
P05B2S	Inspection coverage: NPDES non-major general permits (1 FY)	Goal	State			1.6%	3	184	percent of facilities inspected below 20%

P05B2E	Inspection coverage: NPDES non-major general permits (1 FY)	Goal	EPA			3.3%	6	184	percent of facilities inspected below 20%
P05B2C	Inspection coverage: NPDES non-major general permits (1 FY)	Goal	Combined			4.9%	9	184	percent of facilities inspected below 20%
P07A1C	Single-event violations at majors (1 FY)	Review Indicator	Combined			0	NA	NA	did not report any violations determined through inspections
P07A2C	Single-event violations at non-majors (1 FY)	Informational Only	Combined			0	NA	NA	did not report any violations determined through inspections
P10A0C	Major facilities without timely action (1 FY)	Goal	Combined	< 2%	18.6%	26.6%	29	109	determine if receiving timely actions

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Clean Water Act Enclosure 2
CWA Data Metrics Preliminary Data Analysis Worksheet with EPA Region-Provided Data
Discrepancies Columns

Original Data Pulled from Online Tracking Information System (OTIS)									EPA Preliminary Analysis
Metric	Metric Description	Metric Type	Agency	National Goal	National Average	Massachusetts Metric	Count	Universe	Initial Findings
P01A1C	Active facility universe: NPDES major individual permits (Current)	Data Quality	Combined			109	NA	NA	
P01A2C	Active facility universe: NPDES major general permits (Current)	Data Quality	Combined			0	NA	NA	
P01A3C	Active facility universe: NPDES non-major individual permits (Current)	Data Quality	Combined			140	NA	NA	
P01A4C	Active facility universe: NPDES non-major general permits (Current)	Data Quality	Combined			184	NA	NA	
P01B1C	Major individual permits: correctly coded limits (Current)	Goal	Combined	≥ 95%	99.9%	100.0%	108	108	
C01B2C	Major individual permits: DMR entry rate based on MRs expected (Forms/Forms) (1 Qtr)	Goal	Combined	≥ 95%	94.6%	95.0%	739	778	
C01B3C	Major individual permits: DMR entry rate based on DMRs expected (Permits/Permits) (1 Qtr)	Goal	Combined	≥ 95%	93.3%	98.2%	107	109	
P01B4C	Major individual permits: manual RNC/SNC override rate (1 FY)	Data Quality	Combined			8.8%	3	34	
P01C1C	Non-major individual permits: correctly coded limits (Current)	Informational Only	Combined			100.0%	121	121	
C01C2C	Non-major individual permits: DMR entry rate based on DMRs expected (Forms/Forms) (1 Qtr)	Informational Only	Combined			88.5%	669	756	
C01C3C	Non-major individual permits: DMR entry rate based on DMRs expected (Permits/Permits) (1 Qtr)	Informational Only	Combined			77.9%	106	136	
P01D1C	Violations at non-majors: noncompliance rate (1 FY)	Informational Only	Combined			80.7%	113	140	
C01D2C	Violations at non-majors: noncompliance rate in the annual noncompliance report (ANCR)(1 CY)	Informational Only	Combined			0 / 0	0	0	
P01D3C	Violations at non-majors: DMR non-receipt (3 FY)	Informational Only	Combined			76	NA	NA	large number may need to evaluate data quality
P01E1S	Informal actions: number of major facilities (1 FY)	Data Quality	State			0	NA	NA	
P01E1E	Informal actions: number of major facilities (1 FY)	Data Quality	EPA			0	NA	NA	no data for required metric
P01E2S	Informal actions: number of actions at major facilities (1 FY)	Data Quality	State			0	NA	NA	

Metric	Metric Description	Metric Type	Agency	National Goal	National Average	Massachusetts Metric	Count	Universe	Initial Findings
P01E2E	Informal actions: number of actions at major facilities (1 FY)	Data Quality	EPA			0	NA	NA	no data for required metric
P01E3S	Informal actions: number of non-major facilities (1 FY)	Data Quality	State			0	NA	NA	
P01E3E	Informal actions: number of mom-major facilities (1 FY)	Data Quality	EPA			0	NA	NA	no data for required metric
P01E4S	Informal actions: number of actions at non-major facilities (1 FY)	Data Quality	State			0	NA	NA	
P01E4E	Informal actions: number of actions at non-major facilities (1 FY)	Data Quality	EPA			0	NA	NA	no data for number of informal action for required metric
P01F1S	Formal actions: number of major facilities (1 FY)	Data Quality	State			0	NA	NA	
P01F1E	Formal actions: number of major facilities (1 FY)	Data Quality	EPA			3	NA	NA	formal actions have little data entered for a required metric
P01F2S	Formal actions: number of actions at major facilities (1 FY)	Data Quality	State			0	NA	NA	
P01F2E	Formal actions: number of actions at major facilities (1 FY)	Data Quality	EPA			3	NA	NA	formal actions have little data entered for a required metric
P01F3S	Formal actions: number of non-major facilities (1 FY)	Data Quality	State			0	NA	NA	
P01F3E	Formal actions: number of non-major facilities (1 FY)	Data Quality	EPA			25	NA	NA	
P01F4S	Formal actions: number of actions at non-major facilities (1 FY)	Data Quality	State			0	NA	NA	
P01F4E	Formal actions: number of actions at non-major facilities (1 FY)	Data Quality	EPA			26	NA	NA	
P01G1S	Penalties: total number of penalties (1 FY)	Data Quality	State			0	NA	NA	
P01G1E	Penalties: total number of penalties (1 FY)	Data Quality	EPA			10	NA	NA	
P01G2S	Penalties: total penalties (1 FY)	Data Quality	State			\$0	NA	NA	
P01G2E	Penalties: total penalties (1 FY)	Data Quality	EPA			\$86,500	NA	NA	
P01G3S	Penalties: total collected pursuant to civil judicial actions (3 FY)	Data Quality	State			\$127,000	NA	NA	
P01G3E	Penalties: total collected pursuant to civil judicial actions (3 FY)	Data Quality	EPA			\$432,000	NA	NA	
P01G4S	Penalties: total collected pursuant to administrative actions (3 FY)	Informational Only	State			\$0	NA	NA	

Metric	Metric Description	Metric Type	Agency	National Goal	National Average	Massachusetts Metric	Count	Universe	Initial Findings
P01G4E	Penalties: total collected pursuant to administrative actions (3 FY)	Informational Only	EPA			\$431,526	NA	NA	
P01G5S	No activity indicator - total number of penalties (1 FY)	Data Quality	State			\$0	NA	NA	
P01G5E	No activity indicator - total number of penalties (1 FY)	Data Quality	EPA			\$86,500	NA	NA	as this is activity indicator - need to determine whether or not a state is entering any penalty data
P02A0S	Actions linked to violations: major facilities (1 FY)	Data Quality	State	≥ 80%		0 / 0	0	0	no data entered to indicate actions linked to violations
P02A0E	Actions linked to violations: major facilities (1 FY)	Data Quality	EPA	≥ 80%		0.0%	0	3	no data entered to indicate actions linked to violations
P05A0S	Inspection coverage: NPDES majors (1 FY)	Goal	State	100%	63.9%	53.3%	56	105	well below national goal and national average
P05A0E	Inspection coverage: NPDES majors (1 FY)	Goal	EPA	100%	5.8%	23.8%	25	105	well below national goal but above the national average
P05A0C	Inspection coverage: NPDES majors (1 FY)	Goal	Combined	100%	66.7%	68.6%	72	105	below national goal but about national average
P05B1S	Inspection coverage: NPDES non-major individual permits (1 FY)	Goal	State			24.6%	33	134	above 20%
P05B1E	Inspection coverage: NPDES non-major individual permits (1 FY)	Goal	EPA			2.2%	3	134	percent of facilities inspected below 20%
P05B1C	Inspection coverage: NPDES non-major individual permits (1 FY)	Goal	Combined			26.1%	35	134	
P05B2S	Inspection coverage: NPDES non-major general permits (1 FY)	Goal	State			1.6%	3	184	percent of facilities inspected below 20%
P05B2E	Inspection coverage: NPDES non-major general permits (1 FY)	Goal	EPA			3.3%	6	184	percent of facilities inspected below 20%

Metric	Metric Description	Metric Type	Agency	National Goal	National Average	Massachusetts Metric	Count	Universe	Initial Findings
P05B2C	Inspection coverage: NPDES non-major general permits (1 FY)	Goal	Combined			4.9%	9	184	percent of facilities inspected below 20%
P05C0S	Inspection coverage: NPDES other (not 5a or 5b) (1 FY)	Informational Only	State			40.0%	4	10	
P05C0E	Inspection coverage: NPDES other (not 5a or 5b) (1 FY)	Informational Only	EPA			0.0%	0	10	metric is information only and data not required to be reported
P05C0C	Inspection coverage: NPDES other (not 5a or 5b) (1 FY)	Informational Only	Combined			40.0%	4	10	
P07A1C	Single-event violations at majors (1 FY)	Review Indicator	Combined			0	NA	NA	did not report any violations determined through inspections
P07A2C	Single-event violations at non-majors (1 FY)	Informational Only	Combined			0	NA	NA	did not report any violations determined through inspections
P07B0C	Facilities with unresolved compliance schedule violations (at end of FY)	Data Quality	Combined		28.2%	47.1%	8	17	
P07C0C	Facilities with unresolved permit schedule violations (at end of FY)	Data Quality	Combined		27.0%	37.6%	56	149	
P07D0C	Percentage major facilities with DMR violations (1 FY)	Data Quality	Combined		53.0%	74.3%	81	109	
P08A1C	Major facilities in SNC (1 FY)	Review Indicator	Combined			32	NA	NA	
P08A2C	SNC rate: percent majors in SNC (1 FY)	Review Indicator	Combined		23.2%	29.4%	32	109	
P10A0C	Major facilities without timely action (1 FY)	Goal	Combined	< 2%	18.6%	26.6%	29	109	determine if receiving timely actions

Clean Water Act Enclosure 3 Explanation of File Selection

EPA has followed the SRF File Selection Protocol when selecting the listed files. This includes a representative sample of files, and may include supplemental file review. Under the File Selection Protocol, EPA may examine additional files to help better understand whether any potential areas of concern identified via the data metrics review are substantiated. These additional files are noted below.

EPA is requesting 30 files for the CWA Direct Implementation SRF review. The representative file selection method was conducted using the methodology described in the File Selection Protocol (using the OTIS website). Thirty files were selected. Of the 30, there will be at least 3 files reviewed in each regional area in Massachusetts. There are no additional supplemental files needed to assess an area of potential concern noted in the preliminary data analysis (no SEVs reported). Supplemental file reviews are used to ensure that the region has enough files to look at to understand whether a potential problem pointed out by data analysis is in fact a problem.

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Clean Water Act Enclosure 4 Table of Selected Files

f_name	Program ID	f_street	f_city	State Region	f_state	f_zip	Permit Component	Inspection	Violation	Single Event Violation	SNC	Informal Action	Formal Action	Penalty	Univers	Select
AUSTRALIS AQUACULTURE, LLC	MA0110264	15 INDUSTRIAL BLVD.	TURNERS FALLS	W	MA	1376		0	17	0	4	0	0	0	Minor	accepted_representative
BEAR HILL ESTATES	MAR10C630	20 BRIDGE ROAD	NORTHAMPTON	W	MA	1060		0	0	0	0	0	1	7,000	Minor	accepted_representative
BOSTON WATER AND SEWER COMM, CSO	MA0101192	980 HARRISON STREET	BOSTON	E	MA	2119	CSO	3	4	0	0	0	0	0	Major	accepted_representative
CANTON MS4	MAR041031	TOWNWIDE	CANTON	E	MA	2021		0	0	0	0	0	1	0	Minor	accepted_representative
CHELSEA MUNICIPAL SEPARATE STORM SEWER SYSTEM	MAR041077	TOWNWIDE	CHELSEA	E	MA	2150		3	0	0	0	0	1	0	Minor	accepted_representative
EAST FITCHBURG WWTF	MA0100986	24 LANIDES LANE	FITCHBURG	C	MA	1420	CSO PRE POT	1	58	0	4	0	0	0	Major	accepted_representative
ERVING CENTER W W T P #2	MA0101052	45 EAST MAIN ST	ERVING	W	MA	1344	BIO POT PRE	0	16	0	3	0	1	0	Major	accepted_representative
FAIRHAVEN SHIPYARD	MAR05B677	50 FORT STREET	FAIRHAVEN	S	MA	2719		1	0	0	0	0	1	0	Minor	accepted_representative
GLOUCESTER W P C F	MA0100625	50 ESSEX AVE	GLOUCESTER	E	MA	1930	CSO BIO PRE POT	2	21	0	0	0	0	0	Major	accepted_representative
GREAT BARRINGTON W W T F, TOWN	MA0101524	100 BENTLEY ROAD	GREAT BARRINGTON	W	MA	1230	BIO POT PRE	1	16	0	4	0	0	0	Major	accepted_representative
HAVERHILL W W T F	MA0101621	40 S PORTER ST	BRADFORD	E	MA	1835	BIO CSO POT PRE	2	11	0	2	0	1	0	Major	accepted_representative
HUDSON W W T F	MA0101788	ONE MUNICIPAL DRIVE	HUDSON	C	MA	1749	POT	1	56	0	4	0	0	0	Major	accepted_representative
IPSWICH W W T F	MA0100609	20 FOWLERS LANE	IPSWICH	E	MA	1938	POT BIO	1	16	0	4	0	0	0	Major	accepted_representative
MALDEN MS4	MAR041046	TOWNWIDE	MALDEN	E	MA	2148		0	0	0	0	0	1	0	Minor	accepted_representative
MARLBOROUGH WESTERLY W W T F	MA0100480	303 BOUNDARY ST	MARLBOROUGH	C	MA	1752	POT PRE	3	22	0	4	0	0	0	Major	accepted_representative
MCI - CONCORD	MA0102245	965 ELM STREET	CONCORD	E	MA	1742	POT	1	27	0	2	0	0	0	Minor	accepted_representative
MCI BRIDGEWATER WPCF	MA0102237	CONANT STREET	BRIDGEWATER	S	MA	2324		1	7	0	0	0	0	0	Major	accepted_representative
MONTAGUE W P C F	MA0100137	34 GREENFIELD ROAD	MONTAGUE	W	MA	1351	BIO CSO POT PRE	3	15	0	0	0	0	0	Major	accepted_representative
MW CUSTOM PAPERS LLC WILLOW MI	MA0001848	40 WILLOW STREET	SOUTH LEE	W	MA	1260		1	1	0	0	0	0	0	Major	accepted_representative

f_name	Program ID	f_street	f_city	State Region	f_state	f_zip	Permit Component	Inspection	Violation	Single Event Violation	SNC	Informal Action	Formal Action	Penalty	Universe	Select
NORTH ATTLEBOROUGH W W T P	MA0101036	CEDAR ROAD	NORTH ATTLEBOROUGH	S	MA	2760	BIO POT PRE	2	23	0	3	0	0	0	Major	accepted_representative
NORWOOD TOWN OF PEABODY CITY OF MS4	MAR041053	566 WASHINGTON ST	NORWOOD	S	MA	2062		1	0	0	0	0	1	0	Minor	accepted_representative
QUINCY MUNICIPAL SEPARATE STORM SEWER SYSTEM	MAR041216	TOWNWIDE	PEABODY	E	MA	1960		2	0	0	0	0	1	0	Minor	accepted_representative
ROCKPORT W W T F	MA0100145	CITYWIDE	QUINCY	E	MA	2169		4	0	0	0	0	0	0	Minor	accepted_representative
SALISBURY HILL	MAR10CL38	PLEASANT ST (END OF)	ROCKPORT	E	MA	1966	POT BIO	2	42	0	0	0	0	0	Major	accepted_representative
SOUTH DEERFIELD W W T P	MA0101648	727 SALISBURY STREET	WORCESTER	C	MA	1609		0	0	0	0	0	1	10,000	Minor	accepted_representative
STONEGATE FARMS	MAR10CC25	STATE HIGHWAY 116	SOUTH DEERFIELD	W	MA	1373	BIO POT	3	4	0	0	0	0	0	Minor	accepted_representative
WEBSTER W W T F	MA0100439	MUNSELL ROAD	BELCHERTOWN	W	MA	1007		0	0	0	0	0	1	2,000	Minor	accepted_representative
WEST FITCHBURG WWTF	MA0101281	OFF HILL STREET	WEBSTER	C	MA	1570	POT PRE	2	15	0	2	0	0	0	Major	accepted_representative
WESTFIELD MA POTW	MA0101800	101 PRINCETON RD	FITCHBURG	C	MA	1420	POT PRE	0	26	0	4	0	0	0	Major	accepted_representative
		149 NECK ROAD	WESTFIELD	W	MA	1085	BIO POT PRE	1	27	0	4	0	0	0	Minor	accepted_representative

APPENDIX D: PRELIMINARY DATA ANALYSIS CHART

This section provides the results of the Preliminary Data Analysis (PDA). The Preliminary Data Analysis forms the initial structure for the SRF report, and helps ensure that the data metrics are adequately analyzed prior to the on-site review. This is a critical component of the SRF process because it allows the reviewers to be prepared and knowledgeable about potential problem areas before initiating the on-site portion of the review. In addition, it gives the region focus during the file reviews and/or basis for requesting supplemental files based on potential concerns raised by the data metrics results.

The PDA reviews each data metric and evaluates state performance against the national goal or average, if appropriate. The PDA Chart in this section of the SRF report only includes metrics where potential concerns are identified or potential areas of exemplary performance. The full PDA Worksheet (Appendix E) contains every metric: positive, neutral or negative. Initial Findings indicate the observed results. Initial Findings are preliminary observations and are used as a basis of further investigation that takes place during the file review and through dialogue with the state. Final Findings are developed only after evaluating them against the file review results where appropriate, and dialogue with the state have occurred. Through this process, Initial Findings may be confirmed, modified, or determined not to be supported. Findings are presented in Section IV of this report.

Original Data Pulled from Online Tracking Information System (OTIS)									EPA Preliminary Analysis
Metric	Metric Description	Metric Type	Agency	National Goal	National Average	Massachusetts Metric	Count	Universe	Initial Findings
P01D3C	Violations at non-majors: DMR non-receipt (3 FY)	Informational Only	Combined			76	NA	NA	large number may need to evaluate data quality
P01E4E	Informal actions: number of actions at non-major facilities (1 FY)	Data Quality	EPA			0	NA	NA	no data for number of informal actions – this is a required metric
P01F1E	Formal actions: number of major facilities (1 FY)	Data Quality	EPA			3	NA	NA	formal actions have little data entered for a required metric
P01F2E	Formal actions: number of actions at major facilities (1 FY)	Data Quality	EPA			3	NA	NA	formal actions have little data entered for a required metric
P01G5E	No activity indicator - total number of penalties (1 FY)	Data Quality	EPA			\$86,500	NA	NA	as this is activity indicator - need to determine whether or not a state is entering any penalty data

P02A0S	Actions linked to violations: major facilities (1 FY)	Data Quality	State	≥ 80%		0 / 0	0	0	no data entered to indicate actions linked to violations
P02A0E	Actions linked to violations: major facilities (1 FY)	Data Quality	EPA	≥ 80%		0.0%	0	3	no data entered to indicate actions linked to violations
P05A0S	Inspection coverage: NPDES majors (1 FY)	Goal	State	100%	63.9%	53.3%	56	105	well below national goal and national average
P05A0E	Inspection coverage: NPDES majors (1 FY)	Goal	EPA	100%	5.8%	23.8%	25	105	well below national goal but above the national average
P05A0C	Inspection coverage: NPDES majors (1 FY)	Goal	Combined	100%	66.7%	68.6%	72	105	below national goal but about national average
P05B1E	Inspection coverage: NPDES non-major individual permits (1 FY)	Goal	EPA			2.2%	3	134	percent of facilities inspected below 20%
P05B2S	Inspection coverage: NPDES non-major general permits (1 FY)	Goal	State			1.6%	3	184	percent of facilities inspected below 20%
P05B2E	Inspection coverage: NPDES non-major general permits (1 FY)	Goal	EPA			3.3%	6	184	percent of facilities inspected below 20%
P05B2C	Inspection coverage: NPDES non-major general permits (1 FY)	Goal	Combined			4.9%	9	184	percent of facilities inspected below 20%
P07A1C	Single-event violations at majors (1 FY)	Review Indicator	Combined			0	NA	NA	did not report any violations determined through inspections
P07A2C	Single-event violations at non-majors (1 FY)	Informational Only	Combined			0	NA	NA	did not report any violations determined through inspections
P10A0C	Major facilities without timely action (1 FY)	Goal	Combined	< 2%	18.6%	26.6%	29	109	determine if receiving timely actions

APPENDIX E: PDA WORKSHEET (with EPA Comments)

Original Data Pulled from Online Tracking Information System (OTIS)									EPA Preliminary Analysis
Metric	Metric Description	Metric Type	Agency	National Goal	National Average	Massachusetts Metric	Count	Universe	Initial Findings
P01D3C	Violations at non-majors: DMR non-receipt (3 FY)	Informational Only	Combined			76	NA	NA	large number may need to evaluate data quality
P01E4E	Informal actions: number of actions at non-major facilities (1 FY)	Data Quality	EPA			0	NA	NA	no data for number of informal actions – this is a required metric
P01F1E	Formal actions: number of major facilities (1 FY)	Data Quality	EPA			3	NA	NA	formal actions have little data entered for a required metric
P01F2E	Formal actions: number of actions at major facilities (1 FY)	Data Quality	EPA			3	NA	NA	formal actions have little data entered for a required metric
P01G5E	No activity indicator - total number of penalties (1 FY)	Data Quality	EPA			\$86,500	NA	NA	as this is activity indicator - need to determine whether or not a state is entering any penalty data
P02A0S	Actions linked to violations: major facilities (1 FY)	Data Quality	State	≥ 80%		0 / 0	0	0	no data entered to indicate actions linked to violations
P02A0E	Actions linked to violations: major facilities (1 FY)	Data Quality	EPA	≥ 80%		0.0%	0	3	no data entered to indicate actions linked to violations
P05A0S	Inspection coverage: NPDES majors (1 FY)	Goal	State	100%	63.9%	53.3%	56	105	well below national goal and national average
P05A0E	Inspection coverage: NPDES majors (1 FY)	Goal	EPA	100%	5.8%	23.8%	25	105	well below national goal but above the national

									average	
P05A0C	Inspection coverage: NPDES majors (1 FY)	Goal	Combined	100%	66.7%	68.6%	72	105	below national goal but about national average	
P05B1E	Inspection coverage: NPDES non-major individual permits (1 FY)	Goal	EPA			2.2%	3	134	percent of facilities inspected below 20%	
P05B2S	Inspection coverage: NPDES non-major general permits (1 FY)	Goal	State			1.6%	3	184	percent of facilities inspected below 20%	
P05B2E	Inspection coverage: NPDES non-major general permits (1 FY)	Goal	EPA			3.3%	6	184	percent of facilities inspected below 20%	
P05B2C	Inspection coverage: NPDES non-major general permits (1 FY)	Goal	Combined			4.9%	9	184	percent of facilities inspected below 20%	
P07A1C	Single-event violations at majors (1 FY)	Review Indicator	Combined				0	NA	NA	did not report any violations determined through inspections
P07A2C	Single-event violations at non-majors (1 FY)	Informational Only	Combined				0	NA	NA	did not report any violations determined through inspections
P10A0C	Major facilities without timely action (1 FY)	Goal	Combined	< 2%	18.6%	26.6%	29	109	determine if receiving timely actions	

APPENDIX F: FILE SELECTION

Files to be reviewed are selected according to a standard protocol (available to EPA and state users here: http://www.epa-otis.gov/srf/docs/fileselectionprotocol_10.pdf) and using a web-based file selection tool (available to EPA and state users here: http://www.epa-otis.gov/cgi-bin/test/srf/srf_fileselection.cgi). The protocol and tool are designed to provide consistency and transparency in the process. Based on the description of the file selection process in section A, states should be able to recreate the results in the table in section B.

File Selection Process

EPA has followed the SRF File Selection Protocol when selecting the listed files. The review team identified the universe of inspection and enforcement files to use in selecting the files for the on-site review. The team downloaded the data metrics and underlying data from the OTIS web site in order to analyze the data and to select the files to be reviewed. The team also used data from ICIS and PCS in order to have the complete list of enforcement actions conducted by the Region in Massachusetts in FY 2009. This includes a representative sample of files.

EPA is requesting 30 files for the CWA Direct Implementation SRF review. The representative file selection method was conducted using the methodology described in the File Selection Protocol (using the OTIS website). Thirty files were selected. Of the 30, there will be at least 3 files reviewed in each regional area in Massachusetts. There are no additional supplemental files needed to assess an area of potential concern noted in the preliminary data analysis (no SEVs reported). Supplemental file reviews are used to ensure that the region has enough files to look at to understand whether a potential problem pointed out by data analysis is in fact a problem.

B. File Selection Table

f_name	Program ID	f_street	f_city	State Region	f_state	f_zip	Permit Component	Inspection	Violation	Single Event Violation	SNC	Informal Action	Formal Action	Penalty	Universe	Select
AUSTRALIS AQUACULTURE, LLC	MA0110264	15 INDUSTRIAL BLVD.	TURNERS FALLS		MA	1376		0	17	0	4	0	0	0	Minor	accepted_representative
BEAR HILL ESTATES	MAR10C630	20 BRIDGE ROAD	NORTHAMPTON	W	MA	1060		0	0	0	0	0	1	7,000	Minor	accepted_representative
BOSTON WATER AND SEWER COMM, CSO	MA0101192	980 HARRISON STREET	BOSTON	E	MA	2119	CSO	3	4	0	0	0	0	0	Major	accepted_representative
CANTON MS4	MAR041031	TOWNWIDE	CANTON	E	MA	2021		0	0	0	0	0	1	0	Minor	accepted_representative
CHELSEA MUNICIPAL SEPARATE STORM SEWER SYSTEM	MAR041077	TOWNWIDE	CHELSEA	E	MA	2150		3	0	0	0	0	1	0	Minor	accepted_representative
EAST FITCHBURG WWTF	MA0100986	24 LANIDES LANE	FITCHBURG	C	MA	1420	CSO PRE POT	1	58	0	4	0	0	0	Major	accepted_representative
ERVING CENTER W W T P #2	MA0101052	45 EAST MAIN ST	ERVING	W	MA	1344	BIO POT PRE	0	16	0	3	0	1	0	Major	accepted_representative
FAIRHAVEN SHIPYARD	MAR05B677	50 FORT STREET	FAIRHAVEN	S	MA	2719		1	0	0	0	0	1	0	Minor	accepted_representative
GLOUCESTER W P C F	MA0100625	50 ESSEX AVE	GLOUCESTER	E	MA	1930	CSO BIO PRE POT	2	21	0	0	0	0	0	Major	accepted_representative
GREAT BARRINGTON W W T F, TOWN	MA0101524	100 BENTLEY ROAD	GREAT BARRINGTON	W	MA	1230	BIO POT PRE	1	16	0	4	0	0	0	Major	accepted_representative
HAVERHILL W W T F	MA0101621	40 S PORTER ST	BRADFORD	E	MA	1835	BIO CSO POT PRE	2	11	0	2	0	1	0	Major	accepted_representative
HUDSON W W T F	MA0101788	ONE MUNICIPAL DRIVE	HUDSON	C	MA	1749	POT	1	56	0	4	0	0	0	Major	accepted_representative
IPSWICH W W T F	MA0100609	20 FOWLERS LANE	IPSWICH	E	MA	1938	POT BIO	1	16	0	4	0	0	0	Major	accepted_representative
MALDEN MS4	MAR041046	TOWNWIDE	MALDEN	E	MA	2148		0	0	0	0	0	1	0	Minor	accepted_representative
MARLBOROUGH WESTERLY W W T F	MA0100480	303 BOUNDARY ST	MARLBOROUGH	C	MA	1752	POT PRE	3	22	0	4	0	0	0	Major	accepted_representative
MCI - CONCORD	MA0102245	965 ELM STREET	CONCORD	E	MA	1742	POT	1	27	0	2	0	0	0	Minor	accepted_representative
MCI BRIDGEWATER WPCF	MA0102237	CONANT STREET	BRIDGEWATER	S	MA	2324		1	7	0	0	0	0	0	Major	accepted_representative
MONTAGUE W P C F	MA0100137	34 GREENFIELD ROAD	MONTAGUE	W	MA	1351	BIO CSO POT PRE	3	15	0	0	0	0	0	Major	accepted_representative
MW CUSTOM PAPERS LLC WILLOW MI	MA0001848	40 WILLOW STREET	SOUTH LEE	W	MA	1260		1	1	0	0	0	0	0	Major	accepted_representative
NORTH	MA0101036	CEDAR ROAD	NORTH	S	MA	2760	BIO POT	2	23	0	3	0	0	0	Major	accepted_representative

ATTLEBOROUGH W W T P			ATTLEBOROUGH				PRE									
NORWOOD TOWN OF	MAR041053	566 WASHINGTON ST	NORWOOD	S	MA	2062		1	0	0	0	0	1	0	Minor	accepted_representative
PEABODY CITY OF MS4	MAR041216	TOWNWIDE	PEABODY	E	MA	1960		2	0	0	0	0	1	0	Minor	accepted_representative
QUINCY MUNICIPAL SEPARATE STORM SEWER SYSTEM	MAR041081	CITYWIDE	QUINCY	E	MA	2169		4	0	0	0	0	0	0	Minor	accepted_representative
ROCKPORT W W T F	MA0100145	PLEASANT ST (END OF)	ROCKPORT	E	MA	1966	POT BIO	2	42	0	0	0	0	0	Major	accepted_representative
SALISBURY HILL	MAR10CL38	727 SALISBURY STREET	WORCESTER	C	MA	1609		0	0	0	0	0	1	10,000	Minor	accepted_representative
SOUTH DEERFIELD W W T P	MA0101648	STATE HIGHWAY 116	SOUTH DEERFIELD	W	MA	1373	BIO POT	3	4	0	0	0	0	0	Minor	accepted_representative
STONEGATE FARMS	MAR10CC25	MUNSELL ROAD	BELCHERTOWN	W	MA	1007		0	0	0	0	0	1	2,000	Minor	accepted_representative
WEBSTER W W T F	MA0100439	OFF HILL STREET	WEBSTER	C	MA	1570	POT PRE	2	15	0	2	0	0	0	Major	accepted_representative
WEST FITCHBURG WWTF	MA0101281	101 PRINCETON RD	FITCHBURG	C	MA	1420	POT PRE BIO POT PRE	0	26	0	4	0	0	0	Major	accepted_representative
WESTFIELD MA POTW	MA0101800	149 NECK ROAD	WESTFIELD	W	MA	1085	POT PRE BIO POT PRE	1	27	0	4	0	0	0	Minor	accepted_representative

APPENDIX G: FILE REVIEW ANALYSIS

This section presents the initial observations of the Region regarding program performance against file metrics. Initial Findings are developed by the region at the conclusion of the File Review process. The Initial Finding is a statement of fact about the observed performance, and should indicate whether the performance indicates a practice to be highlighted or a potential issue, along with some explanation about the nature of good practice or the potential issue. The File Review Metrics Analysis Form in the report only includes metrics where potential concerns are identified, or potential areas of exemplary performance.

Initial Findings indicate the observed results. Initial Findings are preliminary observations and are used as a basis for further investigation. Findings are developed only after evaluating them against the PDA results where appropriate, and dialogue with the state have occurred. Through this process, Initial Findings may be confirmed, modified, or determined not to be supported. Findings are presented in Section IV of this report.

The quantitative metrics developed from the file reviews are initial indicators of performance based on available information and are used by the reviewers to identify areas for further investigation. Because of the limited sample size, statistical comparisons among programs or across states cannot be made.

State: Massachusetts

Review Period: FY 2010

CWA Metric #	Description	Numerator	Denominator	Metric Value	Assessment	Initial Findings
2b	% of files reviewed where data is accurately reflected in the national data system	16	30	53.3%	State Improvement	16 out of 30 facility files reviewed were complete. A variety of information and data was missing from facility files, including permit files, DMR reports, inspection documentation, lab sampling results, and 3560's.
4a	% of planned inspections completed. Summarize using the Inspection Commitment Summary Table in the CWA PLG				Meets Requirements	Region 1 met its commitments for all relevant agreements.
4b	Other Commitments. Delineate the commitments for the FY under review and describe what was accomplished.				Meets Requirements	Region 1 met its commitments for all relevant agreements.
6a	# of inspection reports reviewed			26		
6b	% of inspection reports reviewed that are complete	1	26	3.8%	State Improvement	1 out of 26 facility files reviewed were complete. 3560's were in many files. However, supporting documentation, including narrative information was often not present in the files reviewed.

CWA Metric #	Description	Numerator	Denominator	Metric Value	Assessment	Initial Findings
6c	% of inspection reports reviewed that provide sufficient documentation to lead to an accurate compliance determination	6	25	24.0%	State Improvement	6 of 25 facility files reviewed contained sufficient information to make an accurate compliance determination. While 3560's were present in some files, supporting documentation and narrative information was often missing. The review team notes that information from Region 1 inspections was available and sufficient on the Region 1 K Share Drive. However, information from the Mass DEP inspections was not available in the facility files.
6d	% of inspection reports reviewed that are timely	7	25	28.0%	State Improvement	7 out of 25 facility files reviewed contained sufficient information to determine the timeliness of inspection report completion. The review team notes the 6 inspection were EPA lead inspections.
7e	% of inspection reports or facility files reviewed that led to accurate compliance determinations	7	26	26.9%	State Improvement	7 out of 26 facility files reviewed contained sufficient information to make an accurate compliance determination. DMR data for Mass facilities was generally accurate and timely. However, while some files contained 3560's, specific information and narrative descriptions of inspections was generally lacking. The review notes that 5 EPA lead inspection reports were generally complete and available on the K Share Drive.
8b	% of single event violation(s) that are accurately identified as SNC or non-SNC	7	20	35.0%	State Improvement	7 of 20 facility files reviewed contained sufficient information to accurately identify single event violations as SNC or non-SNC. DMR data for Mass facilities was generally accurate and timely. However, while some files contained 3560's, specific information and narrative descriptions of inspections was generally lacking. The review notes that 5 EPA lead inspection reports were generally complete and available on the K Share Drive.
8c	% of single event violation(s) identified as SNC that are reported timely	4	7	57.1%	State Improvement	
9a	# of formal/informal enforcement responses reviewed			10		

CWA Metric #	Description	Numerator	Denominator	Metric Value	Assessment	Initial Findings
9b	% of enforcement responses that have returned or will return a source in noncompliance to compliance	4	10	40.0%	State Improvement	Due to a general lack of complete inspection reports from Massachusetts Department of Environmental Protection to review, the review team was in many instances unable to determine or verify if the enforcement response taken by Region 1 will return a facility to compliance, is appropriate to all potential violations at a facility, and is timely. For those facilities where Region 1 performed the inspection, and information is available on the K Share drive to determine completeness of the inspection reports, the review team was able to determine the enforcement response was complete, timely and appropriate.
9c	% of enforcement responses that have returned or will returned a source with non-SNC violations to compliance.	11	18	40.0%	State Improvement	11 out of 18 enforcement responses have returned, or will return a source with non-SNC violations to compliance. Of the 11 minor facilities with non-SNC determination, Region 1 took appropriate action, which have or will return the facility to compliance.
10b	% of reviewed enforcement responses to address SNC that are taken in a timely manner	3	10	30.0%	State Improvement	3 out of 10 enforcement responses reviewed that addressed SNC were timely. Of the 10 major facilities reviewed, Region 1 addressed 30% of enforcement responses that addressed SNC taken in a timely manner.
10c	% of enforcement responses reviewed that appropriately address violations	4	9	44.4%	State Improvement	Of the 9 major facilities with SNC determination, 4 of the responses taken were formal actions and were appropriate to the violation.
10d	% of enforcement responses reviewed that appropriately address non-SNC violations.	14	20	70.0%	State Improvement	14 out of 20 enforcement responses that addressed non-SNC were appropriate to the violations.
10e	% enforcement responses for non-SNC violations where a response was taken in a timely manner	12	18	66.7%	State Improvement	12 out of 18 enforcement responses for non-SNC violations were taken in a timely manner.
11a	% of penalty calculations that consider and include where appropriate gravity and economic benefit	4	5	80.0%	Meets Requirements	Region 1 penalty calculations generally appropriately include gravity and economic benefit. 1 of 5 files reviewed did not contain information sufficient to determine if gravity and benefit were considered.
12a	% of penalties reviewed that document the difference and rationale between the initial and final assessed penalty	2	3	66.7%	State Attention	2 of 3 files reviewed documented the calculation and decision process used to arrive at the final assessed penalty. In this instance Region 1 appropriately documented the rationale used.
12b	% of enforcement actions with penalties that document collection of penalty	2	3	66.7%	State Attention	2 of 3 files reviewed included copies of checks received in payment of the final assessed penalty.