

This report is formatted using an initial Round 2 State Review Framework Reporting Template that was in use at the time of the Michigan review, but has since been modified. As a result, the tables in the Findings and Recommendations section of the report highlight Elements using the initial template terms: 1) Best Practices or Exemplary Performance, 2) Areas of Concern, and/or 3) Significant Issues that warrant Recommendations for Improvement. Areas in which performance was satisfactory or in which there were minor issues are not highlighted in the Findings and Recommendation tables of the report.

U.S. EPA – Region 5 Review of Michigan DEQ Enforcement Program
Federal Fiscal Year 2007

November 2, 2009

I. EXECUTIVE SUMMARY

The State Review Framework (SRF) is a program designed to ensure that EPA conducts oversight of state 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 developing 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 capture information and agreements developed during the review process in order to facilitate program improvements. They 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.

A. Major State Priorities and Accomplishments

- Priorities – MDEQ’s priorities derive from commitments made to EPA through the workplan process. These commitments are noted in Appendix C though File Metric 4b of each program.
- Accomplishments – See discussion in Section B below.
- Best Practices – Best Practices are highlighted in Section B below as well as the Finding/Recommendation charts starting on page 11.
- Element 13 – MDEQ did not submit an Element 13 request.

B. Summary of Results

- Recommendations from Round 1 – Twenty four of 25 recommendations from Round 1 were considered complete as of the start of Round 2. EPA Region 5 has found in the Round 2 review, however, that some issues identified in Round 1 still exist. As a result, this report offers new recommendations. Region 5 and MDEQ will work jointly to act on these recommendations.
- Overall Round 2 Accomplishments and Best Practices
 - RCRA –
 - The inspection coverage frequency goal was met or exceeded for LQGs and TSDFs, and the inspection coverage frequency goal for SQGs was performed at an appropriate level for FY'07.
 - The two citizen complaints referred from EPA to MDEQ that were chosen for file review were adequately addressed among the many complaints that were received and investigated by MDEQ.
 - Based on the file review, MDEQ properly calculates penalties and records them.
 - CAA –
 - MDEQ exceeded its CMS plan commitment for conducting FCEs at major sources. As a matter of policy, MDEQ also inspects sources even when a FCE can be concluded without an on-site inspection. (*Best Practice*)
 - Based on the file review, MDEQ has a high rate of correct compliance determinations and return to compliance.
 - CWA -
 - The process in which Michigan issues and transmits a notice letter together with the inspection report is an effective way of facilitating and achieving compliance results. (*Best Practice*)
 - MDEQ exceeded its workplan commitment for major inspections and Industrial Pretreatment Program audits.
 - Based on the file review, MDEQ conducts appropriate enforcement for the types of violations it finds.
- RCRA Round 2 Results
 - *Areas with No Issues or Only Minor Issues* – Completion of inspections and other commitments (Element 4), timeliness of inspection reports (Element 6), accurate compliance determinations (Element 7), returning SNCs to compliance (Element 9), penalty calculation and collection (Elements 11 and 12).
 - *Areas of Concern* – Returning SVs to compliance (Element 9). Region 5 believes that MDEQ can resolve this concern without any recommendations.
 - *Significant Findings and Recommendations*
 - Element 1: Data Completeness
 - Finding 1-1: Zero of 11 Minimum Data Requirements under Element 1 (0%) were complete in RCRAInfo.

- Recommendation 1-1: MDEQ must address and fix the cause(s) of the problem of not translating in a timely manner into RCRAInfo by May 1, 2010.
- Action 1-1: By May 1, 2010, MDEQ, EPA Headquarters, and Region 5 will jointly work to address and fix the cause(s) of the problem of data not being represented in RCRAInfo. MDEQ will work closely with Region 5's Program Services Branch, and the Information Management Branch at EPA Headquarters, to resolve any issues which affect the translation process.
- Finding 1-2: MDEQ has been reporting informal enforcement actions as formal.
- Recommendation 1-2: By December 1, 2009, MDEQ must report certain actions as informal actions in RCRAInfo.
- Action 1-2a: By December 1, 2009, MDEQ will report certain informal actions with RCRAInfo 100 Series codes.
- Action 1-2b: By May 1, 2010, HQ will review the ERP definitions and the RCRAInfo fields. Region 5 will assist in the process.
- Element 2: Data Accuracy
 - Finding 2-1: Zero of three Minimum Data Requirements under Element 2 (0%) were accurate in RCRAInfo. Seven of 35 reviewed files (20%) had data accurately represented in RCRAInfo.
 - Recommendation 2-1: MDEQ must address and fix the cause(s) of the problem of not translating in a timely manner into RCRAInfo by May 1, 2010.
 - Action 2-1: By May 1, 2010, MDEQ, EPA Headquarters, and Region 5 will jointly work to address and fix the cause(s) of the problem of data not being represented in RCRAInfo. MDEQ will work closely with Region 5's Program Services Branch, and the Information Management Branch at EPA Headquarters, to resolve any issues which affect the translation process.
- Element 6 – Quality of Inspection or Compliance Evaluation Reports
 - Finding 6-1: Using the RCRA Inspection Report Evaluation Guide, six of 36 inspection reports (17%) were considered complete.
 - Recommendation 6-1: MDEQ must develop a plan for addressing completion of inspection reports by May 1, 2010. MDEQ must also review and revise its inspection manual in regard to complete inspection reports.
 - Action 6-1a: MDEQ will develop a plan for addressing completion of inspection reports by May 1, 2010.

- Action 6-2a: MDEQ will review and revise its inspection manual in regard to complete inspection reports by May 1, 2010.
- Element 7 – Identification of Alleged Violations
 - Finding 7-1: Zero of 36 reviewed files (0%) had violation determinations reported to RCRAInfo within 150 days.
 - Recommendation 7-1: MDEQ must address and fix the cause(s) of the problem of not translating in a timely manner into RCRAInfo by May 1, 2010.
 - Action 7-1: By May 1, 2010, MDEQ, EPA Headquarters, and Region 5 will jointly work to address and fix the cause(s) of the problem of data not being represented in RCRAInfo. MDEQ will work closely with Region 5's Program Services Branch, and the Information Management Branch at EPA Headquarters, to resolve any issues which affect the translation process.
- Element 8 – Identification of SNC and HPV
 - Finding 8-1: Data metrics show that MDEQ's SNC rate (1.45%) does not meet the goal of being less than half the national average (3.8%), and that the percentage of SNC determinations within 150 days (66%) was less than the goal of 100% as well as the national average of 82%. Based upon information documented in the reviewed case files, thirty four of 36 files (94%) were correctly classified as SNC or SV.
 - Recommendation 8-1: MDEQ must develop a plan for identification and follow-up of SNCs by May 1, 2010.
 - Action 8-1: MDEQ will develop a plan for identification and follow-up of SNCs by May 1, 2010.
- Element 10 – Timely and Appropriate Action
 - Finding 10-1: In 19 of 30 enforcement files (63%), the enforcement responses were within the timeliness guidelines for SNCs and SVs
 - Recommendation 10-1: MDEQ must review policies with enforcement staff. MDEQ must develop a timeliness plan by May 1, 2010.
 - Action 10-1a: MDEQ will review enforcement policies and procedures with enforcement staff.
 - Action 10-1b: MDEQ will develop a plan to improve timeliness by May 1, 2010.
 - Finding 10-2: Twenty-one of 29 enforcement responses (72%) in reviewed files were appropriate for the violations.
 - Recommendation 10-2: MDEQ must develop a plan for SNC identification and follow-up by May 1, 2010.
 - Action 10-2: MDEQ will develop a plan for identification and follow-up of SNCs by May 1, 2010.

- CAA Round 2 Review Results
 - *Areas with No Issues or Only Minor Issues* – Completion of inspection commitments (Element 4), accurate compliance determinations (Element 7), compliance determinations for non-HPVs (Element 7), accurate determination of HPVs (Element 8), return to compliance (Element 9), and appropriate response to HPVs (Element 10).
 - *Areas of Concern* – Identification of alleged violations (Element 7) and documentation for collection of penalties (Element 12).
 - *Significant Findings and Recommendations*
 - Elements 1, 2, and 3 – Data completeness, accuracy, and timeliness
 - Finding 1-1: In AFS, 3 of 26 Minimum Data Requirements (MDRs) under Element 1 (12%) were complete, 1 of 3 MDRs under Element 2 (33%) were accurate, and 0 of 3 MDRs under Element 3 (0%) were timely. Nineteen of 30 reviewed files (63%) had data accurately represented in AFS.
 - Recommendation 1-1: Region 5 and MDEQ create a plan by May 1, 2010 for resolution of issues in getting data into AFS.
 - Action 1-1a: By May 1, 2010, FY08 and FY09 data will be pulled to determine extent of data cleanup and resolution of reporting issues.
 - Action 1-1b: Region 5 and AQD will create a plan by May 1, 2010 by which to resolve data issues if the FY 08 and FY 09 data pulls determine there is still a problem.
 - Element 6 – Quality of Inspection or Compliance Evaluation Reports
 - Finding 6-1: Using the CAA Enforcement File Review Worksheet, 12 of 20 reviewed FCEs (60%) met the definition of a FCE and 13 of 27 reviewed CMRs or files (48%) provided sufficient documentation to determine compliance.
 - Recommendation 6-1: By May 1, 2010, Region 5 and MDEQ agree to the minimum requirements of complete FCEs and CMRs. A plan should be created by July 1, 2010 to implement any needed changes.
 - Action 6-1a: By May 1, 2010, Region 5 and MDEQ will agree to the minimum requirements of complete FCEs and CMRs.
 - Action 6-1b: By July 1, 2010, a plan will be created to implement any changes in regard to complete FCEs and CMRs.
 - Element 8 – Identification of SNC and HPV
 - Finding 8-1: In OTIS, the HPV rates for major and synthetic minor sources are not meeting national goals.

These rates may be affected by state data not getting into AFS as pointed out under Elements 1, 2, and 3. Eighteen of 18 violations in reviewed files (100%) were accurately determined to be HPVs.

- Recommendation 8-1: After data issues in Elements 1, 2, and 3 are resolved, if corrected data still shows untimely data entry or a low HPV rate, MDEQ should submit a plan to correct these issues by May 1, 2010.
- Action 8-1: If resolution of data issues does not resolve HPVs issues, MDEQ will submit a plan by May 1, 2010 to resolve these issues.
- Element 10 – Timely and Appropriate Action
 - Finding 10-1: Seventy three point three percent of HPVs did not meet timeliness goals according to OTIS. This percentage, however, could have been affected by state data not getting into AFS as pointed out under Elements 1, 2, and 3. In regard to the file review, four of 16 files with HPVs (25%) were addressed in a timely manner and 13 of 13 files with HPVs (100%) contained actions that were appropriate.
 - Recommendation 10-1: By May 1, 2010, MDEQ and Region 5 analyze core reasons for non-timely HPV actions. A plan should be created by July 1, 2010 for improving timeliness.
 - Action 10-1a: By May 1, 2010, MDEQ and Region 5 will analyze the core reasons for non-timely HPV actions.
 - Action 10-1b: If needed, a plan will be created by July 1, 2010 to improve timeliness.
- Element 11 – Penalty Calculation Method
 - Finding 11-1: Nine of 13 files with penalties (69%) considered and included gravity and economic benefit calculations.
 - Recommendation 11-1: R5 and MDEQ agree on a plan by May 1, 2010 to resolve documentation of penalties by July 1, 2010.
 - Action 11-1: By May 1, 2010, MDEQ and Region 5 will verify if the solution to this issue suggested by MDEQ in this report will resolve the issue. If not, MDEQ and Region 5 will agree and implement a solution by July 1, 2010.
- Element 12 – Final Penalty Assessment and Collection
 - Finding 12-1: One of 13 files with penalties (8%) documented the difference and rationale between the initial and final assessed penalty.
 - Recommendation 12-1: R5 and MDEQ agree on a plan by May 1, 2010 to resolve documentation of penalties by July 1, 2010.

- Action 12-1: By May 1, 2010, MDEQ and Region 5 will verify if the solution to this issue suggested by MDEQ in this report will resolve the issue. If not, MDEQ and Region 5 will agree and implement a solution by July 1, 2010.
- CWA Round 2 Review Results
 - *Areas with No Issues or Only Minor Issues* – Completion of inspections and other commitments (Element 4), accurate compliance determinations (Element 7), and return to compliance (Element 9).
 - *Areas of Concern* – Compliance determinations and timeliness in regard to inspection reports (Element 6) and timely & appropriate action (Element 10). Region 5 believes that MDEQ can resolve these concerns without any recommendations.
 - *Significant Findings and Recommendations*
 - Elements 1, 2, and 3 - Data completeness, accuracy, and timeliness
 - Finding 1-1: In the Permit Compliance System (PCS) database, 3 of 24 (13%) Minimum Data Requirements (MDRs) under Element 1 (data completeness) were complete and 1 of 1 (100%) MDR under Element 2 (data accuracy) was accurate. Thirteen of 39 reviewed files (33%) had data accurately represented in PCS.
 - Recommendation 1-1: R5 and MDEQ determine by June 30, 2010 how to resolve issue of data not getting into PCS. Until that time, MDEQ should input priority data immediately.
 - Action 1-1a: In conjunction with the preparation of the CWA 106 workplan for fiscal year 2011, MDEQ, EPA Headquarters, and Region 5 will jointly work to address and fix the cause(s) of the problem of not translating data into PCS.
 - Element 6 – Quality of Inspection or Compliance Evaluation Reports
 - Finding 6-2: Using the Clean Water Act Inspection Report Completeness Checklist, 12 out of 28 inspection reports reviewed (43%) were complete. However, this percentage could be affected by how EPA used the checklist and the fact that some inspection report data may have been kept in electronic systems that EPA did not review.
 - Recommendation 6-2: By May 1, 2010, Region 5 and MDEQ agree to minimum content of inspection reports, which should be spelled out in state policy.
 - Action 6-2: By May 1, 2010, Region 5 and MDEQ will agree to the minimum content of complete inspection reports, which will be captured in policy or guidance documents.
 - Element 7 & 8 – Identification of Alleged Violations and Identification of SNC

- Finding 7-1: No Single Event Violations (SEVs) were recorded in PCS. Related to this, 0% of SEVs were accurately identified as SNC. Also, the SNC rate as reported in EPA's Online Tracking Information System (OTIS) (28.3%) is different than the rate reported by MDEQ (<13%). MDEQ has a 71.8% rate of unresolved compliance schedule violations.
- Recommendation 7-1: As part of data resolution in Elements 1, 2, and 3, MDEQ should determine how to appropriately record SEVs and SNC in PCS. R5 and MDEQ should also discuss and resolve the high compliance schedule violation rate.
- Action 7-1: As part of the data effort in Action 1-1, MDEQ will accurately report SEVs, SNCs, and resolution to compliance schedule violations.
- Element 11 – Penalty Calculation Method
 - Finding 11-1: One of 7 files with penalties (14%) considered and included gravity and economic benefit calculations.
 - Recommendation 11-1: R5 and MDEQ will agree by May 1, 2010 what is appropriate penalty calculation documentation, with the expectation that MDEQ will add this to policies and procedures by July 1, 2010.
 - Action 11-1: By May 1, 2010, Region 5 and MDEQ will agree on appropriate penalty calculation documentation, which will be added to MDEQ policies and procedures by July 1, 2010.
- Element 12 – Final Penalty Assessment and Collection
 - Finding 12-1: Two of 6 files with penalties (33%) documented the rationale for the difference between the initial and final assessed penalty.
 - Recommendation 12-1: R5 and MDEQ will agree by May 1, 2010 what is appropriate penalty calculation documentation, with the expectation that MDEQ will add this to policies and procedures by July 1, 2010.
 - Action 12-1: By May 1, 2010, Region 5 will agree on appropriate penalty calculation documentation, which will be added to MDEQ policies and procedures by July 1, 2010.

C. Significant Cross-Media Findings and Recommendations

- Data Completeness, Accuracy, and Timeliness – This is an issue across all three programs at MDEQ and primarily stems from three areas: 1) data not transferring from MDEQ to EPA systems (all three programs), 2) lack of resources for data

- entry (Water), and 3) disagreement between MDEQ and Region 5 as to how certain actions should be defined in databases (RCRA, Water). Since the three MDEQ programs use MI-based databases that are independent of one another, Region 5 will work with each on an individual basis to resolve data issues.
- Penalty Calculation and Documentation – This is an issue with MDEQ’s CAA and CWA programs. A common tie between these programs is overall state policy that either does not require complete calculation documentation, or does not allow documentation to be kept for confidentiality reasons. Region 5 will discuss this issue jointly with both programs.

II. BACKGROUND INFORMATION ON STATE PROGRAM AND REVIEW PROCESS

A. General Program Overview

- **Agency Structure:** MDEQ is organized into nine divisions/offices. For purposes of the SRF, Region 5 worked with MDEQ's Air Quality Division, Waste and Hazardous Materials Division, and the Water Bureau. MDEQ's Headquarters office is in Lansing, MI, but it also has districts covering the Upper Peninsula, Cadillac, Gaylord, Saginaw Bay, Grand Rapids, Kalamazoo, Lansing, Jackson, and SE Michigan.
- **Compliance/Enforcement Program Structure:** The program divisions/offices listed above conduct compliance assurance and enforcement; there is no independent enforcement office. This work is done by the divisions/offices at both the HQ and district locations. HQ is largely responsible for policy decisions, guidelines, regulatory interpretations, and formal enforcement actions, while the districts conduct compliance assurance activities, informal enforcement actions, and some formal enforcement actions.
- **Roles and Responsibilities:** See bullet above for detailed roles and responsibilities. MDEQ has the authority to conduct both informal and formal administrative enforcement actions, as well as assess penalties for violations of state and federal environmental regulations. If civil or criminal actions are warranted, MDEQ refers cases to the state Attorney General's office.
- **Local Agencies Included/Excluded from Review:** No local agencies are delegated to conduct work in the programs under the SRF. As a result, no local agencies were chosen for an independent SRF review. However, files for the MDEQ review were chosen to cover multiple MDEQ districts – thus representing action across the state.
- **Resources:**
 - RCRA –
 - HQ FTE (current) – 35 + 8.5 Senior Environmental Employee support
 - District FTE (current) - 19.5
 - Source Workload – The range of inspections per inspector can be anywhere from 33 to 61 per FY. For FY09, it is estimated to be 38.
 - Resource Constraints – The FY09 Workplan includes 63 FTE of effort. Federal funds cover 35 FTE, with an additional 8.5 FTE of Senior Environmental Employee (SEE) staff, leaving 19.5 FTE that must be covered elsewhere (currently, these are covered by the state general fund and restricted funds). Flat federal funding and declining state funding are creating significant resource constraints.
 - CAA – In FY 2007, a total of 150 full-time equated positions (FTEs) performed enforcement, compliance, and permitting activities. From that total, 96 FTEs (approximately 64 percent) performed these activities in the

Title V Program as defined in Section 5501 of Act 451 (MI). Additionally, approximately 10 additional FTEs performed Title V support activities. The other 54 FTEs (approximately 36 percent) performed enforcement, compliance, and permitting activities in the non-Title V Program.

- CWA –
 - HQ FTE (current) – 13.7 (some FTE donated also to non-NPDES water programs)
 - District FTE (current) – 75.8 (some FTE donated also to non-NPDES water programs)
 - Resource Constraints – Lack of resources for NPDES is making it difficult to provide the FTE needed to ensure that all CWA required data gets into PCS.
- Staffing/Training:
 - Staffing (all programs) – When hiring staff, MDEQ decides for each particular position whether to post internally or externally. (There are times during hiring freezes when staff can only be hired internally.) Selection criteria are developed for each position, and resumes and interviews are used to judge a candidate against these criteria. Note: Qualification criteria for inspector positions are set by the State Civil Service Commission.
 - Training (all programs) – The type and length of training is resource-dependent. If sufficient resources are available, training may consist of a combination of private classroom course training and on-the-job training conducted by experienced inspectors and managers. At times, U.S. EPA or other organization will offer free training, which is attended by MDEQ staff. In addition to programmatic training, field staff must take safety and first aid/CPR training. Staff are required to develop an annual training plan each year, which is assessed as part of staff performance standards.
- Data Reporting Systems/Architecture:
 - RCRA - MDEQ staff enters compliance and enforcement data into the Michigan Waste Data System (WDS). Compliance, Monitoring, and Enforcement (CM&E) data should be translated to RCRAInfo on a monthly basis. However, due to a series of programming issues, the data systems have been unable to translate/upload complete information since May 2006. The Region, Headquarters, and MDEQ continue to seek a long term solution to ensure that data is populated into RCRAInfo.
 - CAA – Since the Michigan Department of Environmental Quality (MDEQ) is utilizing its own MACES system to upload data through the Universal Interface (UI) into the AIRS Facility System (AFS), MDEQ has been submitting data every 60 days in a timely manner for Title V major and synthetic minor facilities. However, after the first fiscal year of using the Universal Interface and uploading data to AFS, it was found that not all data is being pulled into AFS. Many of the Full Compliance Evaluations and High Priority Violators are not being uploaded to AFS even though they are listed in the MACES database. MDEQ IT people are aware of this issue and have made modifications to the stored procedure to

pull this data. Additionally, MDEQ is in the process of generating reports from the MACES action history in the UI and comparing to reports from MACES to see what data is missing

- CWA – MDEQ staff enters compliance and enforcement data into the NPDES Management System (NMS). Discharge Monitoring Report data is automatically transferred to PCS via a data exchange program, but other required data is directly entered into PCS by hand. Data from the review year (FFY 2007) did not get into PCS as required to a large degree, but cleanup efforts have since been enacted by MDEQ. As a result of this review, Region 5 and the MDEQ Water Bureau need to come up with a way to ensure transfer/entry of required data in the future.

B. Process for SRF Review

- Review Period: Federal Fiscal Year 2007
- Key Dates:
 - August 21, 2008 – Region 5 and MDEQ hold Opening Meeting
 - September 8, 2008 – Region 5 makes official OTIS data pull
 - November 17-21, 2008 – Region 5 RCRA and CAA programs conduct file reviews
 - November 21, 2008 – Region 5 sends official Preliminary Data Analysis, which was informally shared with the state earlier
 - December 9-12, 2008 – Region 5 CWA program conducts file review
- Communication with MDEQ: Throughout the SRF process, Region 5 communicated with MDEQ through official letters sent to the MDEQ Director and continual conversations by phone and email. During the Opening Meeting, Region 5 conducted a brief training of SRF Round 2 procedures and discussed issues and timelines for implementation in Michigan. In regard to file reviews, Region 5 opened each review with a meeting with MDEQ personnel to discuss the file review steps, and then closed each review with a discussion of initial file review results.
- State and Region Contacts:
 - SRF Coordinators – Andrew Anderson/R5 (312-353-9681), Tim McGarry/MDEQ (517-241-2050)
 - CWA – Ken Gunter/R5 (312-353-9076), James Coleman/R5 (312-886-0148), Kate Balasa/R5 (312-886-6027), Noel Vargas/R5 (312-353-3575), Peter Ostlund/MDEQ (517-373-1982), Barry Selden/MDEQ (517-373-6437)
 - RCRA – Paul Little/R5 (312-886-4460), Paul Atkociunas/R5 (312-886-7502), Bryan Gangwisch/R5 (312-886-0989), Lonnie Lee/MDEQ (517-373-4735), John Craig/MDEQ (517-373-7923), Christine Grossman/MDEQ (517-373-0590)
 - CAA – Bonnie Bush/R5 (312-353-6684), Jeff Gahris/R5 (312-886-6794), Renee Honore/R5 (312-886-0749), Janis Denman/MDEQ (231-775-3960), Tom Hess/MDEQ (517-335-4615)

III. STATUS OF RECOMMENDATIONS FROM PREVIOUS REVIEW

During the first SRF review of MDEQ's compliance and enforcement programs in 2004, Region 5 and MDEQ 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.

Region	State	Status	Due Date	Media	Element	Title	2004 Finding
Region 05	MI - Round 1	Completed	4/24/2006	RCRA	Insp Universe	Reconcile list of TSDs	EPA's and MDEQ's lists of operating TSDs do not match
Region 05	MI - Round 1	Completed	4/24/2006	RCRA	Violations ID'ed Appropriately	Complete reports/checklist thoroughly	Inspection reports/checklists not thorough enough in terms of facility and violation information
Region 05	MI - Round 1	Completed	4/24/2006	RCRA	SNC Accuracy	Adhere to SNC Policy	SNCs not identified correctly in all cases
Region 05	MI - Round 1	Completed	4/25/2006	RCRA	Penalty Calculations	Maintain gravity and econ benefit calculations	No gravity and economic benefit information in case files
Region 05	MI - Round 1	Completed	6/29/2006	RCRA	Penalty Calculations	Use work planning for gravity and econ benefit	No gravity and economic benefit information in case files
Region 05	MI - Round 1	Completed	4/25/2006	RCRA	Data Accurate	Resolve ECHO error requests	ECHO data errors not resolved in a timely manner
Region 05	MI - Round 1	Completed	4/25/2006	RCRA	Data Accurate	Reconcile Counts of elements	EPA's and MDEQ's count of compliance monitoring and enforcement elements not the same
Region 05	MI - Round 1	Completed	4/25/2006	CAA	Insp Universe	FCE Completions not showing up	All FCE completions for Title V sources in 03/04 not showing up in EPA data
Region 05	MI - Round 1	Completed	4/25/2006	CAA	Violations ID'ed Appropriately	Ensure HPV Guidance being followed	HPV Guidance not followed for classification of HPVs
Region 05	MI - Round 1	Completed	4/25/2006	CAA	Timely & Appropriate Actions	Put HPVs on HPVL in timely manner	Settlements not always timely
Region 05	MI - Round 1	Completed	4/25/2006	CAA	Timely & Appropriate Actions	Promote SEPS during settlement	SEPs are not promoted during settlement process
Region 05	MI - Round 1	Completed	4/25/2006	CAA	Penalty Calculations	Maintain gravity and econ ben calculations	Gravity and economic benefit information not always in case files
Region 05	MI - Round 1	Completed	4/25/2006	CAA	Penalty Calculations	Seek commitment for gravity and ben calculation	Gravity and economic benefit information not always in case files
Region 05	MI - Round 1	Completed	8/30/2006	CAA	Grant Commitments	Enter Agreement to cover Title V Sources	PPA only covers non-Title V sources
Region 05	MI - Round 1	Working	8/30/2006	CAA	Data Timely	Upload data into AFS	MI is not uploading data into AFS
Region 05	MI - Round 1	Completed	4/25/2006	CWA	Insp Universe	Input from MI on ASIWPCA process	Number of majors inspections insufficient
Region 05	MI - Round 1	Completed	4/25/2006	CWA	Violations ID'ed Appropriately	Ensure good reports	Inspection reports not complete
Region 05	MI - Round 1	Completed	8/30/2006	CWA	Violations ID'ed Appropriately	EPA to conduct training inspections	Inspection reports not complete

Region 05	MI - Round 1	Completed	8/30/2006	CWA	Violations ID'ed Appropriately	EPA conduct oversight inspections	Inspection reports not complete
Region 05	MI - Round 1	Completed	8/30/2006	CWA	Violations ID'ed Appropriately	Modify EMS for inspection reporting	Inspection reports not complete
Region 05	MI - Round 1	Completed	4/25/2006	CWA	Violations ID'ed Timely	Monitor report deadlines	Inspection reports not timely
Region 05	MI - Round 1	Completed	8/30/2006	CWA	Violations ID'ed Timely	Add report deadlines into state EMS	Inspection reports not timely
Region 05	MI - Round 1	Completed	4/25/2006	CWA	SNC Accuracy	Continue with enhancements to state NMS system.	Entry of data into PCS not complete or timely
Region 05	MI - Round 1	Completed	8/30/2006	CWA	Timely & Appropriate Actions	Improve notice letters	Notice letters not sufficient
Region 05	MI - Round 1	Completed	8/30/2006	CWA	Penalty Calculations	Implement changes for gravity and ben calculations	Gravity and BEN calculations are not complete or not made.

IV. OVERALL FINDINGS AND RECOMMENDATIONS

This section identifies: the Findings from the review of the data and file metrics; whether the issues identified are simply being brought to the state's attention or need corrective measures; the state's input on the findings and recommendations; and, if corrective measures are needed, the actions agreed upon between the Region and the state.

The tables in this section highlight those review Elements in which the following were identified: 1) Best Practices or Exemplary Performance, 2) Areas of Concern, and/or 3) Significant issues that warrant Recommendations for Improvement. Areas in which performance was satisfactory or in which there were minor issues are not highlighted in this section. The following describes the components of the tables:

1. **Findings** – Findings represent the Region's conclusions regarding the issues 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 whether an issue indeed exists, and the severity and root causes of the issue.
 - a. Findings are presented by Element.
 - b. Findings can identify an issue or an area of exemplary performance.
 - c. Findings can be based on more than one metric (e.g., data and file metrics that support the same conclusion).
 - d. Findings are numbered in sequence by Element (e.g., the first finding under Element 1 is Finding 1-2, the second finding under Element 1 is 1-2, etc.).
2. **Finding Category** –
 - a. Best Practice or Exemplary Performance – documents best practices that can be used as examples for other agencies, or performance that goes beyond normal program expectations.
 - b. Area of Concern – an issue that the Region has identified and is bringing to the attention of the State, but is not significant enough to require the Region to identify and track state actions to correct.
 - c. Recommendation for Improvement – significant issues for which the Region and the state will identify corrective steps. Specific actions and annual milestones are identified in the Actions section, highlighted in the Executive Summary of this report, entered into the SRF Tracker database, and reviewed by the Region annually.
3. **Metric and Quantitative Metric Value** –
 - a. The metrics that pertain to the finding are identified.
 - b. The Quantitative Metric Value is the numeric indicator of performance against a national standard or average, or other numeric indicator of performance.
 - c. For Data Metrics, the information is taken directly from the Preliminary Data Assessment (PDA) in Appendix A of this report.
 - d. For File Metrics, the information is taken directly from the File Review Analysis Charts in Appendix C of this report.
4. **State Response** – The state response to the Findings and Recommendations includes the state's written response. If there is not a written response, it may include information from discussions with the state programs.
5. **Actions** – The Actions section contains the specific steps the Region or state will take to address the recommendation, including annual milestones and a completion date. The outcome steps are entered into the SRF Tracker and reviewed annually.

Resource Conservation and Recovery Act

Resource Conservation and Recovery Act		
Element 1. Data Completeness. Degree to which the Minimum Data Requirements are complete. (example, correct codes used, dates are correct, etc.)		
1-1	Finding	Zero of 11 Minimum Data Requirements under Element 1 (0%) were complete in RCRAInfo.
	This finding is a(n):	<input type="checkbox"/> Best Practice or other Exemplary Performance <input type="checkbox"/> Area of Concern <input checked="" type="checkbox"/> Recommendation for Improvement
	Explanation: (If area of concern, describe why action not required; if recommendation, provide recommended action.)	<p>Review of the data metrics, as well as the results of the file review, indicate in FY'07 mandatory data was not reflected in RCRAInfo. In October 2008, MDEQ translated their compliance monitoring data into RCRAInfo; however, enforcement data failed to translate appropriately. Enforcement action types/dates, violation type, determination dates, return to compliance dates, and return to compliance qualifiers were not reflected in RCRAInfo. MDEQ has indicated that they are in the process of obtaining contractor support to resolve the programming issues. However, the continual lack of transparency in the national database presents difficulties for the public, regulated community, and national RCRA targeting / planning.</p> <p>Recommended Action: MDEQ must address and fix the cause(s) of the problem of not translating in a timely manner RCRA compliance monitoring and enforcement data into RCRAInfo by May 1, 2010. MDEQ should work closely with Region 5's Program Services Branch, and the Information Management Branch at EPA Headquarters to resolve any issues which affect the translation process.</p>
	Metric(s) and Quantitative Values	<ul style="list-style-type: none"> • Zero of 11 Minimum Data Requirements under Element 1 (0%) were complete in RCRAInfo.
	State Response	<p>The Waste and Hazardous Materials Division (WHMD) agrees that translation of data is a high priority. Nevertheless, delays have been the equal responsibility of the WHMD and EPA with system delays, incomplete documentation, and continual changes to the final translation documentation.</p> <p>To address the data translation issues, the WHMD executed a contract with Windsor Solutions, Inc., to update the Waste Data System (WDS) to meet RCRAInfo translation criteria. The WHMD anticipates that translation will resume before the end of the fiscal year. At this time, because of additional business rules in v4, WHMD staff are working to make changes to historical data (i.e., before v3 and v4). This is necessary because at this time Michigan deletes/adds all data to ensure that data, with changes to what is also a part of the link between flat files, is not double-entered as seems to be the problem with other states that translate. In order to ensure continued translation of accurate data in the future, EPA Headquarters (HQ) needs to ensure that dedicated staff is available at EPA HQ to assist translator states in rectifying translation errors, particularly those associated with programming and access changes. It is also essential that EPA HQ or Region staff notify translator states, in a timely manner, of all RCRAInfo programming changes to facilitate the WHMD implementation of timely changes to WDS, including those associated with secure access. This is necessary to facilitate WHMD database changes that eliminate translation errors, which interrupt and prevent Michigan data translation and uploading into the RCRAInfo database.</p> <p>Note: MDEQ expects to translate under RCRAInfo v4 by January 31, 2010, but we do not know the schedule for v5.</p>

	Action(s) (include any uncompleted actions from Round 1 that address this issue.)	<ul style="list-style-type: none"> By May 1, 2010, MDEQ, EPA Headquarters, and Region 5 will jointly work to address and fix the cause(s) of the problem of data not being represented in RCRAInfo. MDEQ will work closely with Region 5's Program Services Branch, and the Information Management Branch at EPA Headquarters, to resolve any issues which affect the translation process.
1-2	Finding	MDEQ has been reporting informal enforcement actions as formal enforcement actions.
	This finding is a(n):	<input type="checkbox"/> Best Practice or other Exemplary Performance <input type="checkbox"/> Area of Concern <input checked="" type="checkbox"/> Recommendation for Improvement
	Explanation: (If area of concern, describe why action not required; if recommendation, provide recommended action.)	<p>Informal enforcement actions defined by the state (Fast Track Order Draft Issued, NOV Draft Order Issued and Stipulated Penalties Assessed) are being reported as formal enforcement actions (200-Series RCRAInfo Codes). The actions should be defined as informal enforcement actions (100-Series RCRAInfo Codes).</p> <p>Recommended Action: By December 1, 2009, MDEQ must report and define 'Fast Track Order Draft Issued,' 'NOV Draft Order Issued,' and 'Stipulated Penalties Assessed' as informal enforcement actions with 100-Series RCRAInfo codes identified.</p>
	Metric(s) and Quantitative Values	<ul style="list-style-type: none"> Data metrics that report number and timeliness of formal enforcement actions are not accurate because of incorrect coding of actions.
	State Response	<p>The EPA has concluded that the WHMD's issuance of proposed administrative orders that include injunctive relief and penalties do not meet the definition of initial formal orders that can be reported using the 200 series enforcement-type codes established for RCRAInfo reporting. However, the EPA recognizes that issuance of a final administrative order that provides the same is a final formal action that can be reported using the 300 series enforcement type codes established for RCRAInfo reporting of formal enforcement.</p> <p>The WHMD disagrees with this EPA conclusion and believes reporting the issuance of a proposed administrative order as an initial formal order in RCRAInfo is consistent with applicable federal policy and the definition of a formal enforcement action for state actions in the 2003 RCRA Enforcement Response Policy (ERP). See Section IV, Definitions, Item E, Formal Enforcement. The WHMD also disagrees with the EPA's conclusion that the issuance of an initial proposed order should be reported as an informal action established to report actions resolved without orders using the 100 series enforcement-type codes.</p> <p>The WHMD believes the EPA reached this conclusion in error because the ERP, when revised in 2003 to identify formal enforcement actions for states, did not require appeal rights before a trier of fact, failed to recognize this change when describing response timelines under Section VII, Item (1), and when describing unilateral orders and initial order time lines. This oversight was carried forward in Appendix A of the ERP and in the RCRAInfo nationally defined values. In both Appendix A and RCRAInfo, the description of an initial formal order as applied to states was not revised to recognize that state formal actions do not require appeal rights before a trier of fact, whereas federal formal actions do. Prior to the 2003 ERP, all formal actions were required to have appeal rights before a judge.</p> <p>This oversight in changing the 200 series RCRAInfo reporting definition for initial formal actions has resulted in inconsistent reporting nationally (from region-to-region and state to-state within regions as is the case here)¹. Additionally, reporting state initial proposed orders, as requested presently by the EPA, causes some states, including Michigan, to be unable to report any activity taken to formally resolve a significant noncomplier (SNC) prior to executing/issuance of a final judicial or administrative order. This suggests enforcement inactivity when, in fact, action is being taken to resolve significant noncompliance in accordance with the ERP.</p>

		<p>In light of the above, the WHMD is requesting that the EPA review the inconsistencies in describing initial formal actions/order in the ERP and the use of 200 series codes to make them consistent with the definition of formal enforcement as applied to state actions under the ERP, thus affording states the ability to report proposed administrative orders as initial formal enforcement actions using the 200 series enforcement-type codes in RCRAInfo.</p> <p>In the interim, once translation has resumed, the WHMD will translate 200 series actions recorded in the state system to the federal system as 100 series codes.</p> <p>¹ The following identifies the number of reported 200 actions by region (R) for EPA (E) and states (S) from October 1, 2001, through September 20, 2007: R1: E – 62, S – 150; R2: E – 94, S – 726; R3: E – 38, S – 178; R4: E – 55, S – 805; R5: E – 97, S – 686; R 6: E – 60, S – 459; R 7: E – 68, S – 4; R 8: E – 2, S – 91; R 9: E – 69, S – 351; R10: E – 10, S – 160.</p>
	Action(s) (include any uncompleted actions from Round 1 that address this issue.)	<ul style="list-style-type: none"> • By December 1, 2009, MDEQ will report actions as defined above as informal actions with a RCRAInfo 100 Series codes. • By May 1, 2010, HQ will review the ERP definitions and the RCRAInfo fields. Region 5 will assist in the process.

Resource Conservation and Recovery Act		
Element 2. Data Accuracy. Degree to which the Minimum Data Requirements are accurate. (example, correct codes used, dates are correct, etc.)		
2-1	Finding	Zero of three Minimum Data Requirements under Element 2 (0%) were accurate in RCRAInfo. Seven of 35 reviewed files (20%) had data accurately represented in RCRAInfo.
	This finding is a(n):	<input type="checkbox"/> Best Practice or other Exemplary Performance <input type="checkbox"/> Area of Concern <input checked="" type="checkbox"/> Recommendation for Improvement
	Explanation: (If area of concern, describe why action not required; if recommendation, provide recommended action.)	<p>Review of the data metrics, as well as the results of the file review, indicate in FY'07 mandatory data was not reflected in RCRAInfo. In October 2008, MDEQ translated their compliance monitoring data into RCRAInfo; however, enforcement data failed to translate appropriately. Enforcement action types/dates, violation type, determination dates, return to compliance dates, and return to compliance qualifiers were not reflected in RCRAInfo. MDEQ has indicated that they are in the process of obtaining contractor support to resolve the programming issues. However, the continual lack of transparency in the national database presents difficulties for the public, regulated community, and national RCRA targeting / planning.</p> <p>Recommended Action: MDEQ must address and fix the cause(s) of the problem of not translating in a timely manner RCRA compliance monitoring and enforcement data into RCRAInfo by May 1, 2010. MDEQ should work closely with Region 5's Program Services Branch, and the Information Management Branch at EPA Headquarters to resolve any issues which affect the translation process.</p>
	Metric(s) and Quantitative Values	<ul style="list-style-type: none"> • Zero of three Minimum Data Requirements under Element 2 (0%) were accurate in RCRAInfo. • File Metric 2c – 7 out of 35 (20%) files had data accurately represented in RCRAInfo.
	State Response	<p>The WHMD agrees with this statement on a factual basis only. However, as is indicated in 1-1 above, deficiencies in the accuracy of data in RCRAInfo is directly related to the inability to translate. Complete state RCRA data has been entered into Michigan's WDS database routinely and on time and has just not translated due to programming changes to the federal database and difficulty in making equivalent changes to WDS to maintain monthly translation.</p> <p>The Michigan Department of Environmental Quality had staff dedicated to resolving translation</p>

		<p>data and programming errors to resume translation throughout the duration of time that CME data has not translated. Information from WDS is available for review on the Internet at http://www.deq.state.mi.us/wdspi/.</p> <p>Please see the response to 1-1, above, for information on how the WHMD plans to address this issue.</p>
	Action(s) (include any uncompleted actions from Round 1 that address this issue.)	<ul style="list-style-type: none"> By May 1, 2010, MDEQ, EPA Headquarters, and Region 5 will jointly work to address and fix the cause(s) of the problem of data not being represented in RCRAInfo. MDEQ will work closely with Region 5's Program Services Branch, and the Information Management Branch at EPA Headquarters to resolve any issues which affect the translation process.

Resource Conservation and Recovery Act		
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	Finding	Using the RCRA Inspection Report Evaluation Guide, six of 36 inspection reports (17%) were considered complete.
	This finding is a(n):	<input type="checkbox"/> Best Practice or other Exemplary Performance <input type="checkbox"/> Area of Concern <input checked="" type="checkbox"/> Recommendation for Improvement
	Explanation: (If area of concern, describe why action not required; if recommendation, provide recommended action.)	<p>A review of the files indicated that 6 of the 36 (17%) of the inspection reports were considered complete. Inspection files generally lacked a narrative, photographs, documentary support, facility descriptions and references to statements made by facility representatives. The file review team utilized the RCRA Inspection Report Completeness Checklist located in the State Review Framework RCRA File Review Metrics Plain Language Guide to evaluate the inspection reports. The lack of complete inspection reports may play a role in the low SNC identification rate as defined in Element 8.</p> <p>Recommended Actions: MDEQ must develop a plan that includes guidelines, procedures and oversight the completion of inspection reports by May 1, 2010. The plan should include training staff on the completeness of inspection reports, SNC identification criteria, timely SNC determinations, and a mechanism for management oversight to ensure consistency.</p> <p>MDEQ must review and revise its Hazardous Waste Compliance Inspection Procedure Manual to incorporate those items necessary for a complete inspection report by May 1, 2010. The RCRA Inspection Report Completeness Checklist should be used as a template and incorporated into the training program and future inspection manuals.</p>
	Metric(s) and Quantitative Values	<ul style="list-style-type: none"> File Metric 6b –6 of the 36 inspection reports (17%) were considered complete.
	State Response	<p>The WHMD agrees with this statement in part. The main issues identified in the EPA file audit continue to focus on a lack of a single, stand-alone comprehensive narrative report. It appears that after many discussions with the EPA regarding the WHMD's position on this matter, the EPA does not consider notations made on the WHMD Inspection Checklist along with the narrative statements and elaborations regarding the observations and manner of violation found in the compliance letters to substitute for a stand-alone narrative.</p> <p>Considering the additional burden of complaint investigations and multiple program obligations and flat federal funding, the WHMD does not have sufficient resources to accommodate the development of detailed narrative reports equivalent to the EPA process as desired by the EPA. While the WHMD agrees that narrative reports might be beneficial in an enforcement action, the WHMD also finds that the vast majority of state inspections never rise to the level of</p>

		<p>enforcement actions; and where formal action has been necessary, there is sufficient information to successfully complete a formal enforcement action. The WHMD has always taken the position that compliance resources are better used to conduct as many inspections as possible and promptly provide notice of violations observed to the regulated entity. Regarding whether to sacrifice copious detail for better inspection coverage, as WHMD believes, that better inspection coverage is ultimately more effective in terms of environmental and public health protection.</p> <p>The WHMD has reviewed the audit results and will share them with inspection and management staff to use as a training tool to improve inspection reporting and documentation. In doing so, we will continue to work on providing greater detail on staff inspection documentation including the need to specifically identify and detail statements, representations, and admissions made by facility representatives to WHMD staff during those inspections. Additionally, we will pursue a more automated means of making available WDS database information, including manifest tracking, site notification, historical compliance/enforcement information, etc., available to the inspector prior to the inspection. We believe this will help to ensure the capture of the greater detail desired by the EPA in inspection reports. This effort is part of the WDS update by the State's contractor, Windsor Solutions, Inc., and is already underway. The WHMD will also update procedure and provide instruction to staff on documenting the server location of electronic photos not included in the file.</p> <p>There appears to be a misunderstanding, on the EPA's part, of how much time staff has to issue an initial violation notice. The EPA lists the time frame as ten days, viewing those as calendar days, and the actual time frame is ten business days, or 14 calendar days. Several comments were made by the EPA indicating that staff did not make timely responses. Those responses were within the 14 calendar days and, therefore, should not have been identified as an issue.</p> <p>While the WHMD believes that the WHMD has well-trained and competent staff that conduct and document thorough and complete inspections, budgetary constraints have limited staff training opportunities, which could have minimized some of the minor deficiencies noted by the EPA. In consideration of the EPA recommendations, the WHMD will work to revise its Inspection Procedure Manual to include improvement to the guidelines, procedures, and oversight for the completion of inspection reports. However, the WHMD believes that the completion of inspections to meet grant commitments is a higher priority than development of the aforementioned guidelines and procedures at this time and trusts that the EPA will agree. In light of that, the WHMD anticipates completion of this process by January 31, 2010, rather than September 1, 2009 [as was originally suggested in the draft report].</p>
	<p>Action(s) (include any uncompleted actions from Round 1 that address this issue.)</p>	<ul style="list-style-type: none"> • Region 5 notes the clarification on the number of days that staff has to issue an initial violation notice. As a result, it has updated Metric 6c in this report to reflect the counting error in regard to one case file. The change did not alter the finding or recommendation for Metric 6b, inspection report completeness. • MDEQ will develop a plan that includes guidelines, procedures and oversight the completion of inspection reports by May 1, 2010. The plan should include training staff on the completeness of inspection reports, SNC identification criteria, timely SNC determinations, and a mechanism for management oversight to ensure consistency. (See State Response and Action under Finding 8-1). Region 5 is willing to assist in development and implementation of the plan. • MDEQ will review and revise its Hazardous Waste Compliance Inspection Procedure Manual to incorporate those items necessary for a complete inspection report by May 1, 2010. The RCRA Inspection Report Completeness Checklist should be used as a reference when updating the inspection manual.

Resource Conservation and Recovery Act		
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	Finding	Zero of 36 reviewed files (0%) had violation determinations reported to RCRAInfo within 150 days.
	This finding is a(n):	<input type="checkbox"/> Best Practice or other Exemplary Performance <input type="checkbox"/> Area of Concern <input checked="" type="checkbox"/> Recommendation for Improvement
	Explanation: (If area of concern, describe why action not required; if recommendation, provide recommended action.)	<p>Review of the data and file metrics indicate that in FY'07 mandatory data was not reflected in RCRAInfo. In October 2008, MDEQ translated their compliance monitoring data into RCRAInfo. The compliance monitoring data includes violation determinations.</p> <p>Recommended Action: MDEQ must address and fix the cause(s) of the problem of not translating in a timely manner RCRA compliance monitoring and enforcement data into RCRAInfo by May 1, 2010. Although, SNC data appears to be reflected in the national database, data concerns continue to develop. MDEQ should work closely with Region 5's Program Services Branch and the Information Management Branch at EPA Headquarters to resolve any issues which affect the translation process.</p>
	Metric(s) and Quantitative Values	<ul style="list-style-type: none"> File Metric 7b – 0 of the 36 files reviewed (0%) had violation determinations reported to the national database in a timely manner (within 150 days).
	State Response	The WHMD agrees with this statement on a factual basis only. However, as is indicated in 1-1 and 2-1, above, deficiencies in the accuracy and timeliness of data reporting to RCRAInfo is directly related to the inability to translate. Please see the response to 1-1 and 2-1, above.
	Action(s) (include any uncompleted actions from Round 1 that address this issue.)	<ul style="list-style-type: none"> By May 1, 2010, MDEQ, EPA Headquarters, and Region 5 will work to resolve the issue of data not being represented in RCRAInfo. MDEQ will work closely with Region 5's Program Services Branch and the Information Management Branch at EPA Headquarters to resolve any issues which affect the translation process.

Resource Conservation and Recovery Act		
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	Finding	Data metrics show that MDEQ's SNC rate (1.45%) does not meet the goal of being less than half the national average (3.8%), and that the percentage of SNC determinations within 150 days (66%) was less than the goal of 100% as well as the national average of 82%. Based on information documented in the reviewed case files, thirty four of 36 files (94%) were correctly classified as SNC or SV.
	This finding is a(n):	<input type="checkbox"/> Best Practice or other Exemplary Performance <input type="checkbox"/> Area of Concern <input checked="" type="checkbox"/> Recommendation for Improvement
	Explanation: (If area of concern, describe why action not required; if recommendation, provide recommended action.)	<p>State SNC rate is less than half of the national average. During the file review, the Region determined that two files identified as secondary violators should have been classified as SNCs. Also, SNC determinations are not conducted in a timely manner.</p> <p>Recommended Action: In conjunction with Finding 6-1, MDEQ must develop a plan that includes guidelines, procedures and oversight for the identification of Significant Non-Compliers by May 1, 2010. The plan should include training staff on the completeness of inspection reports, SNC identification criteria, timely SNC determinations, and a mechanism for management oversight to ensure consistency.</p>

	Metric(s) and Quantitative Values	<ul style="list-style-type: none"> • Data Metric 8a – State SNC rate (1.45%) is less than half of the national average (3.8%). • Data Metric 8b: The percentage of State SNC determinations within 150 days (66.6%) was less than the national average (82%). • File Metric 8d: The Region determined that 34 of the 36 inspection report files reviewed (94%) were correctly classified. The Region determined that 2 files designated as SVs should have been classified as SNCs.
	State Response	The WHMD believes that the majority of SNCs are identified adequately and timely. However, based on this review, there is an apparent need to review and possibly revise procedures and guidelines and provide periodic training to staff relative to the identification of SNCs. This issue will be addressed along with other issues identified in 6-1.
	Action(s) (include any uncompleted actions from Round 1 that address this issue.)	<ul style="list-style-type: none"> • In conjunction with Finding 6-1, MDEQ will develop a plan that includes guidelines, procedures and oversight for the identification of Significant Non-Compliers by May 1, 2010. The plan should include training staff on the completeness of inspection reports, SNC identification criteria, timely SNC determinations, and a mechanism for management oversight to ensure consistency. Region 5 is willing to assist in development and implementation of the plan.

Resource Conservation and Recovery Act		
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	Finding	Six of six enforcement responses (100%) returned SNCs to compliance. Nineteen of 23 enforcement responses (83%) returned SVs to compliance .
	This finding is a(n):	<input type="checkbox"/> Best Practice or other Exemplary Performance <input checked="" type="checkbox"/> Area of Concern <input type="checkbox"/> Recommendation for Improvement
	Explanation: (If area of concern, describe why action not required; if recommendation, provide recommended action.)	<p>Six of 6 enforcement responses returned SNCs to compliance.</p> <p>Nineteen of 23 enforcement responses returned SVs to compliance. In two of the remaining four files, the state issued RTC letters when there did not seem to be adequate information (i.e. accompanying documentation, photographs, etc.) for the RTC. In the two other files, RTC letters were not issued by the date of the file review. In these two cases, the violations resulted from inspections by staff who were not RCRA enforcement personnel. Other programs (i.e. Solid Waste) cited the violations, and failed to issue RTC letters for the RCRA concerns.</p> <p>The WHMD Hazardous Waste Compliance Inspection Procedure Manual provides that verifying compliance can be through either of the following:</p> <ul style="list-style-type: none"> - A review of submitted documentation with a letter verifying receipt of the facility's response and indicating compliance status. -A re-inspection of the facility to review the violations originally cited during the initial inspection. Documentation is required and may be a new inspection form, field report, or memo to the file. Note any new violations identified and follow up with appropriate notification to the facility. <p>The finding is only an area of concern because the Region believes that a review of information necessary to issue an RTC letter can be conducted during training outlined in Finding 6-1, and 8-1. In the instances where RTC letters were not issued, improved communication between the programs (i.e. RCRA and Solid Waste) will resolve outstanding issues.</p>
	Metric(s) and	<ul style="list-style-type: none"> • File Metric 9b – 6 of 6 enforcement responses (100%) returned SNCs to compliance.

	Quantitative Values	<ul style="list-style-type: none"> File Metric 9c – 19 of the 23 enforcement responses (83%) returned SVs to compliance.
	State Response	There are circumstances where a return to compliance was not needed and in those circumstances adequate file documentation should be present. The WHMD will review this concern and address it, if needed, through the use of procedures, guidelines, and training.
	Action(s) (include any uncompleted actions from Round 1 that address this issue.)	<ul style="list-style-type: none"> WHMD will verify compliance in accordance with policy and guidelines.

Resource Conservation and Recovery Act		
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	Finding	In 19 of 30 enforcement files (63%), the enforcement responses were within the timeliness guidelines for SNCs and SVs.
	This finding is a(n):	<input type="checkbox"/> Best Practice or other Exemplary Performance <input type="checkbox"/> Area of Concern <input checked="" type="checkbox"/> Recommendation for Improvement
	Explanation: (If area of concern, describe why action not required; if recommendation, provide recommended action.)	<p>11 of 30 enforcement files reviewed did not have enforcement responses within timeliness guidelines.</p> <p>Recommended Action: MDEQ must review enforcement policies and procedures with enforcement staff. MDEQ must develop a plan to improve timeliness by May 1, 2010.</p>
	Metric(s) and Quantitative Values	File Metric 10c – In 19 of the 30 enforcement files (63%), the enforcement responses were within the timeliness guidelines for SNCs and SVs, as appropriate.
	State Response	Please see responses to 6-1 and 8-1, above.
	Action(s) (include any uncompleted actions from Round 1 that address this issue.)	<ul style="list-style-type: none"> MDEQ will review enforcement policies and procedures with enforcement staff. MDEQ will also develop a plan to improve timeliness by May 1, 2010. Region 5 is willing to assist in development and implementation of the plan. Region 5 will continue participation in the national federal/state workgroups that are trying to resolve common issues identified through the state review process, and invites MDEQ to participate as well. One of these issues is achieving timely and appropriate enforcement in the midst of barriers that make this difficult.
10-2	Finding	Twenty-one of 29 enforcement responses (72%) in reviewed files were appropriate for the violations.
	This finding is a(n):	<input type="checkbox"/> Best Practice or other Exemplary Performance <input type="checkbox"/> Area of Concern <input checked="" type="checkbox"/> Recommendation for Improvement
	Explanation: (If area of concern, describe why action not required; if recommendation, provide recommended action.)	In 21 of the 29 of the enforcement files, the enforcement responses were appropriate for the violations. 6 of the 6 SNC files with formal actions were responded to in an appropriate manner with formal orders and penalty actions. In 15 of the 23 SV files, the enforcement response was appropriate for the violations documented. All 8 SV cases that were not appropriate failed to be RTCd within 240 days without being designated as a SNC. Two of those also had violations that appeared to meet the definition of a SNC and should have been initially designated as SNCs.

	action.)	Recommended Action: In conjunction with Finding 6-1 and 8-1, MDEQ must develop a plan that includes guidelines, procedures and oversight for the identification of Significant Non-Compliers by May 1, 2010. The plan should include training staff on the completeness of inspection reports, SNC identification criteria, timely SNC determinations, and a mechanism for management oversight to ensure consistency.
	Metric(s) and Quantitative Values	<ul style="list-style-type: none"> File Metric 10d – In 21 of the 29 (72%) of the enforcement files, the enforcement responses were appropriate for the violations.
	State Response	Please see responses to 6-1 and 8-1, above.
	Action(s) (include any uncompleted actions from Round 1 that address this issue.)	<ul style="list-style-type: none"> As noted above in 6-1 and 8-1, WHMD will review its enforcement policies and procedures with enforcement staff. MDEQ will also develop a plan to improve enforcement responses by May 1, 2010.

Clean Air Act

Clean Air Act		
Element 1. Data Completeness. Degree to which the Minimum Data Requirements are complete.		
Element 2. Data Accuracy. Degree to which the Minimum Data Requirements are accurate. (example, correct codes used, dates are correct, etc.)		
Element 3. Timeliness of Data Entry. Degree to which the Minimum Data Requirements are timely.		
1-1	Finding	In AFS, 3 of 26 Minimum Data Requirements (MDRs) under Element 1 (12%) were complete, 1 of 3 MDRs under Element 2 (33%) was accurate, and 0 of 3 MDRs under Element 3 (0%) were timely. Nineteen of 30 reviewed files (63%) had data accurately represented in AFS.
	This finding is a(n):	<input type="checkbox"/> Best Practice or other Exemplary Performance <input type="checkbox"/> Area of Concern <input checked="" type="checkbox"/> Recommendation for Improvement
	Explanation: (If area of concern, describe why action not required; if recommendation, provide recommended action.)	<p>Since the Michigan Department of Environmental Quality (MDEQ) is utilizing its own MACES system to upload data through the Universal Interface (UI) into the AIRS Facility System (AFS), MDEQ has been submitting data every 60 days in a timely manner for Title V major and synthetic minor facilities. However, after the first fiscal year of using the Universal Interface and uploading data to AFS, it was found that not all data is being pulled into AFS. Many of the Full Compliance Evaluations and High Priority Violators are not being uploaded to AFS even though they are listed in the MACES database. MDEQ IT people are aware of this issue and have made modifications to the stored procedure to pull this data. Additionally, MDEQ is in the process of generating reports from the MACES action history in the UI and comparing to reports from MACES to see what data is missing. Region 5 appreciates the work in this regard and will work with MDEQ to determine if modifications in regard to the UI are successfully correcting the problem.</p> <p>Recommended Action: Region 5 and MDEQ will create a plan by May 1, 2010, that details steps to resolve any issues of required data not getting into AFS and projected dates for final resolution of those issues. As part of this effort, EPA will make an OTIS pull of FY08 and FY09 data to determine the result of the data cleanup.</p>
	Metric(s) and Quantitative Values	<ul style="list-style-type: none"> In AFS, 3 of 26 Minimum Data Requirements (MDRs) under Element 1 (12%) were complete, 1 of 3 MDRs under Element 2 (33%) was accurate, and 0 of 3 MDRs under Element 3 (0%) were timely. File Metric 2c – 19 of 30 reviewed files (63%) had data accurately represented in AFS.
	State Response	The Air Quality Division (AQD) started reporting electronically to AFS in December of 2007 after a new database system called Michigan Air Compliance and Enforcement System (MACES) was put in production on October 1, 2007. We were assured by our Information Technology (IT) staff that all minimum data requirements and data were being pulled from our database properly. It wasn't until October 2008 that we discovered some data was not being reported. Our IT staff corrected this problem in November 2008. The AQD is currently in the process of electronically reporting data that was missed in fiscal year 2008 by coordinating with EPA. It is hoped that this will resolve the past missing data issue and that future data uploads will be accurate and complete.
	Action(s) (include any uncompleted actions from Round 1 that address this issue.)	<ul style="list-style-type: none"> By May 1, 2010, Region 5 and AQD will pull FY08 and FY09 data to determine the extent of data cleanup and the resolution of reporting issues. If issues still exist, Region 5 and AQD will create a plan by February 26 by which to resolve issues.

Clean Air Act
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	Finding	MDEQ exceeded CMS plan commitments.
	This finding is a(n):	<input checked="" type="checkbox"/> Best Practice or other Exemplary Performance <input type="checkbox"/> Area of Concern <input type="checkbox"/> Recommendation for Improvement
	Explanation: (If area of concern, describe why action not required; if recommendation, provide recommended action.)	Region 5's analysis of available data shows that DEQ exceeded its CMS plan commitment for conducting FCEs at major sources. As a matter of policy, MDEQ also inspects sources even when a FCE can be concluded without an on-site inspection.
	Metric(s) and Quantitative Values	<ul style="list-style-type: none"> File Metric 4a – For major sources, MDEQ conducted 259 FCEs (126% of its commitment). For SM-80s, it conducted 149 FCEs (110% of its commitment).
	State Response	The AQD appreciates this acknowledgement of our work in meeting the inspection commitments. We strive to consistently plan for more than the minimum required inspections, so that we will meet our commitment each year.
	Action(s) (include any uncompleted actions from Round 1 that address this issue.)	<ul style="list-style-type: none"> No actions needed.

Clean Air Act		
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	Finding	Using the CAA Enforcement File Review Worksheet, 12 of 20 reviewed FCEs (60%) met the definition of a FCE and 13 of 27 reviewed CMRs or files (48%) provided sufficient documentation to determine compliance.
	This finding is a(n):	<input type="checkbox"/> Best Practice or other Exemplary Performance <input type="checkbox"/> Area of Concern <input checked="" type="checkbox"/> Recommendation for Improvement
	Explanation: (If area of concern, describe why action not required; if recommendation, provide recommended action.)	<p>Many FCEs and associated CMRs were missing one or more pieces of information in the files, including visible emission readings, assessment of process and control device parameters, and stack test results. In some instances, Region 5 could not completely assess whether all pieces of information were needed for determining compliance at a particular facility.</p> <p>Region 5 notes that this is a review of paper files only, which may explain why apparent deficiencies described in the paragraph above do not appear to inhibit MDEQ's ability to find and address HPVs (see Element 7). As a result, Region 5 needs to assess how MDEQ databases are possibly being used to document FCEs and CMRs. Still, there may be instances where additional documentation in paper files, such as assessment of process and control device parameters, need to be more completely addressed. This may be a worthwhile effort simply because Michigan's HPV discovery rate is less than half of the national average. (A review of Title 5 compliance certifications may cover this point adequately.)</p> <p>Recommended Action: By May 1, 2010, Region 5 and MDEQ agree to the minimum requirements of complete inspection FCEs and CMRs, which should be clearly spelled out in MDEQ policy if not already covered appropriately in existing policy. As part of this effort, it should be determined what part MDEQ databases play in the completion of evaluations. A plan</p>

		for implementing any changes needed to carry out the results of the agreements should be in place by July 1, 2010.
	Metric(s) and Quantitative Values	<ul style="list-style-type: none"> • File Metric 6b – In 12 out of 20 files (60%), the reviewed FCEs met the definition of a FCE per CMS policy. • File Metric 6c – 13 of 27 reviewed CMRs or files (48%) provided sufficient documentation to determine compliance at the facility.
	State Response	<p>The Air Quality Division (AQD) began implementing the Compliance Monitoring Strategy (CMS) in FY2003. The AQD began using the Michigan Air Compliance and Enforcement System (MACES) to report FCEs beginning in FY07. We have written procedures for implementing CMS in Michigan. These procedures include a listing of all potential PCEs that <u>may</u> be conducted at a source as part of an FCE. All PCEs conducted at a source are required to be documented. An FCE is defined in our CMS procedures as follows:</p> <p>“An FCE should include a review of all required reports, and to the extent necessary, the underlying records. This includes all monitored data reported to the AQD. It also includes a review of Title V certification reports, semi-annual monitoring and periodic monitoring reports, and any other reports required by New Source Review or the Title V-ROP. An FCE should include an assessment of control devices, control equipment performance parameters, process operating conditions as appropriate and a stack test if warranted. The FCE will always include an on-site inspection.”</p> <p>Visible emissions readings are conducted if appropriate, and stack testing may not be warranted for the source within the 12 month window of the FCE. Assessment of process and control parameters may often be included in the on-site inspection PCE, or the review of records PCE. If EPA has a more specific definition of what constitutes an FCE, we would like to review it and incorporate that into our procedures to insure our FCEs meet the definition in the CMS policy.</p>
	Action(s) (include any uncompleted actions from Round 1 that address this issue.)	<ul style="list-style-type: none"> • By May 1, 2010, Region 5 and MDEQ will agree to the minimum requirements of complete inspection FCEs and CMRs, which should be clearly spelled out in MDEQ policy if not already covered appropriately in existing policy. As part of this effort, it will be determined what part MDEQ databases play in the completion of evaluations. A plan for implementing any changes needed to carry out the results of the agreements will be in place by July 1, 2010.

Clean Air Act		
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	Finding	Seventy-five point four percent of compliance monitoring-related MDR actions were reported to AFS within the 60-day timeframe, while 46.7% of enforcement MDR actions were reported within the same timeframe. Twenty-seven of 27 reviewed files (100%) contained accurate compliance determinations.
	This finding is a(n):	<input type="checkbox"/> Best Practice or other Exemplary Performance <input checked="" type="checkbox"/> Area of Concern <input type="checkbox"/> Recommendation for Improvement
	Explanation: (If area of concern, describe why action not required; if recommendation, provide recommended action.)	<p>Region 5's review of this metric reveals that, despite some apparent issues with specific information contained in the official files, the state had made accurate compliance determinations.</p> <p>However, MDEQ had issues with reporting MDR actions in a timely fashion. The reporting of MDRs is affected by problems MDEQ faced in establishing a universal interface for its new MACES data system during FY'07. Region 5 believes that MDEQ can improve in this area without a recommendation, and it will monitor MDEQ's progress in the future.</p>

	Metric(s) and Quantitative Values	<ul style="list-style-type: none"> • Data Metric 3b1 - 75.4% of the compliance monitoring related MDR actions were reported to AFS within the 60-day timeframe. • Data Metric 3b2 – 46.7% of the enforcement MDR actions were reported to AFS within the 60 day timeframe. • File Metric 7a – 27 of 27 files (100%) contained accurate compliance determinations.
	State Response	The Air Quality Division (AQD) started reporting electronically to AFS in December of 2007 after a new database system called Michigan Air Compliance and Enforcement System (MACES) was put in production on October 1, 2007. We were assured by our Information Technology (IT) staff that all Minimum Data Requirements (MDRs) and data were being pulled from our database properly. It wasn't until October 2008 that we discovered some data was not being reported. Our IT staff corrected this problem in November 2008. The AQD is currently in the process of electronically reporting data that was missed in fiscal year 2008 by coordinating with EPA. The AQD plans to report the MDRs every 60 days or sooner in accordance with the EPA's Information Collection Request (ICR) that went into effect on October 1, 2005. We are currently working on expediting this process by working with our Department of Information Technology. We are also working closely with EPA Region V to insure that the required information is now being accurately and completely uploaded to EPA.
	Action(s) (include any uncompleted actions from Round 1 that address this issue.)	<ul style="list-style-type: none"> • Resolution of data issues will resolve this area of concern.

Clean Air Act		
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	Finding	In OTIS, the HPV rates for major and synthetic minor sources are not meeting national goals. These rates may be affected by state data not getting into AFS as pointed out under Elements 1, 2, and 3. Eighteen of 18 violations in reviewed files (100%) were accurately determined to be HPVs.
	This finding is a(n):	<input type="checkbox"/> Best Practice or other Exemplary Performance <input type="checkbox"/> Area of Concern <input checked="" type="checkbox"/> Recommendation for Improvement
	Explanation: (If area of concern, describe why action not required; if recommendation, provide recommended action.)	<p>For the files reviewed, Region 5 found that DEQ consistently performed accurate HPV determinations. However, OTIS is showing that the HPV identification rates are below the national goals. These rates may be affected by state data not getting into AFS as pointed out under Elements 1, 2, and 3.</p> <p>Recommended Action: Data issues mentioned in Elements 1, 2, and 3 above should be resolved per the recommendation for those Elements. After the resolution of data issues, if data still shows that entry is not done in a timely manner or that the HPV identification rate is low after the data issues are resolved, MDEQ should submit a plan to Region 5 by May 1, 2010 with milestones and timelines to correct these issues. EPA will work closely with MDEQ to clarify any questions regarding how zero dates are established and when 90 days are considered when additional information is required to determine HPV.</p>
	Metric(s) and Quantitative Values	<ul style="list-style-type: none"> • Data Metric 8a – In OTIS, the HPV rate for major sources is 2.5%, which is not meeting the goal of being greater than ½ of the national average of 9.2%. • Data Metric 8b – In OTIS, the HPV rate for synthetic minor sources is .1%, which is not meeting the goal of being greater than ½ of the national average of 1.5%. • File Metric 8h – 18 of 18 violations in the files reviewed (100%) were accurately

		determined to be HPVs.
	State Response	<ul style="list-style-type: none"> • AQD did not respond to this finding and recommendation.
	Action(s) (include any uncompleted actions from Round 1 that address this issue.)	<ul style="list-style-type: none"> • If resolution of data issues does not resolve issues mentioned here, MDEQ will submit a plan to Region 5 by May 1, 2010 to resolve these issues.

Clean Air Act		
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	Finding	Seventy three point three percent of HPVs did not meet timeliness goals according to OTIS. This percentage, however, could have been affected by state data not getting into AFS as pointed out under Elements 1, 2, and 3. In regard to the file review, four of 16 files with HPVs (25%) were addressed in a timely manner and 13 of 13 files with HPVs (100%) contained actions that were appropriate.
	This finding is a(n):	<input type="checkbox"/> Best Practice or other Exemplary Performance <input type="checkbox"/> Area of Concern <input checked="" type="checkbox"/> Recommendation for Improvement
	Explanation: (If area of concern, describe why action not required; if recommendation, provide recommended action.)	<p>OTIS data and the file reviews show that AQD consistently pursues appropriate enforcement actions. However, timeliness of these actions appears to be an issue, although the percentage of timely actions could have been affected by state data not getting into AFS. Region 5 recognizes that in some cases, reasons for non-timely actions are valid. For example, some cases are complex, for which it would be appropriate for EPA to allow additional time to resolve such cases. Region 5 could not determine timelines for 2 HPVs and worked cooperatively with MDEQ on one case to encourage a state settlement. One HPV was not addressed due to plant shutdown.</p> <p>Recommended Action: By May 1, 2010, MDEQ and Region 5 analyze the core reasons for non-timely HPV actions. If it is determined that reasons for being non-timely in many cases are not valid, MDEQ should create a plan by July 1, 2010, by which timeliness can improve. This plan should contain milestones and timelines.</p>
	Metric(s) and Quantitative Values	<ul style="list-style-type: none"> • Data Metric 10a – 73.3% of HPVs did not meet timeliness goals. • File Metric 10e – 4 of 16 files with HPVs (25%) were addressed in a timely manner. • File Metric 10f – 13 of 13 files with HPVs (100%) contained actions that were appropriate.
	State Response	We already discuss these cases with EPA on at least a monthly basis so when cases do go beyond the 270 days EPA is already aware of that fact and has approved our ongoing efforts to reach a settlement. The only real way we could reduce the time frame for settlements significantly would be for AQD to actually refer cases to EPA or to give the companies much less time and room to negotiate with us before we send them a last chance letter; neither the referral nor an earlier last chance opportunity is something that would likely be acceptable to the Executive Division that would ultimately have to approve such actions.
	Action(s) (include any uncompleted actions from Round 1 that address this issue.)	<ul style="list-style-type: none"> • By May 1, 2010, MDEQ and Region 5 will fully analyze the core reasons for non-timely HPV actions. If needed, a plan will be created by July 1, 2010 to improve timeliness.

Clean Air Act

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	Finding	Nine of 13 files with penalties (69%) considered and included gravity and economic benefit calculations.
	This finding is a(n):	<input type="checkbox"/> Best Practice or other Exemplary Performance <input type="checkbox"/> Area of Concern <input checked="" type="checkbox"/> Recommendation for Improvement
	Explanation: (If area of concern, describe why action not required; if recommendation, provide recommended action.)	<p>Although MDEQ did not normally keep penalty calculations in its enforcement files, it was able to make penalty calculations available upon request. Our file reviews showed that MDEQ had routinely performed penalty calculations for the gravity component in a consistent manner for the files reviewed.</p> <p>The penalty calculations did not indicate whether or how economic benefit was considered for each individual case. Interviews with individual staff suggested that economic benefit was considered at the time the gravity component of the penalty was calculated, but the staff did not document this. EPA is concerned that a violator could accrue an economic benefit that is not easily detected and thus would not be recovered.</p> <p>Recommended Action: MDEQ and Region 5 will agree on a plan by May 1, 2010 to correct this issue by July 1, 2010. MDEQ is open to providing an internal procedure to better document the penalty calculations. Most cases are resolved administratively. Discussion with MDEQ management and staff indicate that initial and final administrative penalties are generally close to one another.</p>
	Metric(s) and Quantitative Values	<ul style="list-style-type: none"> File Metric 11a – 9 of 13 files with penalties (69%) considered and included gravity and economic benefit calculations.
	State Response	This issue should be addressed by placing the final "Air Civil Penalty Worksheet" in the file.
	Action(s) (include any uncompleted actions from Round 1 that address this issue.)	<ul style="list-style-type: none"> By May 1, 2010, MDEQ and Region 5 will verify if placing the worksheet mentioned above in the file will resolve this issue. If not, MDEQ and Region 5 will agree and implement a solution by July 1, 2010.

Clean Air Act

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	Finding	One of 13 files with penalties (8%) documented the difference and rationale between the initial and final assessed penalty.
	This finding is a(n):	<input type="checkbox"/> Best Practice or other Exemplary Performance <input type="checkbox"/> Area of Concern <input checked="" type="checkbox"/> Recommendation for Improvement
	Explanation: (If area of concern, describe why action not required; if recommendation, provide recommended action.)	<p>File reviewers found that in cases in which there was a difference between the initial penalties and the assessed penalties, the rationale for the difference was not documented.</p> <p>EPA found only one file that documented the difference between the initial and final penalty. DEQ keeps its calculations at other locations as a matter of policy. These would typically be on computer hard drives. Neither file documentation nor electronic records explained any rationale for penalty reduction, although we found it possible to obtain verbal explanations when interviewing enforcement DEQ staff.</p> <p>Recommended Action: Region 5 and MDEQ will agree by May 1, 2010 what is appropriate</p>

		penalty calculation documentation required for enforcement case files. Region 5 anticipates that MDEQ will revise its written penalty policies and procedures to clarify this by July 1, 2010. MDEQ is open to providing an internal procedure to better document the penalty calculations. Discussion with MDEQ management and staff indicate that initial and final administrative penalties are generally close to one another.
	Metric(s) and Quantitative Values	<ul style="list-style-type: none"> File Metric 12a – 1 of 13 files with penalties (8%) documented the difference and rationale between the initial and final assessed penalty
	State Response	As in Element 11 above, the final "Air Civil Penalty Worksheet" will be kept in the file.
	Action(s) (include any uncompleted actions from Round 1 that address this issue.)	<ul style="list-style-type: none"> By May 1, 2010, MDEQ and Region 5 will verify if placing the worksheet mentioned above in the file will resolve this issue. If not, MDEQ and Region 5 will agree and implement a solution by July 1, 2010.
12-2	Finding	Two of 13 files (15%) documented collection of a penalty.
	This finding is a(n):	<input type="checkbox"/> Best Practice or other Exemplary Performance <input checked="" type="checkbox"/> Area of Concern <input type="checkbox"/> Recommendation for Improvement
	Explanation: (If area of concern, describe why action not required; if recommendation, provide recommended action.)	Region 5 reviewed 2 files that contained evidence that the penalty was in fact collected. MDEQ, however, collects penalties through a finance division that has an accounting system in place for tracking penalty collections. Region 5 and MDEQ will discuss whether it is essential given these conditions that verification of the penalty collection be included in each enforcement file. MDEQ agrees that documentation showing that penalties were collected can be added to the paper files and can also be documented using the MACES database. No recommendation is needed.
	Metric(s) and Quantitative Values	File Metric 12b – 2 of 13 files (15%) documented collection of a penalty.
	State Response	This should be addressed through MACES and possibly paper documentation in the file.
	Action(s) (include any uncompleted actions from Round 1 that address this issue.)	<ul style="list-style-type: none"> MDEQ and Region 5 will discuss the best way in which to document collection of penalties.

Clean Water Act

Clean Water Act		
Element 1. Data Completeness. Degree to which the Minimum Data Requirements are complete.		
Element 2. Data Accuracy. Degree to which the Minimum Data Requirements are accurate. (example, correct codes used, dates are correct, etc.)		
Element 3. Timeliness of Data Entry. Degree to which the Minimum Data Requirements are timely.		
1-1	Finding	In PCS, 3 of 24 Minimum Data Requirements (MDRs) under Element 1 (13%) were complete and 1 of 1 MDR under Element 2 (100%) was accurate. Thirteen of 39 reviewed files (33%) had data accurately represented in PCS.
	This finding is a(n):	<input type="checkbox"/> Best Practice or other Exemplary Performance <input type="checkbox"/> Area of Concern <input checked="" type="checkbox"/> Recommendation for Improvement
	Explanation: (If area of concern, describe why action not required; if recommendation, provide recommended action.)	<p>Review of the data metrics as well as the results of the file review indicate that in FY07, MDEQ data was not getting into PCS as required, which affects data completeness, data accuracy, and data entry timeliness. One reason for this is that DMR data was not translating correctly from MDEQ's data system to PCS. Another reason is that in cases where direct entry was needed for non-DMR data by MDEQ staff, the entry was not occurring. Of special concern is the fact that SEVs and SNCs are not being recorded in PCS in a complete, accurate, or timely way.</p> <p>Since FY07, MDEQ has conducted a good effort to clean up existing data in PCS and ensure that certain data points made their way into PCS. Region 5 appreciates the work in this regard. Some required data, however, is still not getting to PCS, making it difficult for Region 5 and the public to determine the range of compliance monitoring and enforcement efforts. MDEQ's explanation for this is that they only have a half-FTE for this effort and that is not enough to ensure entry of all required data. As a result, MDEQ requests that Region 5 prioritize the entry of required data and determine which is most important.</p> <p>Recommended Action: Region 5 and MDEQ determine by June 30, 2010, how to resolve the issue of required data not getting into PCS. As part of this effort, OTIS data pulls should be made to determine the result of the data cleanup as well as identify and resolve remaining issues, such as the incorrect classification of violations as formal or informal.</p> <p>Until the time that Region 5 and MDEQ can resolve the entire data issue, Region 5 is providing a list below of input priorities that can be implemented immediately in response to MDEQ's request. This prioritized list does not serve as a replacement for any required WENDB data elements as stated in the PCS policy statement, but simply provides guidance to focus limited resources to measure important outcomes.</p> <p>In general:</p> <ul style="list-style-type: none"> • Update and keep permit data current such that an accurate QNCR can be generated and timely enforcement can be performed. • Input inspection results from any national or state specific CMS commitments for FY 2009. • Input Single Event Violations found as a result of CMS inspections, creating a PCS record of the violations in addition to effluent violations so that the appropriate and timely enforcement response can be taken and tracked. If a SEV is determined to be SNC, this should also be recorded in PCS. • Input formal and informal enforcement actions into PCS, including compliance schedules and penalties for major facilities.
	Metric(s) and Quantitative Values	<ul style="list-style-type: none"> • In PCS, 3 of 24 Minimum Data Requirements (MDRs) under Element 1 (13%) were complete and 1 of 1 MDR under Element 2 (100%) was accurate. • File Metric 2b – 13 out of 39 files (33%) had data accurately represented in PCS.

	State Response	<p>Water Bureau (WB) agrees with this statement. WB has discussed this issue with EPA for several years and each has recognized that the effort to improve PCS data is partially tied to EPA's efforts to upgrade their database and adopt protocols for data transfer. WB's limited resources do not allow for double entry of compliance data in our system and in PCS/ICIS. WB's plan has been to move data electronically from our system (NMS) to PCS/ICIS. WB currently transfers DMR data electronically to PCS. DEQ obtained grants in order to upgrade the node and NMS. A hold up on the remaining data transfer has, in part, been that EPA has not finalized schemas for data transfer for anything but DMR data.</p> <p>In the meantime, EPA and WB agree to explore ways to batch load data to PCS based on data pulls for our database.</p>
	Action(s) (include any uncompleted actions from Round 1 that address this issue.)	<ul style="list-style-type: none"> In conjunction with preparation of the 2011 CWA Section 106 workplan for MDEQ, MDEQ, EPA Headquarters, and Region 5 will jointly work to address and fix the cause(s) of the problem of not translating data into PCS. MDEQ conversion from PCS to ICIS-NPDES may modify the need or timeframe for this action. Results of EPA's current 90 Day Study of CWA enforcement will also be taken into consideration.

Clean Water Act		
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	Finding	MDEQ's enforcement process facilitates quick compliance
	This finding is a(n):	<input checked="" type="checkbox"/> Best Practice or other Exemplary Performance <input type="checkbox"/> Area of Concern <input type="checkbox"/> Recommendation for Improvement
	Explanation: (If area of concern, describe why action not required; if recommendation, provide recommended action.)	The process in which Michigan issues and transmits a notice letter together with the inspection report is an effective way of facilitating and achieving compliance results. The SRF file review confirms that compliance is accelerated and much more successful when this procedure is performed. Using this method, most violations are commonly identified and an action plan developed within a short time span.
	Metric(s) and Quantitative Values	
	State Response	WB appreciates the recognition that our process is effective and efficient.
	Action(s) (include any uncompleted actions from Round 1 that address this issue.)	<ul style="list-style-type: none"> No action needed.
6-2	Finding	Using the Clean Water Act Inspection Report Completeness Checklist, 12 out of 28 inspection reports reviewed (43%) were complete. However, this percentage could be affected by how EPA used the checklist and the fact that some inspection report data may have been kept in electronic systems that EPA did not review.
	This finding is a(n):	<input type="checkbox"/> Best Practice or other Exemplary Performance <input type="checkbox"/> Area of Concern <input checked="" type="checkbox"/> Recommendation for Improvement
	Explanation: (If area of concern, describe why action not required; if	The Round 1 SRF review found that inspection reports were not complete. At that time, Region 5 recommended report changes which MDEQ subsequently implemented or said they would implement. Reviewers have found in the Round 2 review, however, that some issues identified in Round 1 still exist. Region 5 notes that the values in the file metric below might not

	recommendation, provide recommended action.)	<p>completely illustrate the status of the reviewed MDEQ inspection reports for the following reasons: 1) the format of the inspection report checklist made it difficult to use, and 2) Region 5 did not know that inspection report data that might have been considered part of the official paper inspection reports was in MDEQ databases, and thus did not review the inspection reports with this in mind.</p> <p>Recommended Action: By May 1, 2010, Region 5 and MDEQ agree to the minimum content of complete inspection reports, which should be clearly spelled out in the MDEQ EMS or equivalent policy document. As part of this effort, it should be determined what part MDEQ databases play in the completion of inspection reports.</p>
	Metric(s) and Quantitative Values	<ul style="list-style-type: none"> File Metric 6b - 12 out of 28 inspection reports reviewed (43%) were complete.
	State Response	<p>WB has no specific data to respond to this general statement by EPA. During the SRF exit interview and in subsequent conversations with EPA, WB specifically requested the detailed data that supports EPA's conclusions. It has not been provided. Some of the data EPA may have been looking for may have been captured in our database and not in our inspection reports (to the best of our knowledge, EPA did not review the database for this information). Additionally, we are unaware of a formal CWA requirement for what constitutes a complete inspection report.</p> <p>Prior to the SRF file review and continuing past initiation of the review, WB has taken actions to improve our inspection reports. We agree to further discussions with EPA on this issue.</p>
	Action(s) (include any uncompleted actions from Round 1 that address this issue.)	<ul style="list-style-type: none"> Region 5 submitted summary data at an earlier time in response to WB's request. The Region is willing to submit additional, more detailed, data if requested by WB. By May 1, 2010, Region 5 and MDEQ will agree to the minimum requirements of complete inspection reports, which will be captured in policy or guidance documents.
6-3	Finding	Twenty-three of 27 inspection report files reviewed (85%) provided sufficient documentation to determine compliance. Twenty of 28 inspection reports reviewed (71%) were completed within the prescribed time frame.
	This finding is a(n):	<input type="checkbox"/> Best Practice or other Exemplary Performance <input checked="" type="checkbox"/> Area of Concern <input type="checkbox"/> Recommendation for Improvement
	Explanation: (If area of concern, describe why action not required; if recommendation, provide recommended action.)	Region 5 reviewers found that MDEQ inspection reports generally provide sufficient information to determine compliance and are completed within the timeliness guidelines as set forth in MDEQ personnel standards. However, the reviewers saw some incidences in which this was not true and thought this should be pointed out to MDEQ as an Area of Concern. Region 5 believes that MDEQ can improve in this area without a recommendation, and it will monitor MDEQ's progress in the future.
	Metric(s) and Quantitative Values	<ul style="list-style-type: none"> File Metric 6c - 23 out of 27 inspection report files reviewed (85%) provided sufficient documentation to determine compliance at the facility. File Metric 6d - 20 out of 28 inspection reports (71%) were completed within the prescribed time frame.
	State Response	EPA identifies this is an "area of concern" not a "recommendation for improvement". EPA indicated this observation did not apply to all reports, only a few reports were a concern. WB believes its efforts to improve inspection reports will address this issue.
	Action(s) (include any uncompleted actions from Round 1 that address this	<ul style="list-style-type: none"> Efforts to improve inspections reports will address this issue.

issue.)

Clean Water Act

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

7-1	Finding	No SEVs were recorded in PCS. Related to this, 0% of SEVs were accurately identified as SNC. Also, the SNC rate as reported in OTIS (28.3%) is different than the rate reported by MDEQ (<13%). MDEQ has a 71.8% rate of unresolved compliance schedule violations.
	This finding is a(n):	<input type="checkbox"/> Best Practice or other Exemplary Performance <input type="checkbox"/> Area of Concern <input checked="" type="checkbox"/> Recommendation for Improvement
	Explanation: (If area of concern, describe why action not required; if recommendation, provide recommended action.)	<p>MDEQ is not entering SEVs into PCS and determining/recording SNC for SEVs when appropriate. The overall data entry/transfer issues mentioned in Element 1 also casts doubt on whether SNC is being appropriately recorded for DMRs. MDEQ’s self-determined SNC rate is much different than the rate in OTIS.</p> <p>Recommended Action: As part of the resolution of entry or transfer of data to PCS as mentioned in Elements 1/2/3 above, Region 5 and MDEQ should determine how to record SEVs and SNC appropriately in PCS as required and reflect the solution in the MDEQ EMS. In addition, Region 5 and MDEQ should discuss and resolve (if needed) the high compliance schedule violation rate.</p>
	Metric(s) and Quantitative Values	<ul style="list-style-type: none"> • Data Metrics 7a1 and 7a2 – 0 SEVs were recorded in PCS according to OTIS. • Data Metric 7b - OTIS shows a 71.8% rate of unresolved compliance schedule violations. • Data Metric 8a2 - OTIS shows a 28.3% SNC rate as compared to MDEQ’s reported rate of less than 13%. • File Metric 7e - 24 out of 26 inspection report files (92%) led to accurate compliance determinations. • File Metric 8b – 0 of 6 files with SEVs (0%) were accurately identified as SNC. • File Metric 8c – 0 of 6 files with SEVs (0%) were reported as SNC in a timely manner (as a result of not being reported at all as shown in Metric 8b).
	State Response	<p>EPA is correct in that WB does not enter inspection violations into PCS (so we would not track them as SEV or SNC). We do follow-up on signification violations found during the inspection. In another area of EPA’s SRF evaluation, EPA indicated that we identify violations and respond quickly to them. They also said our procedure for sending out violation notices with the inspection reports was effective in resolving noncompliance quickly. So this seems to be a “data” issue with PCS that can be addressed as indicated in our response to item 6-1.</p> <p>EPA also mentioned that WB’s self-determined SNC rate for majors is much different than the rate is OTIS. WB has been reporting on SNC rates as part of the 106 plan report annually, pulling a standard report from PCS. WB has taken efforts to keep SNC rates for majors low, and has recently implemented quarterly review of violations at majors. This is the first notice from EPA that our SNC determination is not accurate. WB will work with EPA to address this issue.</p> <p>EPA also mentioned a high compliance schedule violation rate. This comment seems to be directed to schedules of compliance with enforcement actions. We have been manually entering enforcement action in PCS along with compliance due dates, but we failed to capture the received dates in PCS (although they are captured in our system). That is an issue that WB should be able to be addressed quickly if batch data can be uploaded to PCS, but it again ties to our response to item 6-1.</p>

	Action(s) (include any uncompleted actions from Round 1 that address this issue.)	<ul style="list-style-type: none"> As part of the data effort in 1-1 above, MDEQ will accurately report SEVs, SNCs, and resolution to compliance schedule violations.
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Clean Water Act

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	Finding	OTIS reports that 21.2% of major sources did not have timely action. In regard to review of enforcement files that involved SNCs, 8 of 9 (89%) were timely and 7 of 9 (78%) were appropriate. In regard to the files that involved non-SNCs, 13 of 17 (76%) were timely and 18 of 19 (95%) were appropriate.
	This finding is a(n):	<input type="checkbox"/> Best Practice or other Exemplary Performance <input checked="" type="checkbox"/> Area of Concern <input type="checkbox"/> Recommendation for Improvement
	Explanation: (If area of concern, describe why action not required; if recommendation, provide recommended action.)	OTIS data and the file reviews show that in most cases, enforcement actions are timely and appropriate. Region 5 believes, however, that the number of actions that are timely and appropriate could be higher and is thus pointing this out as an area of concern. Region 5 believes that MDEQ can improve in this area without a recommendation, and it will monitor MDEQ’s progress in the future.
	Metric(s) and Quantitative Values	<ul style="list-style-type: none"> Data Metric 10a - OTIS shows that 21.2% of major sources did not have timely action. File Metric 10b - 8 out of 9 (89%) enforcement action files with SNC were timely. File Metric 10e - 13 out of 17 (76%) enforcement action files with non-SNC were timely. File Metric 10c - 7 out of 9 (78%) enforcement action files with SNC were appropriate. File Metric 10d - 18 out of 19 (95%) enforcement action files with non-SNC were appropriate.
	State Response	EPA identified this as an “area of concern”, not a recommendation for improvement. The file review showed that in most cases, enforcement actions are timely and appropriate.
	Action(s) (include any uncompleted actions from Round 1 that address this issue.)	<ul style="list-style-type: none"> EPA will monitor MDEQ’s progress in this area in the future.

Clean Water Act

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	Finding	One of 7 files with penalties (14%) considered and included gravity and economic benefit calculations.
	This finding is a(n):	<input type="checkbox"/> Best Practice or other Exemplary Performance <input type="checkbox"/> Area of Concern <input checked="" type="checkbox"/> Recommendation for Improvement
	Explanation: (If area of concern, describe why action not required; if recommendation,	Round 1 SRF findings indicated that gravity and economic benefit calculations were not complete or not made. The Round 2 file reviews showed that calculations were not complete or not documented. The MDEQ EMS states that “All calculations of penalties should be carefully documented. While these calculations will not generally be available in settlement negotiations or for public review, they may be subpoenaed in court actions. Calculations must be objective,

	provide recommended action.)	consistent, and defensible.” Despite this fact, MDEQ staff expressed some hesitation in requiring this documentation in all files. Recommended Action: Region 5 and MDEQ will agree by May 1, 2010 what is appropriate penalty calculation documentation required for enforcement case files. Region 5 expects MDEQ to enhance its written penalty policies and procedures to clarify this by July 1, 2010.
	Metric(s) and Quantitative Values	<ul style="list-style-type: none"> File Metric 11a - 1 of 7 files with penalties (14%) considered and included gravity and economic benefit calculations.
	State Response	<p>WB disagrees with this assessment. WB’s penalty calculations always include the gravity component, which is one of the variables used in determining the fine amount.</p> <p>After conducting penalty analyses for many cases over the years, the WB has determined that an economic benefit analysis (BEN) is often inappropriate or unnecessary when the time since the initial violation and executing an Order or Judicial Decree is relatively short (less than one year), and the corrective action is minor in nature. In most of these cases, WB won’t calculate BEN as there is no or very little economic benefit associated with the violation(s).</p> <p>For other situations, WB considers BEN, and has calculated it as needed. When the BEN is very small, which it is in most of the cases, the gravity component is large and through negotiations, WB arrives at settlement amount that will account for the BEN component. In those few cases where the BEN was high and entities lacked the financial capability to even pay the gravity component of the fine, BEN is not considered</p> <p>Therefore, WB judicially identifies when to calculate BEN, and only do so where it’s possible to be greater than the gravity component.</p> <p>Documentation of penalties is kept during negotiations, but is destroyed after the ACO is entered. We will review this procedure with the Attorney General’s office.</p>
	Action(s) (include any uncompleted actions from Round 1 that address this issue.)	<ul style="list-style-type: none"> By May 1, 2009. Region 5 and MDEQ will agree on appropriate penalty calculation documentation required for enforcement case files, which will be added to MDEQ policies and procedures by July 1, 2010.

Clean Water Act

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	Finding	Two of 6 files with penalties (33%) documented the rationale for the difference between the initial and final assessed penalty.
	This finding is a(n):	<input type="checkbox"/> Best Practice or other Exemplary Performance <input type="checkbox"/> Area of Concern <input checked="" type="checkbox"/> Recommendation for Improvement
	Explanation: (If area of concern, describe why action not required; if recommendation, provide recommended action.)	<p>File reviewers found that in cases in which there was a difference between the initial penalties and the assessed penalties, the rationale for the difference was not often documented.</p> <p>Recommended Action: See Recommendation 11-1 above.</p>
	Metric(s) and Quantitative Values	<ul style="list-style-type: none"> Metric 12a - 2 of 6 files with penalties (33%) documented the rationale for the difference between the initial and final assessed penalty.
	State Response	The final document reflects the negotiated settlement. Even though the initial penalty calculation is not in the file the actual initial penalty amount is in the file and that is established

		as a negotiation starting point. Substantial changes in the penalty (up or down) will be based on case-specific factors not part of the original consideration for penalty, and these factors will be documented in the enforcement file.
	Action(s) (include any uncompleted actions from Round 1 that address this issue.)	<ul style="list-style-type: none"> By May 1, 2009. Region 5 and MDEQ will agree on appropriate penalty calculation documentation required for enforcement case files, which will be added to MDEQ policies and procedures by July 1, 2010.
12-2	Finding	Two of 7 files (29%) documented collection of a penalty.
	This finding is a(n):	<input type="checkbox"/> Best Practice or other Exemplary Performance <input checked="" type="checkbox"/> Area of Concern <input type="checkbox"/> Recommendation for Improvement
	Explanation: (If area of concern, describe why action not required; if recommendation, provide recommended action.)	File reviewers found that in files in which penalties were assessed, penalty collection was not often documented in the file. MDEQ stated during the review that collection of penalties happens with a different group of people than those who work on the enforcement cases. Nonetheless, penalty collection is tracked by the enforcement people using a list that is checked on a regular basis to ensure penalty collection. Region 5 and MDEQ will discuss whether it is essential given these conditions that verification of the penalty collection be included in each enforcement file. No recommendation is needed.
	Metric(s) and Quantitative Values	<ul style="list-style-type: none"> Metric 12b - 2 of 7 files (29%) documented collection of a penalty..
	State Response	EPA identified this as an “area of concern”, not a recommendation for improvement. EPA did not find documentation in the enforcement file of payment of penalties. WB indicated that payment is tracked elsewhere.
	Action(s) (include any uncompleted actions from Round 1 that address this issue.)	<ul style="list-style-type: none"> Region 5 and MDEQ will discuss whether it is essential to have verification of penalty collection in case files, or if a separate list is sufficient.

APPENDIX A

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.

A. Resource Conservation and Recovery Act

Resource Conservation and Recovery Act								
Metric	Metric Description	Measure Type	Metric Type	National Goal	National Average	OTIS Metric	MI-Provided Correction	Initial Findings
1B1S	Compliance monitoring: number of inspections (1 FY)	Data Quality	State			0	912	State data not translated into RCRAInfo. Region accepts state change.
1B2S	Compliance monitoring: sites inspected (1 FY)	Data Quality	State			0	829	State data not translated into RCRAInfo. Region accepts state change.
1C1S	Number of sites with violations determined at any time (1 FY)	Data Quality	State			224	516	State data not translated into RCRAInfo. Region accepts state change.
1C2S	Number of sites with violations determined during the FY	Data Quality	State			0	408	State data not translated into RCRAInfo. Region accepts state change.
1D1S	Informal Actions: number of sites (1 FY)	Data Quality	State			0	461	State data not translated into RCRAInfo. In some cases, State actions were counted as Formal Enforcement Actions, but do not meet the definition of a formal action. This will raise the actual count of informal actions.

Resource Conservation and Recovery Act

Metric	Metric Description	Measure Type	Metric Type	National Goal	National Average	OTIS Metric	MI-Provided Correction	Initial Findings
1D2S	Informal Actions: number of actions (1 FY)	Data Quality	State			0	248	State data not translated into RCRAInfo. In some cases, State actions were counted as Formal Enforcement Actions, but do not meet the definition of a formal action. This will raise the actual count of informal actions.
1E1S	SNC: number of sites with new SNC (1 FY)	Data Quality	State			0	12	State data not translated into RCRAInfo. Region accepts state change.
1E2S	SNC: Number of sites in SNC (1 FY)	Data Quality	State			17	32	State data not translated into RCRAInfo. Region accepts state change.
1F1S	Formal action: number of sites (1 FY)	Data Quality	State			0	17	State data not translated into RCRAInfo. In some cases, State actions were counted as Formal Enforcement Actions, but do not meet the definition of a formal action. This will decrease the actual count of formal actions.
1F2S	Formal action: number taken (1 FY)	Data Quality	State			0	28	State data not translated into RCRAInfo. In some cases, State actions were counted as Formal Enforcement Actions, but do not meet the definition of a formal action. This will decrease the actual count of formal actions.
1G0S	Total amount of assessed penalties (1 FY)	Data Quality	State			\$0	\$119,875	State data not translated into RCRAInfo. Region accepts state change.
2A1S	Number of sites SNC-determined on day of formal action (1 FY)	Data Quality	State			0	1	State data not translated into RCRAInfo. Region accepts state change.
2A2S	Number of sites SNC-determined within one week of formal action (1 FY)	Data Quality	State			0	1	State data not translated into RCRAInfo. Region accepts state change.
2B0S	Number of sites in violation for greater than 240 days	Data Quality	State			199	7	State data not translated into RCRAInfo. Region accepts state change.
8A0S	SNC identification rate at sites with inspections (1 FY)	Review Indicator	State	½ National Avg	3.8%	0 / 0	1.45%	State SNC rate identification less than half of national average. Additional files will be examined.

Resource Conservation and Recovery Act								
Metric	Metric Description	Measure Type	Metric Type	National Goal	National Average	OTIS Metric	MI-Provided Correction	Initial Findings
8B0S	Percent of SNC determinations made within 150 days (1 FY)	Goal	State	100%	82.0%	0 / 0	66.60%	State SNC determination is less than national average.
8C0S	Percent of formal actions taken that received a prior SNC listing (1 FY)	Review Indicator	State	½ National Avg	53.8%	0 / 0	95.80%	State data not translated into RCRAInfo. In some cases, State actions were counted as Formal Enforcement Actions, but do not meet the definition of a formal action. This will decrease the actual count of formal actions and change the percentage of this metric.
10A0S	Percent of enforcement actions/referrals taken within 360 days (1 FY)	Review Indicator	State	80%	24.2%	0 / 0	50.00%	State data not translated into RCRAInfo. In some cases, State actions were counted as Formal Enforcement Actions, but do not meet the definition of a formal action. This will decrease the actual count of formal actions and change the percentage of this metric. Secondly, criminal actions may have been counted in this metric, which would also affect the value.
10B0S	No activity indicator – number of formal actions (1 FY)	Review Indicator	State			0	28	State data not translated into RCRAInfo. In some cases, State actions were counted as Formal Enforcement Actions, but do not meet the definition of a formal action. This will decrease the actual count of formal actions.

B. Clean Air Act

Clean Air Act								
Metric	Metric Description	Measure Type	Metric Type	National Goal	National Average	OTIS Metric	MI – Provided Correction	Initial Findings
1A1C	Title V Universe: AFS Operating Majors (Current)	Data Quality	Combined			442	490 419	MDEQ data was not getting into AFS in 2007 due to problems establishing a universal interface for MDEQ's new data system. It is also unclear which state-provided universe number is correct.
1A2C	Title V Universe: AFS Operating Majors with Air Program Code = V (Current)	Data Quality	Combined			429	490 419	MDEQ data was not getting into AFS in 2007 due to problems establishing a universal interface for MDEQ's new data system. It is also unclear which state-provided universe number is correct.
1B1C	Source Count: Synthetic Minors (Current)	Data Quality	Combined			839	963 681	MDEQ data was not getting into AFS in 2007 due to problems establishing a universal interface for MDEQ's new data system. It is also unclear which state-provided universe number is correct.
1B2C	Source Count: NESHAP Minors (Current)	Data Quality	Combined			85	9	MDEQ data was not getting into AFS in 2007 due to problems establishing a universal interface for MDEQ's new data system.
1C1C	CAA Subprogram Designation: NSPS (Current)	Data Quality	Combined			356	114	MDEQ data was not getting into AFS in 2007 due to problems establishing a universal interface for MDEQ's new data system.
1C2C	CAA Subprogram Designation: NESHAP (Current)	Data Quality	Combined			197	15	MDEQ data was not getting into AFS in 2007 due to problems establishing a universal interface for MDEQ's new data system.
1C3C	CAA Subprogram Designation: MACT (Current)	Data Quality	Combined			323	44	MDEQ data was not getting into AFS in 2007 due to problems establishing a universal interface for MDEQ's new data system.
1C4S	CAA Subprogram Designation: Percent NSPS facilities with FCEs conducted after 10/1/2005	Data Quality	State		72.7%	100.0 %	55	MDEQ data was not getting into AFS in 2007 due to problems establishing a universal interface for MDEQ's new data system.

Clean Air Act								
Metric	Metric Description	Measure Type	Metric Type	National Goal	National Average	OTIS Metric	MI – Provided Correction	Initial Findings
1C6S	CAA Subprogram Designation: Percent MACT facilities with FCEs conducted after 10/1/2005	Data Quality	State		89.4%	100.0 %	27	MDEQ data was not getting into AFS in 2007 due to problems establishing a universal interface for MDEQ's new data system.
1D1S	Compliance Monitoring: Sources with FCEs (1 FY)	Data Quality	State			480	437	MDEQ data was not getting into AFS in 2007 due to problems establishing a universal interface for MDEQ's new data system.
1D2S	Compliance Monitoring: Number of FCEs (1 FY)	Data Quality	State			501	437	MDEQ data was not getting into AFS in 2007 due to problems establishing a universal interface for MDEQ's new data system.
1E0S	Historical Non-Compliance Counts (1 FY)	Data Quality	State			137	86	MDEQ data was not getting into AFS in 2007 due to problems establishing a universal interface for MDEQ's new data system.
1F1S	Informal Enforcement Actions: Number Issued (1 FY)	Data Quality	State			5	434	MDEQ data was not getting into AFS in 2007 due to problems establishing a universal interface for MDEQ's new data system.
1F2S	Informal Enforcement Actions: Number of Sources (1 FY)	Data Quality	State			5	not documented	MDEQ data was not getting into AFS in 2007 due to problems establishing a universal interface for MDEQ's new data system.
1G1S	HPV: Number of New Pathways (1 FY)	Data Quality	State			18		MDEQ data was not getting into AFS in 2007 due to problems establishing a universal interface for MDEQ's new data system. HPV data was entered by EPA.
1G2S	HPV: Number of New Sources (1 FY)	Data Quality	State			17		MDEQ data was not getting into AFS in 2007 due to problems establishing a universal interface for MDEQ's new data system. HPV data was entered by EPA.
1H1S	HPV Day Zero Pathway Discovery date: Percent DZs reported after 10/01/2005 with discovery	Data Quality	State	100%	45.3%	94.4%		MDEQ data was not getting into AFS in 2007 due to problems establishing a universal interface for MDEQ's new data system. HPV data was entered by EPA.

Clean Air Act								
Metric	Metric Description	Measure Type	Metric Type	National Goal	National Average	OTIS Metric	MI – Provided Correction	Initial Findings
1H2S	HPV Day Zero Pathway Violating Pollutants: Percent DZs reported after 10/01/2005	Data Quality	State	100%	67.2%	94.4%		MDEQ data was not getting into AFS in 2007 due to problems establishing a universal interface for MDEQ's new data system. HPV data was entered by EPA.
1H3S	HPV Day Zero Pathway Violation Type Code(s): Percent DZs reported after 10/01/2005 with HPV Violation Type Code(s)	Data Quality	State	100%	57.4%	94.4%		MDEQ data was not getting into AFS in 2007 due to problems establishing a universal interface for MDEQ's new data system. HPV data was entered by EPA.
1I1S	Formal Action: Number Issued (1 FY)	Data Quality	State			10		MDEQ data was not getting into AFS in 2007 due to problems establishing a universal interface for MDEQ's new data system. Some formal actions were entered by EPA.
1I2S	Formal Action: Number of Sources (1 FY)	Data Quality	State			10		MDEQ data was not getting into AFS in 2007 due to problems establishing a universal interface for MDEQ's new data system. Some formal actions were entered by EPA.
1J0S	Assessed Penalties: Total Dollar Amount (1 FY)	Data Quality	State			\$345,835		MDEQ data was not getting into AFS in 2007 due to problems establishing a universal interface for MDEQ's new data system. Penalty amounts were entered by EPA.
1K0S	Major Sources Missing CMS Policy Applicability (Current)	Review Indicator	State			23		MDEQ data was not getting into AFS in 2007 due to problems establishing a universal interface for MDEQ's new data system. The number of sources missing policy applicability is high if the OTIS number is correct.
2B1S	Stack Test Results at Federally-Reportable Sources - % Without Pass/Fail Results (1 FY)	Goal	State	0%	5.80%	0.0%		MDEQ data was not getting into AFS in 2007 due to problems establishing a universal interface for MDEQ's new data system. Therefore, we are not sure if this goal was met.

Clean Air Act								
Metric	Metric Description	Measure Type	Metric Type	National Goal	National Average	OTIS Metric	MI – Provided Correction	Initial Findings
2B2S	Stack Test Results at Federally-Reportable Sources – Number of Failures (1 FY)	Data Quality	State			1		MDEQ data was not getting into AFS in 2007 due to problems establishing a universal interface for MDEQ's new data system. Therefore, we are not sure if this goal was met.
3A0S	Percent HPVs Entered <= 60 Days After Designation, Timely Entry (1 FY)	Goal	State	100%	24.80%	27.8%		MDEQ data was not getting into AFS in 2007 due to problems establishing a universal interface for MDEQ's new data system. Therefore, the data was not timely as well.
3B1S	Percent Compliance Monitoring related MDR actions reported <= 60 Days After Designation, Timely Entry (1 FY)	Goal	State	100%	52.6%	75.4%		MDEQ data was not getting into AFS in 2007 due to problems establishing a universal interface for MDEQ's new data system. Therefore, the data was not timely as well.
3B2S	Percent Enforcement related MDR actions reported <= 60 Days After Designation, Timely Entry (1 FY)	Goal	State	100%	67.3%	46.7%		MDEQ data was not getting into AFS in 2007 due to problems establishing a universal interface for MDEQ's new data system. Therefore, the data was not timely as well.
5B1S	CAA Synthetic Minor 80% Sources (SM-80) FCE Coverage (5 FY CMS Cycle)	Review Indicator	State	100%	48.4%	34.8%	909	MDEQ data was not getting into AFS in 2007 due to problems establishing a universal interface for MDEQ's new data system. The actual metric result is acceptable if we take the 963 universe from Metric 1B1, which gives a percentage of 93% for this metric using the 909 provided by MI. However, another universe is also reported in Metric 1B1.
5E0S	Number of Sources with Unknown Compliance Status (Current)	Review Indicator	State			52	170	High number of sources with unknown status.
5G0S	Review of Self-Certifications Completed (1 FY)	Goal	State	100%	90.6%	0.0%	not documented	If this is not documented by MDEQ, we cannot tell the percentage reviewed.

Clean Air Act								
Metric	Metric Description	Measure Type	Metric Type	National Goal	National Average	OTIS Metric	MI – Provided Correction	Initial Findings
7C1S	Percent facilities in noncompliance that have had an FCE, stack test, or enforcement (1 FY)	Review Indicator	State	> ½ National Avg	18.7%	10.1%		Some data not reported to OTIS, so we do not know the percentage.
7C2S	Percent facilities that have had a failed stack test and have noncompliance status (1 FY)	Review Indicator	State	> ½ National Avg	33.0%	0.0%	7	Since 6 of these stack tests were not reported to OTIS, we do not know the percentage.
8A0S	High Priority Violation Discovery Rate – Per Major Source (1 FY)	Review Indicator	State	> ½ National Avg	9.2%	2.5%		HPV rate is not meeting the goal.
8B0S	High Priority Violation Discovery Rate – Per Synthetic Minor Source (1 FY)	Review Indicator	State	> ½ National Avg	1.5%	0.1%		HPV rate is not meeting the goal.
8C0S	Percent Formal Actions With Prior HPV – Majors (1 FY)	Review Indicator	State	> ½ National Avg	72.8%	66.7%		Since all MDEQ enforcement counts were not getting into OTIS, we cannot tell the actual percentage.
8D0S	Percent Informal Enforcement Actions Without Prior HPV – Majors (1 FY)	Review Indicator	State	< ½ National Avg	39.7%	33.3%		Since all MDEQ enforcement counts were not getting into OTIS, we cannot tell the actual percentage.
8E0S	Percent Failed Stack Test Actions that received HPV listing – Majors and Synthetic Minors (2 FY)	Review Indicator	State	> ½ National Avg	24.3%	0.0%		Since some stack tests were not reported to OTIS, we do not know the percentage.
10A0S	Percent HPVs not meeting timeliness goals (2 FY)	Review Indicator	State		40.8%	73.3%		MDEQ data was not getting into AFS in 2007 due to problems establishing a universal interface for MDEQ's new data system – so we cannot status of this metric.
12A0S	No Activity Indicator – Actions with Penalties (1 FY)	Review Indicator	State			10		Since not all penalty data might have gotten into AFS, we cannot tell the number of penalties assessed.

Clean Air Act

Metric	Metric Description	Measure Type	Metric Type	National Goal	National Average	OTIS Metric	MI – Provided Correction	Initial Findings
12B0S	Percent Actions at HPVs With Penalty (1 FY)	Review Indicator	State	>= 80%	81.6%	100.0 %		Since all MDEQ enforcement counts were not getting into OTIS, we cannot tell the actual percentage.

C. Clean Water Act

Clean Water Act								
Metric	Metric Description	Measure Type	Metric Type	National Goal	National Average	OTIS Metric	MI-Provided Correction	Initial Findings
1A3C	Active facility universe: NPDES non-major individual permits (Current)	Data Quality	Combined			470	443	In regard to this data, MI directly enters the data into PCS. However cleanup of existing universe data in OTIS is needed.
1A4C	Active facility universe: NPDES non-major general permits (Current)	Data Quality	Combined			869	1) 784 (non-storm water (includes CAFOs, biolsolids, etc.)) 2) 3528 (industrial SW and MS4) 3) 2807 (construction SW (permit by rule))	MI's database (NMS) contains a much larger universe than PCS that should be entered into PCS as required. (There is some normal fluctuation in the numbers of certain sources, however).
1B3C	Of majors with individual permits, percent with DMR data in the national database	Goal	Combined	>= 95%	85.9%	73.4%	>99.3%	The rate in OTIS is much different than what MI provided.
1B4C	Major individual permits: manual RNC/SNC override rate (1 FY)	Data Quality	Combined			63.5%		Override rate is high. Supplemental review needed to identify possible cleanup issues.
1D2C	Violations at non-majors: noncompliance rate in the annual noncompliance report (ANCR)(1 FY)	Informational Only	Combined			81.2%		FY07 report is not due until October 2008. Region will review 06 ANCR.
1E1S	Informal actions: number of major facilities (1 FY)	Data Quality	State			1	13 NLS	State data not being entered into PCS.
1E2S	Informal actions: number of actions at major facilities (1 FY)	Data Quality	State			1	13 NLS	State data not being entered into PCS.

Clean Water Act								
Metric	Metric Description	Measure Type	Metric Type	National Goal	National Average	OTIS Metric	MI-Provided Correction	Initial Findings
1G1S	Penalties: total number of penalties (1 FY)	Data Quality	State			0	31	Michigan does not enter Civil Judicial penalties into PCS as required.
1G2S	Penalties: total penalties (1 FY)	Data Quality	State			\$0	\$1,970,344	Michigan does not enter Civil Judicial penalties into PCS as required.
1G3S	Penalties: total collected pursuant to civil judicial actions (3 FY)	Data Quality	State			\$0	\$327,256	Michigan does not enter Civil Judicial penalties into PCS as required.
1G5S	No activity indicator – total number of penalties (1 FY)	Data Quality	State			0		Michigan does not enter Civil Judicial penalties into PCS as required.
5A0S	Inspection coverage: NPDES majors (1 FY)	Goal	State	100%	63.8%	42.9%	84 facilities & 45.6%	Michigan workplan goal met, but NMS inspection count greater than PCS. This data is required in PCS.
5B1S	Inspection coverage: NPDES non-major individual permits (1 FY)	Goal	State			0.2%	97 facilities and 21.9%	No mention of goal for non-majors in MI workplan, but NMS inspection count greater than PCS. This data is required in PCS.
5B2S	Inspection coverage: NPDES non-major general permits (1 FY)	Goal	State			0.0%	93 facilities and 11.9%	No mention of goal for non-majors in MI workplan, but NMS inspection count greater than PCS. This data is required in PCS.
5C0S	Inspection coverage: NPDES other (not 5a or 5b) (1 FY)	Informational Only	State			0.0%	-2600 +/-	No mention of goal for non-majors in MI workplan, but NMS inspection count greater than PCS. This data is required in PCS.
7A1C	Single-event violations at majors (1 FY)	Review Indicator	Combined			0		Michigan is not entering single event violations according to national guidance.
7A2C	Single-event violations at non-majors (1 FY)	Informational Only	Combined			0		We need to review Michigan's tracking mechanism for SEVs at non-Majors. While PCS entry is not required, the data must be tracked by the state.
7B0C	Facilities with unresolved compliance schedule violations (at end of FY)	Data Quality	Combined			71.8%		Rate appears high; we need to verify the data. If the data is correct Michigan should address the high rate of compliance schedule violations.
7C0C	Facilities with unresolved permit schedule violations (at end of FY)	Data Quality	Combined			2.3%	413 of ~1700 permits that may have schedules	We need to verify the data from MI.

Clean Water Act

Metric	Metric Description	Measure Type	Metric Type	National Goal	National Average	OTIS Metric	MI- Provided Correction	Initial Findings
7D0C	Major facilities with DMR violations (1 FY)	Data Quality	Combined			90		MI suggests that actual data is different from OTIS because of cleanup on their side, but data still not getting into PCS – at least for FY 07.
8A1C	Major facilities in SNC (1 FY)	Review Indicator	Combined			52		In addition to the DMR issues mentioned above, which affect SNC, Michigan is not determining SNC for SEVs.
8A2C	SNC rate: percent majors in SNC (1 FY)	Goal	Combined		22.4%	28.3%	<13%	Because of DMR, and SEVs issues mentioned above we believe the SNC rate is incorrect and an issue.
10A0C	Major facilities without timely action (1 FY)	Goal	Combined	< 2%	11.7%	21.2%		Need to review Michigan's EMS to verify escalation policy and perform supplemental file review.

APPENDIX B

FILE SELECTION

Files that were reviewed were selected according to a standard protocol 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

Below is a description of how Region 5 selected files for review from each of the program media:

Resource Conservation and Recovery Act

Region 5 did not use the file selection tool in OTIS because there was not enough complete data to properly make selections. Instead, Region 5 randomly picked files from various compliance monitoring and enforcement lists provided by MDEQ using the SRF File Selection Protocol. The universe of selection files (compliance monitoring and enforcement) from which to pick was 1,099. According to the Protocol, the range of files for a universe that size is 25 to 40. As a result, Region 5 picked 40 files to use for its random, representative file selection. Sixteen of these files focused on compliance monitoring and the remainder focused on enforcement. Of the 40 files selected, Region 5 selected two files that focused on citizen complaints, and selected six other supplemental files that focused on large quantity generator informal enforcement actions.

The random and representative file selection process that the Region employed was supported by use of an independent randomizing website (www.randomizer.org). Region 5 assigned numbers to each of the listed compliance monitoring and enforcement actions that MDEQ provided. Then, through use of the randomizing tool on the above-referenced website, random numbers were populated and were transferred to the numbered lists of actions. In the process of the supplemental file selection, Region 5 utilized the informal enforcement list provided by MDEQ and then populated a list in OTIS to identify large quantity generators. From that point, Region 5 assigned numbers to each of the populated LQG's and randomly picked supplemental files utilizing the same randomizing website as referenced above. These files are from a mix of the categories below and are geographically distributed across the state:

- ◆ Different sources
- ◆ Inspections or no inspections
- ◆ Violation and no violations
- ◆ SNCs or no SNCs
- ◆ Informal or formal actions
- ◆ Penalties or no penalties

Clean Air Act

Region 5 used the file selection tool in OTIS, which follows the SRF File Selection Protocol. The universe of selection files (compliance monitoring and enforcement) from which to pick was 672. According to the Protocol, the range of files for a universe that size is 20 to 35. As a result, Region 5 picked 31 files to use for its random, representative file selection. Fifteen of these files focused on compliance monitoring and the

remainder focused on enforcement. These files are from a mix of the categories below and are geographically distributed across the state:

- ◆ Different major and minor sources
- ◆ FCEs or PCEs
- ◆ Violations and no violations
- ◆ Stack tests
- ◆ HPVs or no HPVs
- ◆ Informal or formal actions
- ◆ Penalties or no penalties

Clean Water Act

Region 5 used the file selection tool in OTIS, which follows the SRF File Selection Protocol. The universe of selection files (compliance monitoring and enforcement) from which to pick was 981. According to the Protocol, the range of files for a universe that size is 25 to 40. As a result, Region 5 picked 33 files to use for its random, representative file selection and seven supplemental files. Eighteen of these files focused on compliance monitoring and the remainder focused on enforcement. These files are from a mix of the categories below and are geographically distributed across the state:

- ◆ Majors or Minors
- ◆ Inspections or no inspections
- ◆ Violation and no violations
- ◆ SNCs or no SNCs
- ◆ Informal or formal actions
- ◆ Penalties or no penalties
- ◆ Different permit types

B. File Selection Tables

Resource Conservation and Recovery Act

The RCRA table below may not include all actions that are in each case file as shown in columns five through ten as a result of missing data in OTIS.

Resource Conservation and Recovery Act											
Name	Program ID	City	St	Evaluation	Violation	SNC	Informal Action	Formal Action	Penalty	Universe	Selection
AARROW AUTO BODY INC	MID982651192	MUSKEGON	M I	Yes						CES	representative
ADVANCED FIBERMOLDING INC	MIR000040394	LEROY	M I	Yes			Yes			SQG	representative
AM GENERAL CORP LIVONIA	MID155920911	LIVONIA	M I	Yes			Yes			SQG	representative
AMERICAN CONTROLS INC	MID985593581	FARMINGTON HILLS	M I	Yes			Yes			SQG	representative
BAY INDUSTRIAL FINISHING INC	MID016734816	BAY CITY	M I	Yes			Yes			SQG	representative
BIEWER OF LANSING LLC	MIR000046664	LANSING	M I	Yes		Yes		Yes		LQG	representative
BP PRODUCTS NORTH AMERICA INC	MID000809517	RIVER ROUGE	M I				Yes			LQG	supplemental
BURTON MOORE FORD INC	MID016772170	CARO	M I				Yes			SQG	representative
CHILDRENS HOSPITAL OF MICHIGAN	MID076377316	DETROIT	M I	Yes						SQG	representative
CLARK GRAPHICS SERVICES INC	MIR000100842	WARREN	M I				Yes			LQG	representative
CONSUMER S ENERGY CO	MID041407446	CHARLEVOIX	M I	Yes						OTH	representative
DEMMER PROPERTIES LLC	MID005380134	LANSING	M I	Yes			Yes			LQG	supplemental
EASTVIEW INC	MID980274401	FLAT ROCK	M I				Yes			SQG	representative
ELECTROPLATING SERVICE INC	MID042444687	MADISON HEIGHTS	M I	Yes		Yes	Yes			LQG	representative
FEDERAL INDUSTRIAL SERVICES INC	MIK391611415	WARREN	M I	Yes						OTH	representative
FORMTECH INDUSTRIES LLC	MID980905442	TROY	M I	Yes			Yes			LQG	representative

Resource Conservation and Recovery Act											
Name	Program ID	City	St	Evaluation	Violation	SNC	Informal Action	Formal Action	Penalty	Universe	Selection
GRAND RAPIDS PRINTING INK CO	MID006011555	GRAND RAPIDS	M I	Yes						CES	representative
HANSEN COLLISION INC	MIK271928590	KENTWOOD	M I	Yes						CES	representative
HONEYWELL INTERNATIONAL INC	MID005517198	DETROIT	M I	Yes			Yes			LQG	supplemental
JACOBS INDUSTRIES INC	MIK715737698	FRASER	M I	Yes						OTH	representative
LYLE INDUSTRIES INC	MIR000015321	BEAVERTON	M I	Yes			Yes			SQG	representative
MPI RESEARCH	MID048989891	MATTAWAN	M I	Yes			Yes			LQG	supplemental
NATIONAL COATINGS INC	MIR000018531	TRAVERSE CITY	M I	Yes			Yes			SQG	representative
NORTRU LLC TRANSPORTATION GROUP	MID021087275	DETROIT	M I	Yes		Yes	Yes	Yes		OTH, TRA, SQG	representative
OW RESOURCE S INC	MIR000027367	COMMERCE TOWNSHIP	M I	Yes			Yes			OTH	representative
PETRO-CHEM PROCESSING GROUP OF NORTRU LL	MID980615298	DETROIT	M I	Yes		Yes	Yes	Yes		TRA, TSD(TSF)	representative
PORTRAIT INNOVATIONS	MIK282533926	STERLING HEIGHTS	M I	Yes						CES	representative
PROTO CRAFTS INC	MID057701872	DECKERVILLE	M I	Yes			Yes			LQG	supplemental
SAFETY KLEEN SYSTEMS INC	MID981000359	MASON	M I	Yes		Yes		Yes		LQG	representative
SAFETY KLEEN SYSTEMS INC	MID981000607	SAGINAW	M I	Yes		Yes		Yes		LQG	representative
SAFETY KLEEN SYSTEMS INC	MID985663251	ROMULUS	M I	Yes		Yes	Yes	Yes		LQG	representative
TELLUREX CORPORATION	MIK147984330	TRAVERSE CITY	M I	Yes						SQG	representative
THERMA TECH ENGINEERING INC	MID006448336	REDFORD	M I	Yes			Yes			SQG	representative
WAYNE STATE UNIVERSITY	MIR000041228	DETROIT	M I	Yes			Yes			LQG	supplemental

Resource Conservation and Recovery Act											
Name	Program ID	City	St	Evaluation	Violation	SNC	Informal Action	Formal Action	Penalty	Universe	Selection
GREATER DOMINION MINISTRIES	482805	DETROIT	M I	Yes							representative
LANDFILL AVOIDANCE SYSTEMS	479526	DETROIT	M I				Yes				representative
MARBLE OUTDOORS	37801-3708-CV	GLADSTONE	M I								
ARA Tube	38427-3708-CV	PLYMOUTH	M I								
CITY OF SAULT STE MARIE	MIP000000361	SAULT SAINTE MARIE	M I								
FAYGO BEVERAGE	MIG000024486	DETROIT	M I								

Clean Air Act

Clean Air Act														
Name	Program ID	City	St	FCE	PCE	Violation	Stack Test Failure	Title V Deviation	HPV	Informal Action	Formal Action	Penalty	University	Selection
ADVANCED HEAT TREAT CORP	2611505070	MONROE	MI	yes	no	no	no	no	no	no	no	no	FR MI	representative
BANKS HARDWOODS	2614905215	WHITE PIGEON	MI	no	no	yes	no	no	no	no	yes	yes	SM 80	representative
BATTLE CREEK HEALTH SYSTEMS	26025R0004	BATTLE CREEK	MI	no	yes	yes	no	no	yes	yes	no	no	FR MI	representative
CARBONE AMERICA ULTRA CARBON	2601700138	BAY CITY	MI	yes	no	no	no	no	no	no	no	no	SM 80	representative
FRANKLIN METAL TRADING CORPORATION	2606700090	LAKE ODESSA	MI	no	no	yes	no	no	no	no	yes	yes	FR MI	representative
HART-DOYLE-INOUE FEDERAL CENTER	2602500034	BATTLE CREEK	MI	no	yes	yes	no	no	yes	yes	no	no	FR MI	representative
HENRY FORD HOSPITAL	2616301313	DETROIT	MI	yes	no	no	no	no	no	no	no	no	OMI N	representative
K AND W LANDFILL INC	2613105096	ONTONAGON	MI	yes	yes	no	no	no	no	no	no	no	MAJ R	representative
KENT COUNTY WASTE TO ENERGY FACILITY	2608100567	GRAND RAPIDS	MI	yes	yes	no	no	no	no	no	no	no	MAJ R	representative
LANSING BOARD OF WATER & LIGHT, ERICKSON	2604500013	LANSING	MI	yes	no	no	no	no	no	no	no	no	MAJ R	representative

Clean Air Act														
Name	Program ID	City	St	FCE	PCE	Violation	Stack Test Failure	Title V Deviation	HPV	Informal Action	Formal Action	Penalty	Universe	Selection
LOUISIANA-PACIFIC CORP NEWBERRY PLANT	260950008	NEWBERRY	MI	yes	yes	yes	no	no	yes	no	yes	yes	MAJR	representative
LOUISIANA-PACIFIC CORP SAGOLA PLANT	260430030	SAGOLA	MI	yes	no	yes	no	no	no	no	yes	yes	MAJR	representative
MARTIN TECHNOLOGY	2612505680	NEW HUDSON	MI	yes	no	no	no	no	no	no	no	no	SM	representative
MERIT ENERGY COMPANY - MENTOR GAS PLANT	261350011	UNION CORNERS	MI	no	no	yes	no	no	no	no	yes	yes	SM80	representative
MICHIGAN SUGAR COMPANY - SEBEWAIN G FAC	260630014	SEBEWAIN NG	MI	yes	yes	yes	no	no	no	yes	no	no	MAJR	representative
MICHIGAN SUGAR COMPANY - CARROLLTON FACT	261450048	CARROLLTON	MI	yes	yes	no	no	no	no	no	no	no	MAJR	representative
MILLER PRODUCTS INC	260810033	GRAND RAPIDS	MI	yes	no	yes	no	no	yes	no	no	no	SM80	representative
NORTHLAND CORP	261170008	GREENVILLE	MI	yes	no	no	no	no	no	no	no	no	SM80	representative
PARKEDALE PHARMACEUTICALS, INC.	2612500166	ROCHESTER	MI	yes	yes	no	yes	no	no	no	no	no	MAJR	representative
PITSCH SANITARY LANDFILL	2606700127	BELDING	MI	no	yes	no	no	no	yes	no	no	no	MAJR	representative
REILLY PLATING/MLOK INC	2616300146	MELVINDALE	MI	yes	yes	yes	no	no	yes	yes	no	no	MAJR	representative

Clean Air Act														
Name	Program ID	City	St	FCE	PCE	Violation	Stack Test Failure	Title V Deviation	HPV	Informal Action	Formal Action	Penalty	Universe	Selection
RICHFIELD LANDFILL, INC.	2604905668	DAVISON	MI	no	yes	yes	no	no	yes	yes	no	no	MAJR	representative
ROBERT BAILEY CONTRACTORS, INC. - CR3 PL	2677705245		MI	no	no	no	no	no	no	no	yes	yes	FRMI	representative
SPARTAN ASPHALT PAVING CO.	2603700057	LANSING	MI	yes	no	no	no	no	no	no	no	no	SM80	representative
STATE STREET GENERATING STATION	2602305292	COLDWATER	MI	no	yes	no	no	no	yes	no	yes	yes	MAJR	representative
THE DOW CHEMICAL COMPANY, CALCIUM CHLORIDE	2610500007	LUDINGTON	MI	yes	yes	no	no	no	no	no	no	no	MAJR	representative
TIARA YACHTS DIVISION OF S2 YACHTS	2600500030	HOLLAND	MI	yes	yes	yes	no	no	yes	no	no	no	MAJR	representative
UNIVAR USA INC. - ROMULUS BRANCH	2616301042	ROMULUS	MI	yes	no	yes	no	no	no	no	yes	yes	SM80	representative
UPPER PENINSULA POWER CO - PORTAGE STATION	2606100009	SOUTH RANGE	MI	no	yes	no	no	no	no	no	no	no	MAJR	representative
WORTHEN COATED FABRICS	2608100150	GRAND RAPIDS	MI	no	yes	no	no	no	no	no	no	no	MAJR	representative
ZEELAND GENERATING STATION	2613905289	ZEELAND	MI	yes	yes	no	no	no	no	no	no	no	MAJR	representative

Clean Water Act

Clean Water Act													
Name	Program ID	City	Sub Region	St	Insp-ection	Vio-lation	Single Event Violation	SNC	Informal Action	Formal Action	Pen-alty	Uni-verse	Selection
ALLEGAN METAL FINISHING	MI0042722	ALLEGAN	PP	MI	Yes	Yes	No	No	No	No	No	Major	representative
ALLENDALE TWP WWTP	MI0057679	ALLENDALE	GG	MI	No	Yes	No	Yes	No	Yes	No	Major	representative
ASHLEY WWSL	MIG580059	ASHLEY	LL	MI	No	Yes	No	No	No	No	No	Minor	representative
BATTLE CREEK WWTP	MI0022276	BATTLE CREEK	PP	MI	Yes	Yes	No	No	No	No	No	Major	representative
BERLYN ACRES-CAFO	MIG440021	FOWLER	LL	MI	No	No	No	No	No	No	No	Minor	supplemental
BRIGHTON WWTP	MI0020877	BRIGHTON	LL	MI	Yes	No	No	No	No	No	No	Major	representative
BUCHANAN WWTP	MI0022489	BUCHANAN	PP	MI	No	Yes	No	No	No	Yes	No	Major	representative
CADILLAC WWTP	MI0020257	CADILLAC	CC	MI	No	Yes	No	Yes	No	No	No	Major	representative
CITY OF SPRINGFIELD	MIG610049	SPRINGFIELD	PP	MI	No	No	No	No	No	Yes	No	Minor	representative
CITY OF TROY-SWMA	MIG610053	TROY	DD	MI	No	No	No	No	No	Yes	No	Minor	representative
GARY WELLMAN	MIU100012	ROCK	MM	MI	No	Yes	No	No	No	Yes	No	Minor	representative
GM-PROVING GROUNDS-MILFORD	MI0001911	MILFORD	LL	MI	Yes	No	No	No	No	No	No	Minor	representative
GOGEBIC-IRON WW AUTHORITY WWTP	MI0020125	IRONWOOD	MM	MI	Yes	Yes	No	Yes	No	No	No	Major	representative
GRAND RAPIDS WWTP	MI0026069	GRAND RAPIDS	GG	MI	No	Yes	No	No	No	Yes	No	Major	representative
GREAT LAKES TISSUE CO	MI0002496	CHEBOYGAN	CG	MI	Yes	Yes	No	Yes	No	No	No	Major	representative

Clean Water Act													
Name	Program ID	City	Sub Region	St	Insp- ection	Vio- lation	Single Event Violation	SNC	Informal Action	Formal Action	Pen- alty	Uni- verse	Selection
GROSSE ILE TWP WWTP	MI0026191	GROSSE ILE	DD	MI	Yes	Yes	No	Yes	No	Yes	No	Major	representative
HARTFORD WWTP	MI0023094	HARTFORD	PP	MI	No	Yes	No	No	No	Yes	No	Minor	representative
HOWELL WWTP	MI0021113	HOWELL /C/	LL	MI	No	Yes	No	No	No	Yes	No	Major	representative
MARQUETTE WWTP	MI0023531	MARQUETTE	MM	MI	Yes	Yes	No	Yes	No	No	No	Major	representative
MICH SEAMLESS TUBE LLC	MI0001902	SOUTH LYON	DD	MI	Yes	Yes	No	No	No	Yes	No	Major	representative
MICH SUGAR CO-SEBEWAIN G	MI0002003	SEBEWAIN G	SS	MI	Yes	Yes	No	Yes	No	No	No	Major	representative
MULLIKEN WWSL	MIG580058	MULLIKEN	LL	MI	No	Yes	No	No	Yes	No	No	Minor	representative
MUSKEGON CO WWMS METRO WWTP	MI0027391	MUSKEGON	GG	MI	Yes	Yes	No	Yes	No	No	No	Major	representative
O-N MINERALS-ROGERS CITY	MI0004111	ROGERS CITY	CG	MI	Yes	Yes	No	No	No	No	No	Major	representative
RIVER RIDGE MHC/COND OS-SALINE	MI0055034	SALINE	HJ	MI	No	Yes	No	No	No	Yes	No	Minor	representative
S HURON VALLEY UA WWTP	MI0043800	BROWNS TOWN TWP	DD	MI	No	Yes	No	No	Yes	No	No	Major	representative
SALINE WWTP	MI0024023	SALINE	JJ	MI	Yes	Yes	No	No	No	No	No	Major	representative
TAWAS UTILITY AUTHORITY WWTP	MI0021091	EAST TAWAS	SS	MI	Yes	No	No	No	No	No	No	Major	representative
TOWNSHIP OF BINGHAM	MIU500010	BINGHAM TWP	LL	MI	No	Yes	No	No	No	Yes	No	Minor	representative
TOWNSHIP OF PLYMOUTH	MIU901034	PLYMOUTH H	DD	MI	No	Yes	No	Yes	No	No	No	Minor	representative

Clean Water Act													
Name	Program ID	City	Sub Region	St	Insp- ection	Vio- lation	Single Event Violation	SNC	Informal Action	Formal Action	Pen- alty	Uni- verse	Selection
UNITED STATES STEEL-ECORSE GREAT LAKES WORKS-ECORSE	MI0002313	ECORSE	DD	MI	No	Yes	No	Yes	No	Yes	No	Major	representative
WEBER DAIRY LLC	MIU600016	PINCONNING	SS	MI	No	No	No	0	No	Yes	No	Minor	representative
WOLVERINE CHRIST SERVICE CAMP	MIG580336	COLUMBIAVILLE	LL	MI	No	No	No	No	Yes	No	No	Minor	representative
DETROIT EDISON – RIVER ROUGE	MI0001724	RIVER ROUGE	DD	MI	No	Yes	No	Yes	No	Yes	No	Major	supplemental
FISHER SAND & GRAVEL – MIDLAND	MIS410376	MIDLAND		MI					Yes			Minor	supplemental
FIVE STAR DAIRY	MIG010012			MI	Yes	Yes						Minor	supplemental
HERITAGE VILLAGE DUPLEX	MIR109280			MI	Yes	Yes						Minor	supplemental
GRP-WOODPOINTE CROSSINGS	MIR109069			MI	Yes	Yes						Minor	supplemental
NORTHFIELD TWP MS4 - WASHTENAW	MIS040009	WASHTENAW		MI	Yes	Yes						Minor	supplemental
COMPOUND TECHNOLOGIES - TROY	MIS110183	TROY		MI	Yes	Yes						Minor	supplemental

APPENDIX C

FILE REVIEW ANALYSIS CHARTS

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 Analysis Chart 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.

Resource Conservation and Recovery Act

RCRA Metric #	RCRA File Review Metric:	Metric Value	Initial Findings and Conclusions
Metric 2c	% of files reviewed where mandatory data are accurately reflected in the national data system.	20%	7 of the 35 inspection and enforcement files had data that were reflected accurately in RCRAInfo. State enforcement data was not translated into RCRAInfo. The cause of inaccurate data is a faulty conversion program that takes data from the state system and inputs the data into RCRAInfo. EPA notes that 5 of the files reviewed (40 total) were conditionally exempt small quantity generators / used oil handlers that are not required to be inputted into RCRAInfo. Due to the translation issues, files selected for review were selected from state data sources.
Metric 4a	Planned inspections completed	99%	In the 2007 workplan, MDEQ committed to the following inspections: 137 LQGs, 82 TSDFs, 32 hazardous waste transporters, and 313 SQGs. They conducted 140, 82, 32, and 311, respectively. In addition, MDEQ conducted 129 CESQG inspections, although a number was not negotiated in the workplan. EPA notes that for the purposes of the workplan, MDEQ defines TSD more broadly than EPA's classification of "operating TSDs."
Metric 4b	Planned commitments completed	100%	In the 2007 workplan, MDEQ committed to the following activities: 1) Reviewing site status in comparison to manifested waste data, 2) Addressing sites that have not paid hazardous waste user charges, 3) Collecting manifest data from nonreporting sites, and 4) Reviewing manifest discrepancies during evaluations. MDEQ has accomplished all four commitments.
Metric 6a	# of inspection reports reviewed.	36	In the 40 files selected for the file review (16 evaluation, 10 informal enforcement action, 6 formal enforcement action, 2 citizen complaints, and 6 supplemental files) there were a total of 36 inspection reports that were found in the files and reviewed as part of the SRF review. The remaining four files did not include inspection reports because physical inspections were not conducted. Three of these formal enforcement actions files resulted from violations of a compliance order (stipulated penalties) and one evaluation file from a Corrective Action Compliance Evaluation that did not have an inspection report.

RCRA Metric #	RCRA File Review Metric:	Metric Value	Initial Findings and Conclusions
Metric 6b	% of inspection reports reviewed that are complete and provide sufficient documentation to determine compliance at the facility.	17%	6 of the 36 inspection reports were considered complete. Inspection files generally lacked a narrative, photographs, documentary support, facility descriptions and references to statements / quotes made by facility representatives.
Metric 6c	Inspections reports completed within a determined time frame.	81%	29 of the 36 inspection reports reviewed were timely according to MDEQ timelines in staff performance standards.
Metric 7a	% of accurate compliance determinations based on inspection reports.	94%	Based upon the information provided in the 36 inspection reports and correspondence to the installation/facility, 34 appeared to have accurate compliance determinations. Two of the inspection reports led to determinations of SV, when they should have been SNC.
Metric 7b	% of violation determinations in the files reviewed that are reported timely to the national database (within 150 days).	0%	34 of 36 inspection reports reviewed had violation determinations within 150 days. However, none of the violation determinations were reported in the national database in a timely manner.
Metric 8d	% of violations in files reviewed that were accurately determined to be SNC.	94%	The Region determined that 34 of the 36 inspection report files reviewed were correctly classified. The Region determined that 2 files designated as SVs should have been classified as SNCs.
Metric 9a	# of enforcement responses reviewed.	30	
Metric 9b	% of enforcement responses that have returned or will return a source in SNC to compliance.	100%	6 of the enforcement files reviewed were for SNC. 6 of the 6 enforcement responses appeared to result in a return to compliance.
Metric 9c	% of enforcement responses that have returned or will return Secondary Violators (SV's) to compliance.	83%	19 of the 23 enforcement responses have returned SVs to compliance. In two of the remaining four files, the state issued RTC letters when there did not seem to be adequate information (i.e. accompanying documentation, photographs, etc.) for the RTC. In the two other files, RTC letters were not issued by the date of the file review. In these two cases, the violations resulted from inspections by staff who were not RCRA enforcement personnel. Other programs (i.e. Solid Waste) cited the violations, and failed to issue RTC letters for the RCRA concerns.
Metric 10c	% of enforcement responses reviewed that are taken in a timely manner.	63%	In 19 of the 30 enforcement files, the enforcement responses were within the timeliness guidelines for SNCs and SVs, as appropriate. In 8 of the 23 informal enforcement files, the SV was not RTCd within 240 days. In 3 of the 7 SNC files, the completion of the formal order exceeded 360 days (in 1 of these 3, the SNC designation also exceeded 150 days). This includes a facility designated as a SNC but not yet resolved through a formal action. Therefore, the

RCRA Metric #	RCRA File Review Metric:	Metric Value	Initial Findings and Conclusions
			timeliness of the action was evaluated (the final order has not been completed within 360 days); however the appropriateness of the action (Metric 10d) could not be evaluated.
Metric 10d	% of enforcement responses reviewed that are appropriate to the violations.	72%	In 21 of the 29 of the enforcement files, the enforcement responses were appropriate for the violations. Six of the 6 SNC files with formal actions were responded to in an appropriate manner with formal orders and penalty actions. In 15 of the 23 SV files, the enforcement response was appropriate for the violations documented. All 8 SV cases that were not appropriate failed to be RTCd within 240 days without being designated as a SNC. Two of those also had violations that appeared to meet the definition of a SNC and should have been initially designated as SNCs. This universe did not include a facility designated as a SNC that has not yet been resolved through a formal action, as noted above.
Metric 11a	% of reviewed penalty calculations that consider and include where appropriate gravity and economic benefit.	100%	In 6 of the 6 SNC cases with formal actions, penalties were proposed and assessed. All 6 files had gravity calculations and 6 had documentation that economic benefit was considered.
Metric 12a	% of penalties reviewed that document the difference and rationale between the initial and final assessed penalty.	100%	5 of the 5 penalty cases contained documentation of the difference and rationale between the initial and final assessed penalty. The universe includes the 5 penalty cases where there was a difference between the initial and final assessed penalty.
Metric 12b	% of files that document collection of penalty.	100%	All 6 penalty case files documented the collection of a penalty.

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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.	63%	<p>19 of 30 files had data that was accurately reflected in AFS. Some MDR data are found in DEQ's electronic database (MACES) rather than in paper files (e.g., AFS ID numbers). Frequently, information in the files did not contain data regarding regulated pollutants, applicable regulations, SIC codes, and so on, so data in MACES could not always be verified against information in the files.</p> <p>There were instances of incorrect dates in AFS for inspections, etc. Note also that MDEQ data was not getting all of its data into AFS in 2007 due to problems establishing a universal interface for MDEQ's new data system.</p>

CAA Metric #	CAA File Review Metric:	Metric Value	Initial Findings and Conclusions
Metric 4a	% of planned evaluations (negotiated FCEs, PCEs, investigations) completed for the review year pursuant to a negotiated CMS plan.	118%	Region 5's analysis of available data shows that MDEQ exceeded its CMS plan commitment for conducting FCEs at major sources. For major sources, the state conducted 259 FCEs (126% of its commitment of 210 FCEs). For SM-80s, it conducted 149 FCEs (110% of its commitment of 136 FCEs).
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.	25%	MDEQ committed to following a CMS plan without seeking to negotiate an alternative plan. PPA commitments included: conducting FCEs per MDEQ's CMS plan, reviewing test reports, initiating enforcement actions in accordance with the T&A guidance, and other compliance and enforcement program activities. In a review of these four PPA commitments, EPA found that MDEQ fully met one of the commitments (the compliance inspection numbers in Metric 4a above). For the remaining three, Region V's review of data metrics indicates an issue with source populations. Also, MACES did not properly interface with AFS during the review period, although MDEQ submitted quarterly reports. In addition, MDEQ had difficulty with concluding enforcement actions by Day 270, (but consistently pursued enforcement as appropriate).
Metric 6a	# of files reviewed with FCEs.	20	Region 5 reviewed 30 files of the 31 it targeted. Of the 30 files reviewed, 20 contained FCEs. Some files contained PCEs, but 2 of them appeared to be missing the FCEs that EPA had expected to find.
Metric 6b	% of FCEs that meet the definition of an FCE per the CMS policy.	60%	Region 5 reviewed 20 FCEs. Region found that 12 of these files fully met the definition. Some FCEs were missing one or more pieces of information, including visible emission readings, assessment of process and control device parameters, and stack test results. In some instances, Region 5 could not completely assess whether all pieces of information were appropriate for determining compliance at a particular facility.
Metric 6c	% of CMRs or facility files reviewed that provide sufficient documentation to determine compliance at the facility.	48%	Region 5 reviewed 27 CMRs. Thirteen of these files provided sufficient documentation to determine compliance at the facility. Findings are similar to metric 6b in that specific information was missing, including applicable requirements, VE observations and supporting documentation, inventory and description of processes, and description of compliance monitoring activities, and compliance/enforcement history. Some files lacked enforcement/compliance history only, which is not critical to determining compliance.
Metric 7a	% of CMRs or facility files reviewed that led to accurate compliance determinations.	100%	All of the 27 CMRs reviewed by Region 5 led to accurate compliance determinations. Region 5 notes, however, that the HPV discovery rate seen in Michigan's data is 2.5%, which is less than half the national average rate of 9.2%.
Metric 7b	% of non-HPVs reviewed where the compliance determination was timely reported to AFS.	50%	Region 5 determined that four files documented non-HPV violations. Out of those, 2 were not timely reported to AFS.
Metric 8h	% of violations in files reviewed that were accurately determined to be HPV.	100%	For the 18 files it reviewed containing violations, Region 5 found that MDEQ consistently performed accurate determinations of whether HPVs existed. For 2 of the cases reviewed, MDEQ determined violations to be non-HPV.

CAA Metric #	CAA File Review Metric:	Metric Value	Initial Findings and Conclusions
Metric 9a	# of formal and informal enforcement responses reviewed.	17	Region 5 initially selected 13 enforcement files for review, but it also found 4 enforcement activities in the selected inspection files. The enforcement activities found in the inspection files were also reviewed.
Metric 9b	% of formal enforcement responses that have returned or will return a source to physical compliance.	100%	Region 5 reviewed 17 formal enforcement actions. In 14 of 14 of the cases that had settled, Region 5 determined that all of the concluded enforcement actions had assured a return to compliance. The remaining three cases were not settled, so for those, Region 5 could not determine whether actions would ultimately return the facilities to compliance.
Metric 10e	% of HPVs reviewed that are addressed in a timely manner.	25%	Region 5 identified 4 HPV cases out of 16 that were addressed within 270 days of day zero. MDEQ gave some explanation as to why certain cases were non-timely, some of which Region 5 believes are valid. Region 5 worked with MDEQ to help move along a stalled case in at least one instance among the reviewed files.
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%	Region 5 determined that all of the reviewed enforcement actions at HPVs were appropriate (13 out of 13 files). This metric does not include 3 ongoing HPV cases that have not been negotiated and resolved.
Metric 11a	% of reviewed penalty calculations that consider and include where appropriate gravity and economic benefit.	69%	Nine out of 13 cases in which a penalty was involved contained penalty calculations that considered and included both gravity and economic benefit. MDEQ consistently applied EPA's civil penalty policy for the gravity component, but the files frequently treated economic benefit as being "zero," without an explanation as to why it was so.
Metric 12a	% of penalties reviewed that document the difference and rationale between the initial and final assessed penalty.	8%	Region 5 found only one file out of 13 that documented the difference and rationale between the initial and final assessed penalty. MDEQ keeps its calculations at other locations as a matter of policy. These would typically be on computer hard drives. Neither file documentation nor electronic records explained any rationale for penalty reduction, although we found it possible to obtain verbal explanations when interviewing enforcement DEQ staff.
Metric 12b	% of files that document collection of penalty.	15%	Region 5 reviewed 2 files out of 13 that contained evidence that the penalty was in fact collected. MDEQ, however, collects penalties through its finance division and has an accounting system in place for tracking penalty collections. The amount of collected penalties is reported to the state legislature as required by law.

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CWA Metric #	CWA File Review Metric:	Metric Value	Initial Findings and Conclusions
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CWA Metric #	CWA File Review Metric:	Metric Value	Initial Findings and Conclusions
Metric 2b	% of files reviewed where data is accurately reflected in the national data system.	33%	13 out of 39 files had data accurately reflected in PCS.
Metric 4a	Planned inspections completed	100%	In its workplan, MDEQ committed to 72 major inspections and 12 IPP audits. They conducted 84 and 13 respectively, surpassing the commitments.
Metric 4b	Other Commitments. Delineate the commitments for the FY under review and describe what was accomplished.	83%	In its workplan, MDEQ committed to 6 actions: 1) taking enforcement actions in a timely manner to ensure an annual SNC rate of less than 17%, 2) ensuring timely entry of data into PCS, 3) inspecting targeted dischargers, 4) participating on the Department Emergency Management Committee, 5) maintaining an Internet site for CSO and SSO discharges, 6) submitting the ANCR for nonmajor permittees. All these commitments were met except for timely entry of data into PCS. In the Overall Findings and Recommendations part of this report, the data entry issue will be addressed under Elements 1, 2, and 3.
Metric 6a	# of inspection reports reviewed.	29	29 inspection files were reviewed. Although 18 inspection files from FY07 were targeted for the review, inspections that were found in enforcement files were also reviewed if they were connected to enforcement actions in FY07. In some cases, more than one inspection report was reviewed in a case file; nonetheless, the count was 1 (file) for purposes of the inspection metrics.
Metric 6b	% of inspection reports reviewed that are complete.	43%	Using the Round 2 Inspection Report checklist, 12 out of 28 files were considered complete. The universe of files is 28 instead of 29 because one file identified as an inspection file did not contain evidence of an inspection having been conducted.
Metric 6c	% of inspection reports reviewed that provide sufficient documentation to lead to an accurate compliance determination.	85%	23 out of 27 inspection reports provided sufficient information to lead to an accurate compliance determination. The universe of report files is smaller here because in addition to the file mentioned in 6b above, one of the inspections did not actually result in a completed report that could be reviewed for this metric.
Metric 6d	% of inspection reports reviewed that are timely.	71%	20 out of 28 reports reviewed were timely according to MDEQ timelines in staff performance standards. This universe of files is the same as 6b above.
Metric 7e	% of inspection reports or facility files reviewed that led to accurate compliance determinations.	92%	24 out of 26 inspection reports led to accurate compliance determinations. The universe of files does not include the two files that were also not included in 6c above. In addition, a third file was not included in the universe as it was noted that the report was probably not meant to give a determination of compliance.

CWA Metric #	CWA File Review Metric:	Metric Value	Initial Findings and Conclusions
Metric 8b	% of single event violation(s) that are accurately identified as SNC	0%	0 out of 6 files contained SEVs that were accurately identified as SNC. The universe of files for this metric were files in which SEVs were identified from inspection reports <i>and</i> should have been identified as SNC. Those SEVs that were not SNC were not recorded in this universe of files. Although this metric measures accurate identification of SNC in regard to SEVs and the subsequent reporting of the SNCs in PCS, the reviewers noted that SEVs were not being entered into PCS at all per EPA policy.
Metric 8c	% of single event violation(s) identified as SNC that are reported timely.	0%	0 out of 6 files contained SEVs that were SNC and reported timely. The universe of files is the same as described in the metric above. Files that were not accurately identified as SNC would also not be considered timely for purposes of this metric.
Metric 9a	# of enforcement files reviewed	29	29 enforcement files were reviewed. Although 15 enforcement files were targeted for the review, enforcement actions that were found in inspection files were also reviewed if they were connected to inspections in FY07. In some cases, more than one enforcement action was reviewed in a case file; nonetheless, the count was 1 (file) for purposes of the enforcement metrics.
Metric 9b	% of enforcement responses that have returned or will return a source in SNC to compliance.	89%	8 out of 9 files with SNC involved returned the source to compliance or were on a schedule to return to compliance. The universe of files for this metric was the number of files with sources found to be in SNC (or should have been found in SNC).
Metric 9c	% of enforcement responses that have returned or will return a source with non-SNC violations to compliance.	89%	17 out of 19 files with non-SNC violations returned the source to compliance or were on a schedule to return to compliance. The universe of files for this metric was the number of files with non-SNC violations.
Metric 10b	% of enforcement responses reviewed that address SNC that are taken in a timely manner.	89%	8 out of 9 files with SNC involved took action in a timely manner. The universe of files for this metric was the number of files with sources found to be in SNC (or should have been found in SNC).
Metric 10c	% of enforcement responses reviewed that address SNC that are appropriate to the violations.	78%	7 out of 9 files with SNC involved responded with enforcement actions that were appropriate. The universe of files for this metric was the number of files with sources found to be in SNC (or should have been found in SNC).
Metric 10d	% of enforcement responses reviewed that appropriately address non-SNC violations.	95%	18 out of 19 files with non-SNC violations responded with enforcement actions that were appropriate. The universe of files for this metric was the number of files with non-SNC violations.

CWA Metric #	CWA File Review Metric:	Metric Value	Initial Findings and Conclusions
Metric 10e	% enforcement responses for non-SNC violations where a response was taken in a timely manner.	76%	13 out of 17 files with non-SNC violations took action in a timely manner. The universe of files is two smaller than 10d above. In one of the two files, a compliance agreement was signed between MDEQ and the violator that captured a solution to a problem that was discussed by both over a long period of time; normal timeliness standards could not be applied to this situation. In a similar vein, complexities in the second file also did not allow us to apply the timeliness standards.
Metric 11a	% of penalty calculations that consider and include where appropriate gravity and economic benefit.	14%	1 out of 7 files in which penalties were involved considered and included <i>both</i> appropriate gravity and economic benefit calculations. When the assessment of permit fees was included in an enforcement action, these fees were not considered part of a penalty by EPA. When the assessment of fees to recover MDEQ staff costs for enforcement of violations was included in an enforcement action per MI law, these fees <i>were</i> included as part of a penalty by EPA.
Metric 12a	% of penalties reviewed that document the difference and rationale between the initial and final assessed penalty.	33%	2 out of 6 files in which penalties were assessed documented the difference and rationale between the initial and final assessed penalty. Enforcement actions in which penalties were directly assessed (without having an initial proposed penalty) were not included in this universe of files.
Metric 12b	% of enforcement actions with penalties that document collection of penalty.	29%	2 out of 7 files in which penalties were assessed documented collection of the penalty. MDEQ stated during the review that collection of penalties happens with a different group of people than those who work on the enforcement cases. Nonetheless, penalty collection is tracked by the enforcement people using a list that is checked on a regular basis to ensure penalty collection. EPA and MDEQ will discuss whether it is essential given these conditions that verification of the penalty collection be included in each enforcement file.