

State Review Framework

Mississippi Department of Environmental
Quality
Round 2 Report
for Federal Fiscal Year 2010

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I. EXECUTIVE SUMMARY

Major Issues

The State Review Framework (SRF) Round 2 review of the Mississippi Department of Environmental Quality (MDEQ) identified two major issues:

- The timeliness of data entry in federal data bases for Clean Air Act (CAA) and Resource Conservation and Recovery Act (RCRA) programs
- The timeliness of taking enforcement actions for CAA High Priority Violators (HPVs) and Clean Water Act (CWA) Significant Non-Compliers (SNCs) and non-SNCs in accordance with EPA policy and federal and state Enforcement Management Systems (EMS)

Summary of Programs Reviewed

I. Clean Air Act Program

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

- All Minimum Data Requirements (MDRs) were entered into Air Facility System (AFS).
- MDR data, with only minor exceptions, was entered into AFS accurately.
- MDEQ met its enforcement and compliance commitments outlined in the Compliance Monitoring Strategy (CMS) and Air Planning Agreement.
- MDEQ met its annual inspection and compliance evaluation commitments
- Compliance monitoring reports (CMRs) properly documented observations, were completed timely and included an accurate description of observations.
- Compliance determinations were accurately made but not always promptly reported in AFS.
- HPVs were accurately identified.
- Enforcement actions included corrective actions that return facilities to compliance in a specific time frame.
- Penalty calculations consider and include gravity and economic benefit calculations.
- With a few exceptions, MDEQ documented the rationale for any difference between the initial and final penalty

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

- The timeliness of data entry for enforcement, compliance monitoring, and HPV-related MDRs fell short of the national goal. This was identified as an issue in Round 1.
- MDEQ takes appropriate enforcement action in accordance with EPA policy to address HPVs through the issuance of formal enforcement actions. However, almost half of these actions took longer than 270 days to address. This was identified as an issue in Round 1.

II. Clean Water Act/National Pollutant Discharge Elimination System Program (NPDES)

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

- MDEQ enters the MDRs in the National data system and the data is considered complete.
- Data is reported accurately and is maintained.
- Data is entered timely.
- Compliance and enforcement grant commitments were met.
- Inspection grant commitments were met.
- The majority of MDEQ's inspection reports were of good quality and provided documentation to determine compliance.
- Compliance determinations were accurately made and single event violations (SEVs) were reported.
- MDEQ documented the difference between initial and final penalties in enforcement cases, and maintained documentation that the final penalty was collected.
- SNC violations were correctly identified.
- Enforcement actions include complying and corrective action to return facilities to compliance

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

- MDEQ should take timely enforcement action for SNCs and non-SNCs in accordance with the NPDES Enforcement Management System (EMS) and the State's EMS.
- MDEQ documents the gravity component of their penalty calculations, however, inclusion and documentation of economic benefit in the penalty calculations occurs much less often.

III. Resource Conservation and Recovery Act Program

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

- MDEQ enters MDRs into RCRA Info
- The majority of the data is accurately entered and maintained by MDEQ in RCRAInfo.
- Enforcement and inspection commitments were met.
- Core inspections/evaluations were met.
- The majority of inspection reports were of good quality and provided documentation to determine compliance.
- Inspection reports included correct compliance determinations and were promptly entered in RCRAInfo.

- SNCS are correctly identified.
- Enforcement actions include corrective action to return facilities to compliance.
- Timely and appropriate enforcement actions for SNCs are taken.
- MDEQ generally documents penalty calculations to include gravity and economic benefit.
- MDEQ documents difference between initial and final penalties.

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

- MDEQ should implement procedures to ensure that SNC codes are entered timely into RCRA Info.

II. BACKGROUND INFORMATION ON STATE PROGRAM AND REVIEW PROCESS

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

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

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

A. GENERAL PROGRAM OVERVIEW

The information contained in this section, including agency structure, resources, data reporting systems, and accomplishments and priorities, was provided by MDEQ and was not verified by EPA for the SRF Report.

Agency Structure

The environmental regulatory authority in Mississippi is the Mississippi Commission on Environmental Quality (Commission). The Commission is a diverse group of seven local business members and community members appointed by the Governor. The Commission is empowered to formulate environmental policy, to promulgate and enforce rules and regulations, receive funding, conduct studies for using the State's resources, and discharge duties, responsibilities and powers as necessary. The Commission is also empowered to serve as “judge and jury” in enforcement actions/hearings. The Commission convenes on the fourth Thursday of each month.

MDEQ serves as staff of the Commission. MDEQ is led by a Governor-appointed Executive Director, and the Commission has delegated many of its statutory powers and duties to the Executive Director. Within MDEQ, and under the direction of the Executive Director, are four Offices: Administrative Services, Geology, Land and Water, and Pollution Control. Each Office has a director appointed by the MDEQ Executive Director who reports thereto. The MDEQ Executive Director also serves as the Natural Resource Trustee for Mississippi

Compliance/Enforcement Program Structure

With respect to those compliance and enforcement matters evaluated through the SRF, all activities fall within the purview of the Office of Pollution Control. Most of the functions evaluated under the Federal Fiscal Year (FFY)10 SRF metrics fall within the responsibility of the Office of Pollution Control's Environmental Compliance & Enforcement Division (ECED). Compliance and enforcement efforts are also supported by MDEQ's Legal Division (an extension of the Mississippi Attorney General's Office).

Roles and Responsibilities and Resources

ECED is a multimedia program that focuses on Air, Water, Hazardous Waste, and Solid Waste compliance and enforcement matters. ECED is led by a Division Chief who reports to the Director for the Office of Pollution Control. ECED is comprised of thirteen Branches: Timber & Wood Products; Chemical; Metal & Metal Manufacturing; Energy & Transportation; Solid Waste & Mining, Service & Miscellaneous Industries; Construction & Building Materials; Agriculture; Municipal & Private Facilities; enSite & Management Support; Technical Support; Underground Storage Tanks; and Data Administration. The managers for the aforementioned branches are referred to as Branch Chiefs. ECED is comprised of fifty-four full time employees (FTEs). Forty-two FTEs can be considered multimedia inspectors. One contractor is also used for multimedia inspections. Three of ECED's FTEs and three contractors are responsible for managing data entry and data flow to the federal databases, a responsibility only recently added to ECED. All MDEQ employees must meet the necessary qualifications outlined by the State's Personnel Board. The Executive Director provides the Division Chief/Branch Chiefs with hiring authority for ECED. Currently, ECED is fully staffed.

In addition to ECED, the Field Services Division (FSD) resides in the Office of Pollution Control. Certain compliance activities are completed by FSD in support of ECED's responsibilities. FSD is comprised of three Regional Offices (RO) and a Laboratory. The Regional Offices are located in Oxford (North), Pearl (Central), and Biloxi (South). Each RO's territory is comprised of approximately one-third of the state. The Laboratory is located in the center of the state, adjacent to the Central RO in Pearl. Most of the analytical sampling and testing required by MDEQ as part of work plan commitments is conducted by FSD. FSD is responsible for the majority of the assigned solid waste inspections, pretreatment compliance monitoring inspections, air synthetic minor operating inspections, and NPDES reconnaissance inspections. FSD also investigates most environmental complaints filed with MDEQ. FSD coordinates with ECED staff on inspection findings and on additional follow up and/or enforcement. FSD has approximately 29 FTE inspectors (11 North RO, 10 Central RO, 8 South RO).

Finally, compliance and enforcement efforts are also supported by MDEQ's Legal Division. The Legal Division consists of General Counsel and four senior staff attorneys. One of the four senior staff attorneys is appointed to ECED to manage the enforcement case load. Additional legal assistance is provided on judicial matters and other special circumstances as needed.

Communication and coordination inside MDEQ

ECED's staff engineers and scientists gather information from their respective facilities/cases and report their findings to the Branch Chief (first line supervisor). The Branch Chief will, in most instances, decide on the next course of action based on the EPA-approved, MDEQ inspection manual and EMS. For more complex issues, the Branch Chief will take recommendations up the chain of command to the ECED Chief.

In enforcement cases where the Commission conducts an evidentiary hearing and makes a ruling, the Chairman of the Commission signs the orders. The Commission has delegated to the Executive Director of MDEQ the authority to execute all orders involving a negotiated and agreed-upon resolution (including agreed penalties). The Commission has also delegated to the Executive Director the authority to issue certain unilateral (or "ex parte") orders as necessary to prohibit, control or abate pollution activities. Such orders do not involve the assessment of penalties. The Executive Director of MDEQ meets with the Director of the Office of Pollution Control on a routine basis as needed. The Director of the Office of Pollution Control meets with the ECED Chief weekly. The ECED Chief has a standing monthly meeting with each Branch Chief to review respective multimedia work projects (scheduled/completed compliance activities, open enforcement cases, personnel issues, etc.). ECED usually holds a division-wide meeting semi-annually.

Communication and coordination outside MDEQ

MDEQ shares great working relationships with other state agencies that are "environmental" in nature. Specifically, MDEQ works routinely with agencies such as the Mississippi Department of Wildlife, Fisheries, and Parks; Department of Marine Resources; Department of Health; Mississippi Oil and Gas Board; and the Mississippi Emergency Management Agency (MEMA), as well as others.

MDEQ's Emergency Response Division (ER) coordinates routinely with MEMA on environmental emergencies that occur almost daily. ER is under the supervision of the Office of Pollution Control Director. Staff within ER, consisting of six FTEs, routinely coordinates emergencies with MEMA, the Federal Emergency Management Agency (FEMA), and EPA response staff.

MDEQ Funding

MDEQ's programs are supported by federal funds, fees, and state appropriations. While MDEQ has seen dramatic cuts in state appropriations, MDEQ continues to meet EPA's work plan commitments. Assuming federal and state appropriations remain at or above FFY11 and State Fiscal Year 11 levels, MDEQ compliance and enforcement programs will be adequately funded

to meet the necessary FFY12 compliance and enforcement requirements for air, water, hazardous waste and solid waste.

Staffing/Training

Employee Recruitment and Retention

MDEQ participates in career fairs at colleges and universities throughout Mississippi and on a limited basis, in colleges in adjacent states. MDEQ also attends recruitment fairs at historically black colleges and universities both in state and out of state.

As a result of recommendations made during the previous SRF review, ECED has revamped its training program, ensuring all staff members receive core training in the various media programs. The ECED training manual provides a list of core training that is required of all staff and the time in which it should be completed. Much of the training ECED staff receives is provided by nationally recognized organizations such as the Air Pollution Training Institute, EPA, the Southeastern States Air Resource Managers Metro 4, the Association of State and Territorial Solid Waste Management Officials, etc. ECED has also received an EPA State and Tribal Assistance Grant (STAG) to fund enhanced ECED staff training. The STAG expires in March 2013. Many of the training programs offered are available to FSD staff, Environmental Permits Division (EPD) staff, and even other states in the southeast as availability allows. ECED continues to schedule training classes, with several having been confirmed for FFY12.

Furthermore, as is the case with any organization, on-the-job training is a part of employee development at MDEQ. Senior staff, usually the Branch Chief, provide ECED staff with mentoring and coaching. Some employees are provided with in-house training by other staff. Out of forty-two multimedia inspectors, approximately 60% have 10 years or more of experience, thus providing a valuable on-the-job training resource for younger, less experienced staff. Because approximately 40% of ECED's multimedia inspectors have 5 years or less of experience, training remains a priority for ECED.

MDEQ offers a variety of non-technical training opportunities to new employees. One example is MDEQ's mentoring program where new employees are assigned an advocate from within MDEQ to assist the new employee in adjusting to public service. MDEQ has also established "Onboard Day" for new employees. This is a very "hands on" orientation class designed to expose the new employee to all programs delegated to MDEQ. Finally for more senior staff, MDEQ offers the Accelerated Training for Leadership and Succession (ATLAS) program for professional development and to offset impacts to the agency from attrition.

Data Reporting Systems/Architecture

MDEQ utilizes enSite (commonly referred as TEMPO in other states) for data management. Every known facility in the state with an environmental interest to MDEQ can be found in enSite, and each facility is referred to as an Agency Interest (AI). Much of the permitting, compliance, and enforcement data maintained by MDEQ related to each facility is maintained in

enSite.¹ The software tracks each task involved with permitting, compliance, and enforcement activities and allows staff to easily manage workloads. Most permits are generated in enSite and all inspection reports and enforcement actions are originated in the system.

ECED's Data Administration Branch is responsible for all data entry into the federal databases (PCS, AFS, RCRAinfo). The Data Administration Branch, new to ECED, consists of three full time employees and three contractors. Much of EPD's and ECED's data flows directly from enSite into the federal databases. However, due to certain software limitations, ECED continues some level of manual data entry into the federal databases.

B. MAJOR STATE PRIORITIES AND ACCOMPLISHMENTS

Priorities

ECED continues to place emphasis on construction storm water compliance efforts, specifically with regard to the Ross Barnett Reservoir in central Mississippi. This reservoir is the state's largest surface water source for drinking water and has been adversely impacted by sediment-laden storm water. Storm water pollution prevention is a priority to MDEQ's Executive Director and to the Commission.

ECED has no other alternative compliance monitoring targeting approaches at this time. However, other groups within MDEQ have focused attention on nutrient management.

Special Initiatives

- MDEQ utilizes an Electronic Discharge Monitoring Report (eDMR) program. This program allows facilities to securely submit electronic DMR data. Currently, approximately 18% of all DMRs are submitted to MDEQ through this program. MDEQ is now focused on increasing the use of eDMRs and will begin working towards a goal of 100% eDMRs.
- The Voluntary Underground Storage Tank (UST) Compliance Assistance Program provides for owner testing and checking of their tanks. MDEQ analyzes data and provides a compliance summary, notifies an owner when the next cycle of testing needs to be performed, and provides a 12 month calendar of upcoming testing requirements to owners of five or more facilities.
- MDEQ's enHance Program promotes responsible environmental stewardship, and enhanced environmental compliance, by recognizing businesses that not only maintain compliance, but go above and beyond environmental compliance as good environmental stewards. ECED participates in the enHance Program each year by assisting EPD staff in evaluations of applicants requesting to be recognized by the program. ECED staff members accompany EPD staff on facility tours of each applicant to aid in compliance certifications.
- ECED also provides staff to help support large-scale emergency response efforts. Mississippi has been faced with a number of severe natural and man-made disasters over the

¹ While enSite does contain public information, the data and documents stored in enSite do not constitute the Agency's official facility file for a particular facility. As of the writing of this report, MDEQ continues to maintain "paper files" for each facility. However, MDEQ is in the process of exploring the possibility of converting to electronic file management and storage.

past two years. Mississippi has been impacted by three severe tornado outbreaks and ECED has deployed staff in each event to help with clean-up and proper waste management. Likewise, the Mississippi River experienced record flooding during the summer of 2011, requiring ECED manpower to help coordinate flood evacuations, preparations and subsequent environmental clean-up. Finally, the BP Oil Spill impacted all coastal states in Region 4. Mississippi was no exception. ECED staff, from the initial event to today, has played a major role in oil spill response. During SFY10 and SFY11, ECED has provided over eleven FTE equivalents to disaster response.

- MDEQ’s community engagement activities, including outreach in “environmental justice” communities, are managed through the Office of Community Engagement. In those instances where a citizen complaint or a violation occurs in an “environmental justice” community, ECED staff coordinates efforts with the Office of Community Engagement, and participates in both inspections and community outreach activities such as public meetings, to ensure that affected citizens are adequately informed of the agency’s activities.

C. PROCESS FOR SRF REVIEW

The Round 2 review of the Mississippi Department of Environmental Quality was initiated on March 18, 2011, by letter from Mary Wilkes, Region 4 Regional Counsel and Director of the Office of Environmental Accountability, to Trudy Fisher, Executive Director of MDEQ. This letter included the Official Data Set (ODS) for Clean Air Act, Clean Water Act and the Resource Conservation and Recovery Act activities for Federal Fiscal Year (FY) 2010. On May 20, 2011, the Preliminary Data Analysis (PDA) and File Selections for all three media were sent to the State. The onsite file reviews for each media took place during June and July 2011 at the MDEQ offices in Jackson, Mississippi.

The State and EPA Region 4 Contacts for the Review are:

	MDEQ	EPA Region 4
SRF Coordinators for all media	Chris Sanders, Chief of the Environmental Compliance and Enforcement Division, MDEQ Chris Wells, Senior Attorney, MDEQ	Becky Hendrix, SRF Coordinator Steve Hitte, OEA Section Chief
CAA	See above	Mark Fite, OEA Technical Authority Kevin Taylor, Air, Pesticides and Toxics Management Division
CWA	See above	Ronald Mikulak, OEA Technical Authority Stacey Bouma, Clean Water Enforcement Branch
RCRA	See above	Nancy McKee, OEA Technical Authority Shannon Maher, OEA Brooke York, RCRA Enforcement Branch

III. STATUS OF RECOMMENDATIONS FROM PREVIOUS REVIEWS

The Round 1 SRF review of MDEQ's compliance and enforcement programs, finalized July 2, 2007, identified 28 recommendations for improvements in several program areas. MDEQ responded to the report by identifying action items and processes to address the recommendations. While many recommendations were scheduled to be addressed in a short timeframe, most by January 1, 2008, the proposed timeframe to implement other recommendations was longer. A Memorandum of Understanding (MOU) was developed and executed by MDEQ and EPA Region 4 on April 23, 2008, that identified timelines and milestones for accomplishing the long-term SRF recommendations, and ensured timely and thorough implementation of the recommendations. Concurrently, MDEQ developed a Process Improvement Plan which included revisions of business processes and incorporated those processes as Standard Operating Procedures (SOPs). These efforts, which are continuing, have resulted in improvements in MDEQ's compliance and enforcement programs and the completion of the recommendations identified in the Round 1 review. Round 2 review showed that a few of the action items outlined in the MOU and revised SOPs that while implemented, continue to require attention from the state. (A complete list of recommendations and actions from Round 1 are contained in Appendix A.)

IV. FINDINGS

Findings represent Region 4's conclusions regarding the issue identified. Findings are based on the initial findings identified during the data or file review, as well as from follow-up conversations or additional information collected to determine the severity and root causes of the issue. There are four types of findings:

Finding	Description
Good Practices	This describes activities, processes, or policies that the SRF data metrics and/or the file reviews show are being implemented exceptionally well and which the state is expected to maintain at a high level of performance. Additionally, the report may single out specific innovative and noteworthy activities, processes, or policies that have the potential to be replicated by other states and can be highlighted as a practice for other states to emulate. No further action is required by either EPA or the state.
Meets SRF Program Requirements	This indicates that no issues were identified under this element.

<p>Areas for State* Attention</p> <p>*Or, EPA Region's attention where program is directly implemented.</p>	<p>This describes activities, processes, or policies that the SRF data metrics and/or file reviews show are being implemented with minor deficiencies. The state needs to pay attention to these issues in order to strengthen performance, but they are not significant enough to require the region to identify and track state actions to correct.</p> <p>This can describe a situation where a state is implementing either EPA or state policy in a manner that requires self-correction to resolve concerns identified during the review. These are single or infrequent instances that do not constitute a pattern of deficiencies or a significant problem. These are minor issues that the state should self correct without additional EPA oversight. However, the state is expected to improve and maintain a high level of performance.</p>
<p>Areas for State * Improvement – Recommendations Required</p> <p>*Or, EPA Region's attention where program is directly implemented.</p>	<p>This describes activities, processes, or policies that the metrics and/or the file reviews show are being implemented by the state that have significant problems that need to be addressed and that require follow-up EPA oversight. This can describe a situation where a state is implementing either EPA or state policy in a manner requiring EPA attention. For example, these would be areas where the metrics indicate that the state is not meeting its commitments, there is a pattern of incorrect implementation in updating compliance data in the data systems, there are incomplete or incorrect inspection reports, and/or there is ineffective enforcement response. These would be significant issues and not merely random occurrences. Recommendations are required for these problems, and they must have well-defined timelines and milestones for completion. Recommendations will be monitored in the SRF Tracker.</p>

Clean Air Act Program

CAA Element 1 — Data Completeness: Degree to which the Minimum Data Requirements are complete.																																		
1-1	This finding is a(n)	<input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required <input type="checkbox"/> Good Practice																																
	Finding	MDEQ has ensured that all minimum data requirements (MDRs) were entered into the AFS.																																
	Explanation	Element 1 of the SRF is designed to evaluate the degree to which the State enters MDRs into the national data system. In the Preliminary Data Analysis (PDA), MDEQ met the national goal of 100% for all Data Metrics. Therefore, this element meets SRF Program requirements.																																
	Metric(s) and Quantitative Value(s)	<table border="0" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;"><u>Data Metric</u></th> <th style="text-align: right;"><u>Goal</u></th> </tr> </thead> <tbody> <tr> <td>State</td> <td></td> </tr> <tr> <td>1c4 - % NSPS Facilities with subprogram designation:</td> <td style="text-align: right;">100%</td> </tr> <tr> <td>100%</td> <td></td> </tr> <tr> <td>1c5 -% NESHAP facilities with subprogram designation</td> <td style="text-align: right;">100%</td> </tr> <tr> <td>100%</td> <td></td> </tr> <tr> <td>1c6 - % MACT facilities with subprogram designation</td> <td style="text-align: right;">100%</td> </tr> <tr> <td>100%</td> <td></td> </tr> <tr> <td>1h1 - HPV Day Zero (DZ) Pathway Discovery date: Percent DZs reported after 10/1/05 with discovery</td> <td style="text-align: right;">100%</td> </tr> <tr> <td>100%</td> <td></td> </tr> <tr> <td>1h2 - HPV DZ Pathway Violating Pollutants: Percent DZs reported after 10/1/05</td> <td style="text-align: right;">100%</td> </tr> <tr> <td>100%</td> <td></td> </tr> <tr> <td>1h3 - Percent DZs reported after 10/1/05 with HPV Violation Type Code</td> <td style="text-align: right;">100%</td> </tr> <tr> <td>100%</td> <td></td> </tr> <tr> <td>1k - Major Sources Missing CMS Policy Applicability</td> <td style="text-align: right;">0</td> </tr> <tr> <td>0</td> <td></td> </tr> </tbody> </table>	<u>Data Metric</u>	<u>Goal</u>	State		1c4 - % NSPS Facilities with subprogram designation:	100%	100%		1c5 -% NESHAP facilities with subprogram designation	100%	100%		1c6 - % MACT facilities with subprogram designation	100%	100%		1h1 - HPV Day Zero (DZ) Pathway Discovery date: Percent DZs reported after 10/1/05 with discovery	100%	100%		1h2 - HPV DZ Pathway Violating Pollutants: Percent DZs reported after 10/1/05	100%	100%		1h3 - Percent DZs reported after 10/1/05 with HPV Violation Type Code	100%	100%		1k - Major Sources Missing CMS Policy Applicability	0	0	
<u>Data Metric</u>	<u>Goal</u>																																	
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1k - Major Sources Missing CMS Policy Applicability	0																																	
0																																		
	State Response	None																																
	Recommendation(s)	No action is needed.																																

CAA Element 2 — Data Accuracy: Degree to which data reported in the national system is accurately entered and maintained.

2-1	This finding is a(n)	<input type="checkbox"/> Meets SRF Program Requirements <input checked="" type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required <input type="checkbox"/> Good Practice
	Finding	In general, MDEQ accurately enters all MDR data into AFS, with only minor exceptions.
	Explanation	<p>Data Metric 2a compares the number of HPVs identified in AFS during the review year to the number of major sources listed in AFS as “in violation” or “meeting compliance schedule.” All HPVs are to be assigned a Compliance Status code that represents the source as either in violation or meeting a schedule until all penalties are paid and all injunctive relief is completed. Because HPV facilities are only a subset of violating facilities, this metric provides a strong indication of whether Compliance Status is being accurately reported. Typically, a State may find two, three, or more violators for every HPV, so the ratio of HPVs to all violating sources should be at or below 50%. That is why the national goal for this metric is set at $\leq 50\%$. MDEQ’s value of 50% meets the national goal.</p> <p>Data Metric 2b1 measures the percentage of stack tests without a results code reported into AFS. MDEQ’s value of 0% meets the national goal.</p> <p>Based on File Review Metric 2c, 19 of the 26 files reviewed (73%) documented all MDRs being reported accurately into AFS. The remaining seven files had one or more discrepancies identified. Three files had minor discrepancies such as an incorrect Standard Industrial Classification (SIC) code or city. More significantly, one file indicated the potential applicability of the MACT and NSPS air programs, but these were not reflected in AFS. Finally, five files showed either an incorrect compliance status or an inconsistency between the compliance status and HPV status. This issue was also identified in the Round 1 review, and it appears that these inconsistencies relate to untimely entry of HPV and compliance information. It is expected that the corrections made under Element 3 to improve the timeliness of data entry will also address this concern. In addition, considering the large number of MDR data elements the State must enter and maintain in AFS, this small number of inaccuracies represents a minor deficiency. These issues can be self</p>

		corrected without additional EPA oversight. Therefore, this element is designated as an area for State attention.
Metric(s) and Quantitative Value(s)	Data Metric	National Goal
	2a - # of HPVs / # of Noncompliance sources	≤ 50%
	2b1- % Stack Tests without Pass/Fail result	0%
	2b2 - Number of Stack Test Failures	-
	File Review Metric	State
2c - % files with all MDR data accurate in AFS	-	73%
State Response	The main area of concern raised appears to be the issue of compliance status and HPV status accuracy. MDEQ thinks it is significant to note that, unlike in Round 1, no failures to update compliance status or inaccurate compliance status were noted. The “inconsistencies” mentioned above, as noted by EPA, are really issues of data entry timeliness (rather than accuracy), which is addressed in CAA Element 3. Consequently, MDEQ respectfully disagrees with EPA on this metric classification and believes that the finding should be modified to “Meets SRF Program Requirements.”	
Recommendation(s)	No formal recommendations are being tracked for this element.	

CAA Element 3 — Timeliness of Data Entry: Degree to which the Minimum Data Requirements are timely.

3-1	This finding is a(n)	<input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input checked="" type="checkbox"/> Area for State Improvement – Recommendations Required <input type="checkbox"/> Good Practice
	Finding	The timeliness of data entry for enforcement, compliance monitoring, and HPV related MDRs fell short of the national goal.
	Explanation	<p>MDEQ’s performance in FY2010 for timely entry of enforcement, compliance monitoring, and HPV related MDRs fell short of the national goal of 100%. Therefore, this is designated as an area for State Improvement. Additional discussion and a recommendation are provided below.</p> <p>With respect to HPV data entry (Data Metric 3a), none of the 22 HPVs were entered within 60 days. Timeframes for entry ranged from 86 to 726 days. This issue was also identified as a concern</p>

		<p>during the Round 1 review. The MOU developed to address Round 1 issues indicated that program staff would receive additional training on HPV identification, and data management staff would participate in monthly HPV calls to improve the timeliness of HPV reporting. The MOU established a goal that HPVs would be entered into AFS within 10 working days of receiving the information on new HPVs. However, MDEQ advises that they do not enter a day zero until they are certain of the violation type. Therefore, they often do not make the HPV determination until they have reviewed the company's response to the NOV. The day zero is then entered retroactively, which results in the late HPV reporting measured by Data Metric 3a.</p> <p>Data Metric 3b1 indicates that just under half of the compliance monitoring MDRs (48%, or 413 of 867) were entered within 60 days. Of the 52% that were entered late, most were stack test reviews (315) and Title V Annual Compliance Certification (ACC) reviews (117). A few late entries (21) were full compliance evaluations (FCEs). The State advises that they do not enter the stack test date and result until after the test report has been reviewed. This practice results in a significant number of late entries for stack tests. However, upcoming changes to the reporting requirements for stack tests may alleviate some of this problem, since the State will have up to 120 days to enter the stack test date and result into AFS under the new Information Collection Request (ICR).</p> <p>Data Metric 3b2 indicates that 56.2% of the enforcement related MDRs (45 of 80) were entered within 60 days. Of the 35 late entries, most of them (80%) were NOV's, and the rest were formal enforcement actions. MDEQ advises that NOV's are not entered into AFS until the appropriate day zero is created.</p>																
	<p>Metric(s) and Quantitative Value(s)</p>	<table border="1"> <thead> <tr> <th>Data Metric</th> <th>National Goal</th> <th>National Average</th> <th>State</th> </tr> </thead> <tbody> <tr> <td>3a - % HPVs entered in \leq 60 days</td> <td>100%</td> <td>34.7%</td> <td>0%</td> </tr> <tr> <td>3b1 - % Compliance Monitoring MDRs entered in \leq 60 days</td> <td>100%</td> <td>59.0%</td> <td>47.6%</td> </tr> <tr> <td>3b2 - % Enforcement MDRs entered in \leq 60 days</td> <td>100%</td> <td>70.3%</td> <td>56.2%</td> </tr> </tbody> </table>	Data Metric	National Goal	National Average	State	3a - % HPVs entered in \leq 60 days	100%	34.7%	0%	3b1 - % Compliance Monitoring MDRs entered in \leq 60 days	100%	59.0%	47.6%	3b2 - % Enforcement MDRs entered in \leq 60 days	100%	70.3%	56.2%
Data Metric	National Goal	National Average	State															
3a - % HPVs entered in \leq 60 days	100%	34.7%	0%															
3b1 - % Compliance Monitoring MDRs entered in \leq 60 days	100%	59.0%	47.6%															
3b2 - % Enforcement MDRs entered in \leq 60 days	100%	70.3%	56.2%															
	<p>State Response</p>	<p>Based on Round 1 review, in-house HPV Training was conducted 12/4/2007, followed by Region IV led training on April 30-May 1, 2008. Data management staff participates in the monthly Air Enforcement Calls.</p> <p>All MDEQ AFS data entry responsibilities now reside within the Environmental Compliance and Enforcement Division. The organizational change occurred in FFY11. Data entry is being closely</p>																

	<p>monitored for accuracy and timeliness and MDEQ anticipates better internal coordination and a much higher level of data accountability. These organizational changes have improved timeliness and accuracy of data in the national system. In fact, the FY12 data shows HPV Day Zero timeliness has increased to 66.7% (excluding three sites where MDEQ & EPA have had protracted, coordinated enforcement) and Enforcement MDR timeliness has increased to 100%, both of which exceed the national average for that period. We expect continued improvements in timeliness as a result of this change.</p> <p>MDEQ's business process for entering enforcement MDRs into AFS is based on making an accurate HPV/non-HPV determination before beginning the data entry. MDEQ enters data into AFS via EPA's Universal Interface and linking of enforcement actions to a Day Zero is least complicated when the Day Zero already exists. Therefore, NOV's are entered at the time the Day Zero is entered. Changing a HPV Day Zero action to a non-HPV Day Zero, and vice versa, is a very complicated process requiring assistance from EPA Region IV staff and potentially EPA Headquarters staff. Therefore, we take the time, which often involves reviewing a source's response to our NOV, to make sure we have the correct HPV determination to ensure our data entry is as accurate as possible to avoid having to change a Day Zero. MDEQ believes the data entry occurs shortly after a HPV determination is made.</p> <p>It should be noted that MDEQ reports all violations, including-non-MDR violations, which are not subject to timeliness standards (and, therefore, are not necessarily treated with the same priority). However, the SRF data metrics do not appear to exclude the non-MDR violations. We request EPA amend its comments to acknowledge this.</p> <p>Finally, in consideration of the progress MDEQ achieved to date towards meeting the national goals, based on the changes already implemented, we request that EPA's recommendations be amended by removing the first sentence – the requirement to submit and implement revised procedures.</p>
<p>Recommendation(s)</p>	<p>By September 30, 2012, MDEQ should evaluate how their current business process contributes to late data entry, including late entry of day zero actions, and make adjustments as needed to ensure timely reporting of MDRs into AFS. Region 4 EPA's Air and EPCRA Enforcement Branch (AEEB) will monitor the improvement of MDEQ's timeliness of MDR reporting through periodic data reviews conducted by EPA. If by March 31, 2013, these periodic reviews indicate progress toward meeting the national goal, the recommendation will be considered completed.</p>

CAA Element 4 — Completion of Commitments: Degree to which all enforcement/compliance commitments in relevant agreements are met and any products or projects are completed.

4-1	This finding is a(n)	<input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required <input type="checkbox"/> Good Practice						
	Finding	MDEQ met its enforcement and compliance commitments outlined in the Compliance Monitoring Strategy (CMS) and Air Planning Agreement.						
	Explanation	MDEQ follows a traditional CMS plan and completed 100% of all planned evaluations for FY2010 (208 of 208 FCEs) in their current CMS plan. In addition MDEQ met all of its enforcement and compliance commitments (100%) under the FY2010 Air Planning Agreement with EPA Region 4. Therefore, this element meets SRF program requirements.						
	Metric(s) and Quantitative Value(s)	<table border="1"> <tr> <td><u>File Review</u></td> <td style="text-align: right;"><u>State</u></td> </tr> <tr> <td>4a - Planned evaluations completed for year of review pursuant to CMS plan</td> <td style="text-align: right;">100%</td> </tr> <tr> <td>4b – Planned commitments completed</td> <td style="text-align: right;">100%</td> </tr> </table>	<u>File Review</u>	<u>State</u>	4a - Planned evaluations completed for year of review pursuant to CMS plan	100%	4b – Planned commitments completed	100%
<u>File Review</u>	<u>State</u>							
4a - Planned evaluations completed for year of review pursuant to CMS plan	100%							
4b – Planned commitments completed	100%							
	State Response	None						
	Recommendation(s)	No action is needed.						

CAA Element 5 — Inspection Coverage: Degree to which state completed the universe of planned inspections/compliance evaluations.

5-1	This finding is a(n)	<input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required <input type="checkbox"/> Good Practice
	Finding	MDEQ met its annual inspection and compliance evaluation commitments

	Explanation	Based on the Data Metrics 5a1 and 5b1, MDEQ completed FCEs at 98.9% of its Major and 83.5% of its SM80 sources during the relevant CMS timeframe. Since FY2010 is the 4 th year of the CMS cycle, MDEQ's value of 83.5% for Data Metric 5b1 exceeds the national goal of 80%. In addition, based on Data Metric 5g, MDEQ reviewed 100% of their Title V annual compliance certifications. Therefore, the State met all SRF program requirements for this element			
	Metric(s) and Quantitative Value(s)	<u>Data Metrics</u>	<u>National Goal</u>	<u>National Average</u>	<u>State</u>
		5a1 - FCE coverage Majors (last completed CMS cycle)	100%	89.2%	98.9%
		5a2 - FCE coverage All Majors (last 2 FY)	100%	84.4%	96.5%
		5b1 - FCE coverage SM80 (current CMS cycle)	20-100%	92.0%	83.5%
		5b2 - FCE coverage CMS SM80 (last 5 FY)	100%	92.4%	91.2%
		5c - FCE/PCE coverage All SMs (last 5 FY)	NA	79.2%	92.9%
		5d - FCE/PCE coverage other minors (5 FY)	NA	28.8%	8.0%
		5e - Sources with unknown compliance status	NA	-	0
		5g - Review of Self Certifications completed	100%	94.3%	100%
	State Response	None			
	Recommendation(s)	No action is needed.			

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

6-1	This finding is a(n)	<input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required <input type="checkbox"/> Good Practice
	Finding	Compliance monitoring reports (CMRs) properly documented observations, were completed in a timely manner, and included an accurate description of observations.

	Explanation	<p>File Review Metric 6b evaluates whether all applicable elements of an FCE have been addressed. Based on the file review, 100% of the files reviewed (18 of 18) had documentation in the files to show that they contained all of the elements of the FCE, per the CMS.</p> <p>For File Review Metric 6c, 100% of the files reviewed (18 of 18) contained all of the CMR requirements listed in the CMS, providing sufficient documentation to determine compliance at the facility. Therefore, the State met all SRF program requirements for this element.</p>								
	Metric(s) and Quantitative Value(s)	<table border="1"> <thead> <tr> <th data-bbox="544 577 1344 611">File Review Metric</th> <th data-bbox="1344 577 1442 611">State</th> </tr> </thead> <tbody> <tr> <td data-bbox="544 611 1344 644">6a - Number of FCEs reviewed</td> <td data-bbox="1344 611 1442 644">18</td> </tr> <tr> <td data-bbox="544 644 1344 678">6b - % FCEs that meet definition</td> <td data-bbox="1344 644 1442 678">100%</td> </tr> <tr> <td data-bbox="544 678 1344 720">6c - % CMRs sufficient for compliance determination</td> <td data-bbox="1344 678 1442 720">100%</td> </tr> </tbody> </table>	File Review Metric	State	6a - Number of FCEs reviewed	18	6b - % FCEs that meet definition	100%	6c - % CMRs sufficient for compliance determination	100%
File Review Metric	State									
6a - Number of FCEs reviewed	18									
6b - % FCEs that meet definition	100%									
6c - % CMRs sufficient for compliance determination	100%									
	State Response	None								
	Recommendation(s)	No action is needed.								

CAA Element 7 — Identification of Alleged Violations: Degree to which compliance determinations are accurately made and promptly reported in the national database based upon compliance monitoring report observations and other compliance monitoring information.

7-1	This finding is a(n)	<input type="checkbox"/> Meets SRF Program Requirements <input checked="" type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required <input type="checkbox"/> Good Practice
	Finding	The file review indicated that the State is making accurate compliance determinations based on inspection reports and other compliance monitoring information. However, the appropriate Compliance Status is not always reported timely into AFS.
	Explanation	<p>File Metric 7a indicates that all of the CMRs reviewed (100%) led to an accurate compliance determination.</p> <p>With respect to File Review Metric 7b, half of the files reviewed with non-HPV violations (3 of 6) had the Compliance Status reported accurately and timely into AFS. Two sources have the appropriate Compliance Status in AFS, but it is not timely. A third source involved a late submittal of the annual compliance certification by a Title V source which was no longer operating, but the State never changed the Compliance Status to reflect the violation. MDEQ</p>

		<p>advises that Compliance Status has to be reported into AFS manually, which may have contributed to the delays in reporting. However, a recent organizational change in which the data management staff moved into the Environmental Compliance and Enforcement Division is expected to provide for better coordination of and accountability for data management, thereby improving the timeliness and accuracy of data in the national system.</p> <p>Data Metrics 7c1 and 7c2 are designed to measure the compliance status reporting of the State program. Both metrics exceeded the national goal. The instances of late Compliance Status reporting are infrequent and do not constitute a pattern of deficiencies or a significant problem. Since these are minor issues that the State will correct without additional EPA oversight, this is designated as an area for State attention.</p>																								
	Metric(s) and Quantitative Value(s)	<table border="1"> <thead> <tr> <th colspan="3">File Review Metrics</th> <th>State</th> </tr> </thead> <tbody> <tr> <td>7a - % CMRs leading to accurate compliance determination</td> <td></td> <td></td> <td>100%</td> </tr> <tr> <td>7b - % non-HPVs with timely compliance determination in AFS</td> <td></td> <td></td> <td>50%</td> </tr> <tr> <th>Data Metrics</th> <th>National Goal</th> <th>National Average</th> <th>State</th> </tr> <tr> <td>7c1 - % facilities in noncompliance with FCE, stack test, or enforcement (1 FY)</td> <td>>11.2%</td> <td>22.3%</td> <td>17.9%</td> </tr> <tr> <td>7c2 - % facilities with failed stack test and have noncompliance status (1 FY)</td> <td>>22.0%</td> <td>44.0%</td> <td>25%</td> </tr> </tbody> </table>	File Review Metrics			State	7a - % CMRs leading to accurate compliance determination			100%	7b - % non-HPVs with timely compliance determination in AFS			50%	Data Metrics	National Goal	National Average	State	7c1 - % facilities in noncompliance with FCE, stack test, or enforcement (1 FY)	>11.2%	22.3%	17.9%	7c2 - % facilities with failed stack test and have noncompliance status (1 FY)	>22.0%	44.0%	25%
File Review Metrics			State																							
7a - % CMRs leading to accurate compliance determination			100%																							
7b - % non-HPVs with timely compliance determination in AFS			50%																							
Data Metrics	National Goal	National Average	State																							
7c1 - % facilities in noncompliance with FCE, stack test, or enforcement (1 FY)	>11.2%	22.3%	17.9%																							
7c2 - % facilities with failed stack test and have noncompliance status (1 FY)	>22.0%	44.0%	25%																							
	State Response	<p>All MDEQ AFS data entry responsibilities now reside within the Environmental Compliance and Enforcement Division. The organizational change occurred in FFY11. Data entry is being closely monitored for accuracy and timeliness and MDEQ anticipates better internal coordination and a much higher level of data accountability. These organizational changes will improve timeliness and accuracy of data in the national system.</p>																								
	Recommendation(s)	No formal recommendations are being tracked for this element.																								

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

8-1	This finding is a(n)	<input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required
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		<input type="checkbox"/> Good Practice																					
	Finding	High Priority Violations (HPVs) are accurately identified.																					
	Explanation	MDEQ exceeded the national goal for all of the data metrics in this element. Files were also reviewed to further verify the accuracy of HPV identification. File Metric 8f indicated that MDEQ accurately identified HPVs and entered the information into AFS for all 16 HPVs (100%). Therefore, this element meets SRF requirements.																					
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Data Metrics	National Goal	State																					
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File Review Metrics		State																					
8f - % accurate HPV determinations		100%																					
	State Response	None																					
	Recommendation(s)	No action is needed.																					

CAA Element 9 — Enforcement Actions Promote Return to Compliance: Degree to which 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.

		<input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required <input type="checkbox"/> Good Practice
9-1	This finding is a(n)	
	Finding	Enforcement actions include corrective actions that return facilities to compliance in a specific time frame, or facilities are brought back into compliance prior to issuance of a final enforcement order.
	Explanation	All enforcement action files reviewed (11 of 11) returned the source to compliance. For enforcement actions that were penalty only actions, the files documented the actions taken by the facility to return to compliance prior to issuance of the order.
	Metric(s) and	File Review State

	Quantitative Value(s)	9a – number of enforcement actions reviewed 9b - % enforcement actions returning source to compliance	11 100%
	State Response	None	
	Recommendation(s)	No action is needed.	

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

		<input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input checked="" type="checkbox"/> Area for State Improvement – Recommendations Required <input type="checkbox"/> Good Practice	
10-1	This finding is a(n)		
	Finding	MDEQ takes appropriate enforcement action in accordance with EPA policy to address HPVs through the issuance of formal enforcement actions. However, almost half of these actions took longer than 270 days to address.	
	Explanation	<p>Based on the file review, the State took appropriate enforcement action to resolve 100% of its HPVs through a formal enforcement action (File Review Metric 10c).</p> <p>However, although File Review Metric 10b indicates that 89% of the HPV files reviewed (8 of 9) were addressed in less than 270 days, the PDA revealed that, in general, MDEQ is not addressing HPVs in a timely manner. Data Metric 10a shows that in the last two years, 46.5% of MDEQ’s HPV actions (20 of 43) have taken longer than 270 days to address, which is higher than the national average of 36.4%. About 70% of the late actions (14 of 20) have taken a year or more to address, with timeframes ranging from 404 days to 1247 days. This issue was also identified as a concern during the Round 1 review. Therefore, this is designated as an area for State improvement.</p> <p>MDEQ advises that a significant number of their enforcement actions are multi-media, and their business practice is to address all violations, regardless of media, under one enforcement action. This additional complexity in the enforcement approach may result in a</p>	

		particular media's HPV timeline goal being exceeded.
Metric(s) and Quantitative Value(s)	<u>Data Metrics</u>	<u>National Average</u> <u>State</u>
	10a - % HPVs not timely (2 FY)	36.4% 46.5%
	<u>File Review Metrics</u>	<u>State</u>
	10b - % timely HPV enforcement actions	89%
	10c - % HPVs appropriately addressed	100%
State Response	<p>MDEQ began a process improvement initiative following Round 1 SRF. As part of that process improvement, MDEQ submitted and received approval from EPA regarding revised policies and procedures governing, among other things, timeliness of enforcement. All EPA recommendations precipitated by SRF Round 1 have been implemented by MDEQ. Staff were trained on these new business processes and full implementation began around the beginning of FFY10. Also as part of the process improvement initiative, MDEQ developed management tools designed to assist ECED management and staff in monitoring and tracking enforcement actions. MDEQ continues to emphasize the importance of timely enforcement and strives to initiate and resolve enforcement in accordance with the timelines agreed upon. No further revision of previously-approved standard operating procedures is warranted at this time.</p> <p>It should be noted also that the revised MDEQ enforcement policies recognize and specifically mention that complex and other otherwise difficult cases may exceed the designated timeline. MDEQ would point out that a portion of the cases that did not meet the 270 day requirement included such difficult cases.</p> <p>Furthermore, MDEQ has repeatedly advised EPA that a significant number of our enforcement actions include multi-media violations, and that our business practice is to address all violations, regardless of media, under one enforcement action. MDEQ's enforcement approach may result in a particular media's timeline goal being exceeded. While MDEQ recognizes this potential situation, MDEQ has no intention to change its business practice to specifically address this EPA recommendation. MDEQ will, however, continue to monitor each enforcement case and improve enforcement management to yield more timely enforcement resolution.</p>	

	Recommendation(s)	By September 30, 2012, MDEQ should evaluate how their current business process may contribute to untimely HPV addressing actions and make adjustments as needed to improve the timeliness of these actions. . The timeliness of HPV addressing actions will be monitored by AEEB through the existing monthly oversight calls between MDEQ and EPA and through a formal consultation on or around day 150. If by March 31, 2013, these periodic reviews indicate progress toward meeting the national goal, the recommendation will be considered concluded.
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CAA Element 11 — Penalty Calculation Method: Degree to which state documents in its files that initial penalty calculation includes both gravity and economic benefit calculations, appropriately using the BEN model or other method that produces results consistent with national policy.

11-1	This finding is a(n)	<input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required <input type="checkbox"/> Good Practice
	Finding	MDEQ’s penalty documentation includes both gravity and economic benefit calculations. In addition, MDEQ policy requires the use of an appropriate methodology such as the BEN model to calculate economic benefit.
	Explanation	<p>The penalties reviewed during the file review were well documented using a detailed penalty worksheet, which relies on and closely tracks EPA’s CAA penalty policy. All of the penalties reviewed included a gravity portion, and based on File Review Metric 11a, 90% of the files reviewed by EPA (9 of 10) provided sufficient documentation of the appropriate economic benefit component of the penalty. However, the initial penalty calculation in one file indicated that economic benefit was “N/A”. This violation involved exceedance of a Volatile Organic Compound (VOC) emission limit for a period of two years. This type of violation could very likely involve delayed or avoided costs, and the penalty documentation should have provided a more thorough analysis. The remaining nine files documented consideration of economic benefit. However, since the economic benefit was determined to be <i>de minimis</i> in all of these files, Region 4 reviewed an additional penalty worksheet which included economic benefit to further evaluate MDEQ’s economic benefit calculation procedures. Based on this analysis, the region was able to verify that MDEQ’s procedures provide results consistent with national policy.</p> <p>In response to concerns raised during the Round 1 SRF review, MDEQ developed a Clean Air Act Penalty Policy (3/12/09) which</p>

		lays out procedures for calculation and documentation of penalties, including both gravity and economic benefit. This policy requires the use of an appropriate methodology such as the BEN model for calculating economic benefit. It also establishes thresholds for determining whether an economic benefit can be considered <i>de minimis</i> , and these thresholds are consistent with those established in EPA guidance. Therefore, this element meets SRF program requirements.
	Metric(s) and Quantitative Value(s)	<u>File Review</u> <u>State</u> 11a - % penalty calculations that consider & include gravity and economic benefit 90%
	State Response	None
	Recommendation(s)	No action needed.

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

		<input type="checkbox"/> Meets SRF Program Requirements <input checked="" type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required <input type="checkbox"/> Good Practice
12-1	This finding is a(n)	
	Finding	With a few exceptions, MDEQ documented the rationale for any difference between the initial and final penalty. In addition, the State assessed penalties for all HPV actions and maintained documentation that the final penalty was collected.
	Explanation	<p>Data Metric 12b measures the percentage of HPV enforcement actions that included a penalty as part of the settlement. Data Metric 12b indicates that 92.3% of HPV actions (12 of 13) had a penalty assessed. In addition, File Metric 12d indicates that 100% of the penalty actions reviewed (10 of 10) documented collection of the assessed penalty.</p> <p>However, based on the file review, File Review Metric 12c indicates that 80% of the penalty actions reviewed (8 of 10) provided documentation of the rationale for the difference between the initial</p>

		<p>penalty assessed and the final penalty paid. One action had no change between the initial and final penalty. Seven other actions documented the rationale for the difference in either the penalty worksheet or a “final penalty rationale” memorandum. For the two actions with no documentation of this rationale, MDEQ advises that they relied on a provision of their Penalty Policy which states that “the calculated penalty may be reduced by up to 30% by the Branch Manager and up to 50% by the Division Chief.” However, EPA notes that MDEQ’s CAA Penalty Policy also provides that a “final penalty rationale document must be created for each enforcement case.” Since seven of the nine files reviewed with a difference in initial and final penalty included such documentation, MDEQ appears to be generally implementing their policy. Only minor adjustments are needed to achieve full compliance. These are infrequent instances that do not constitute a pattern of deficiencies or a significant problem. Therefore, this is designated as an area for State attention.</p>																		
	<p>Metric(s) and Quantitative Value(s)</p>	<table border="1"> <thead> <tr> <th data-bbox="537 787 1062 829">Data Metrics</th> <th data-bbox="1062 787 1333 829">National Goal</th> <th data-bbox="1333 787 1448 829">State</th> </tr> </thead> <tbody> <tr> <td data-bbox="537 829 1062 871">12a - Actions with penalties</td> <td data-bbox="1062 829 1333 871">NA</td> <td data-bbox="1333 829 1448 871">24</td> </tr> <tr> <td data-bbox="537 871 1062 913">12b - % HPV actions with penalty</td> <td data-bbox="1062 871 1333 913">≥ 80%</td> <td data-bbox="1333 871 1448 913">92.3%</td> </tr> <tr> <th colspan="2" data-bbox="537 934 1333 976">File Review Metrics</th> <th data-bbox="1333 934 1448 976">State</th> </tr> <tr> <td colspan="2" data-bbox="537 976 1333 1050">12c - % actions documenting difference between initial & final penalties</td> <td data-bbox="1333 976 1448 1050">80%</td> </tr> <tr> <td colspan="2" data-bbox="537 1050 1333 1094">12d - % files that document collection of penalty</td> <td data-bbox="1333 1050 1448 1094">100%</td> </tr> </tbody> </table>	Data Metrics	National Goal	State	12a - Actions with penalties	NA	24	12b - % HPV actions with penalty	≥ 80%	92.3%	File Review Metrics		State	12c - % actions documenting difference between initial & final penalties		80%	12d - % files that document collection of penalty		100%
Data Metrics	National Goal	State																		
12a - Actions with penalties	NA	24																		
12b - % HPV actions with penalty	≥ 80%	92.3%																		
File Review Metrics		State																		
12c - % actions documenting difference between initial & final penalties		80%																		
12d - % files that document collection of penalty		100%																		
	<p>State Response</p>	<p>MDEQ respectfully disagrees with EPA on this metric classification and believes that the finding should be modified to “Meets SRF Program Requirements.” Penalties were appropriately calculated and documented and the penalty reduction was within the parameters authorized by the approved EMS. MDEQ acknowledges that the CAA Penalty Policy also provides that a “final penalty rationale document must be created for each enforcement case.” However, this was an isolated incident (limited to one ECED Branch), and upon discovering the misunderstanding at the staff level, the matter was immediately addressed. Resolution was nothing more than a one sentence memorandum stating that the penalty reduction was granted within the Branch Manager’s discretion, as clearly provided for in the policy.</p> <p>MDEQ further asserts that the metric requiring justification of a penalty reduction is irrelevant to the overall purpose of penalty assessment. Penalty assessment is to act as a deterrent for future non-compliance, and in each of these cases, the penalty amount was appropriately calculated, suitable in amount, and was not questioned by EPA. MDEQ believes that this metric should be met where the final assessed penalty falls within the negotiation authority</p>																		

		specifically reserved in the penalty policy. To do otherwise constitutes unnecessary micro-management by EPA of MDEQ's application of its own policies and procedures.
	Recommendation(s)	No formal recommendations are being tracked for this element.

Clean Water Act Program

CWA Element 1 — Data Completeness: Degree to which the Minimum Data Requirements are complete.

1-1	This finding is a(n)	<input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required <input type="checkbox"/> Good Practice									
	Finding	The Mississippi Department of Environmental Quality (MDEQ) does a good job in entering the Minimum Data Requirements in the National data system and the data is considered complete.									
	Explanation	<p>CWA Element 1 is supported by SRF Data Metrics 1a through 1g, and measures the completeness of the data in the Permit Compliance System (PCS). Three of the Element 1 Data Metrics have National Performance Goals:</p> <p><u>Data Metric 1b1</u>: % of National Pollutant Discharge Elimination System (NPDES) major facilities with individual permits that have permit limits in PCS. The National Performance Goal for this metric is $\geq 95\%$;</p> <p><u>Data Metric 1b2</u>: % of outfalls for which Discharge Monitoring Report (DMR) data is entered in the National database. The National Performance Goal for this metric is $\geq 95\%$; and</p> <p><u>Data Metric 1b3</u>: % of NPDES major facilities with individual permits that have DMR data in PCS. The National Performance Goal for this metric is $\geq 95\%$.</p> <p>MDEQ exceeded the National Performance Goals for Data Metrics 1b1, 1b2 and 1b3.</p> <p>MDEQ provided reasons for why three data metrics had differences between PCS and their system. These reasons do not impact the completeness of data in PCS. MDEQ meets the SRF requirements for this element.</p>									
	Metric(s) and Quantitative Value(s)	<table border="1"> <thead> <tr> <th data-bbox="537 1734 1084 1770">Data Metrics</th> <th data-bbox="1084 1734 1279 1770">National Goal</th> <th data-bbox="1279 1734 1448 1770">State</th> </tr> </thead> <tbody> <tr> <td data-bbox="537 1770 1084 1806">1b1: Facilities with permit limits</td> <td data-bbox="1084 1770 1279 1806">$\geq 95\%$</td> <td data-bbox="1279 1770 1448 1806">97.9%</td> </tr> <tr> <td data-bbox="537 1806 1084 1883">1b2: DMR Entry Rate</td> <td data-bbox="1084 1806 1279 1883">$\geq 95\%$</td> <td data-bbox="1279 1806 1448 1883">98.5%</td> </tr> </tbody> </table>	Data Metrics	National Goal	State	1b1: Facilities with permit limits	$\geq 95\%$	97.9%	1b2: DMR Entry Rate	$\geq 95\%$	98.5%
Data Metrics	National Goal	State									
1b1: Facilities with permit limits	$\geq 95\%$	97.9%									
1b2: DMR Entry Rate	$\geq 95\%$	98.5%									

		1b3: DMR with permit limits	≥95%	100 %
	State Response	None		
	Recommendation(s)	No further action is needed.		

CWA Element 2 — Data Accuracy: Degree to which data reported in the national system is accurately entered and maintained.

2-1	This finding is a(n)	<input type="checkbox"/> Meets SRF Program Requirements <input checked="" type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required <input type="checkbox"/> Good Practice
	Finding	The majority of the data is accurately entered and maintained by MDEQ. However, there are minor data inaccuracies that have been identified which can be resolved by the State.
	Explanation	<p>CWA Element 2, which measures the accuracy of data the State has entered in PCS, is supported by Data Metric 2a and File Metric 2b. A facility record is considered accurate when data points in PCS are the same as the information found in the facility files.</p> <p>Data Metric 2a addresses the percent of enforcement actions linked to violations for major facilities. EPA has set a National Goal of greater than or equal to 80 percent for this Data Metric. 100 percent of MDEQ’s enforcement actions taken during FY 10 at major facilities were linked to violations.</p> <p>File Metric 2b addresses the percent of files reviewed where data is accurately reflected in the National data system. Specifically, 31 files were reviewed to examine the accuracy of data between the information in the State’s facility file and PCS. The PCS Quality Assurance Guidance Manual establishes a goal of 95 percent accuracy rate for data accuracy. Of the 31 facilities randomly selected for this review, 26 (84 percent) documented that the selected data points were reported accurately into PCS.</p> <p>The file review noted five facilities (two major facilities and three non-major facilities) with missing or inaccurate data between the files and PCS:</p> <ol style="list-style-type: none"> 1. A facility was noted as inactive in PCS, but there is no record of its status in the file; 2. An inspection was coded in PCS as a Compliance Sampling Inspection and should have been represented as a Compliance Monitoring Inspection;

		<p>3. Long-term Compliance Schedule violations are noted in PCS for a facility, but it is not noted in PCS as a SNC, nor are the Compliance Schedule violations noted in the file;</p> <p>4. DMRs were submitted for Quarters 10, 11 and 12 for a facility; but PCS reported it as “NA” with no non-compliance noted. It was reported as a Reportable Violation the previous nine quarters; and</p> <p>5. Inspection reports in one facility file were not recorded in PCS.</p> <p>Most of the data inaccuracies are minor in nature and do not represent a systemic issue that requires further oversight by EPA. This is an area for State attention which can be resolved by the State.</p>												
	Metric(s) and Quantitative Value(s)	<table border="1"> <thead> <tr> <th><u>Data Metric</u></th> <th><u>National Goal</u></th> <th><u>State</u></th> </tr> </thead> <tbody> <tr> <td>2a: Actions linked to violation major facilities</td> <td>80%</td> <td>100%</td> </tr> <tr> <th><u>File Review Metric</u></th> <td></td> <th><u>State</u></th> </tr> <tr> <td>2b: Files reviewed where data is accurately reflected in the data system</td> <td>-</td> <td>84%</td> </tr> </tbody> </table>	<u>Data Metric</u>	<u>National Goal</u>	<u>State</u>	2a: Actions linked to violation major facilities	80%	100%	<u>File Review Metric</u>		<u>State</u>	2b: Files reviewed where data is accurately reflected in the data system	-	84%
<u>Data Metric</u>	<u>National Goal</u>	<u>State</u>												
2a: Actions linked to violation major facilities	80%	100%												
<u>File Review Metric</u>		<u>State</u>												
2b: Files reviewed where data is accurately reflected in the data system	-	84%												
	State Response	<p>All MDEQ PCS data entry responsibilities now reside within the Environmental Compliance and Enforcement Division. The organizational change occurred in FFY11. Data entry is being closely monitored for accuracy and timeliness and MDEQ anticipates better internal coordination and a much higher level of data accountability. Monthly comparison of data between MDEQ’s internal database and PCS is conducted to ensure all data has been accurately reported. These organizational changes will improve timeliness and accuracy of data in the national system.</p>												
	Recommendation(s)	No formal recommendation is being tracked for this element.												

CWA Element 3 -- Timeliness of Data Entry: Degree to which the Minimum Data Requirements are timely.		
3-1	This finding is a(n)	<input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required <input type="checkbox"/> Good Practice

	Finding	The State’s data entry of the Minimum Data Requirements was timely.															
	Explanation	<p>CWA Element 3 addresses the timely entry of data into PCS. The PCS Quality Assurance Manual notes that “(T)imeliness refers to the “punctuality” of information in the data base – as measured by the length of time between the actual event (or receipt of information about the event) and its appearance in the data base. PCS targets for timeliness vary by the type of data being entered into the system.” The longest timeframe specified in the Manual is ten days.</p> <p>Twenty-eight of thirty-one (90%) of the required frozen data elements from the Official Data Set (ODS) were timely. Of the three data elements that were not timely, the difference in the reported numbers is not appreciable and does not indicate a systemic issue. Thus, MDEQ meets SRF program requirements for this Element.</p>															
	Metric(s) and Quantitative Value(s)	<table border="1"> <thead> <tr> <th>Data Metrics</th> <th>Frozen</th> <th>Production</th> </tr> </thead> <tbody> <tr> <td>1b2: Major individual permits: DMR entry rate based on MRs expected (Forms/Forms)</td> <td>99.8%</td> <td>98.5%</td> </tr> <tr> <td>1b3: Major individual permits: DMR entry rate based on DMRs expected (Permits/Permits)</td> <td>99.9%</td> <td>98.5%</td> </tr> <tr> <td>1c2: Non-major individual permits: DMR entry rate based on DMRs expected (Forms/Forms)</td> <td>99.7%</td> <td>98.2%</td> </tr> <tr> <td>1c3: Non-major individual permits: DMR entry rate based on DMRs expected (Permits/Permits)</td> <td>99.7%</td> <td>98.2%</td> </tr> </tbody> </table>	Data Metrics	Frozen	Production	1b2: Major individual permits: DMR entry rate based on MRs expected (Forms/Forms)	99.8%	98.5%	1b3: Major individual permits: DMR entry rate based on DMRs expected (Permits/Permits)	99.9%	98.5%	1c2: Non-major individual permits: DMR entry rate based on DMRs expected (Forms/Forms)	99.7%	98.2%	1c3: Non-major individual permits: DMR entry rate based on DMRs expected (Permits/Permits)	99.7%	98.2%
Data Metrics	Frozen	Production															
1b2: Major individual permits: DMR entry rate based on MRs expected (Forms/Forms)	99.8%	98.5%															
1b3: Major individual permits: DMR entry rate based on DMRs expected (Permits/Permits)	99.9%	98.5%															
1c2: Non-major individual permits: DMR entry rate based on DMRs expected (Forms/Forms)	99.7%	98.2%															
1c3: Non-major individual permits: DMR entry rate based on DMRs expected (Permits/Permits)	99.7%	98.2%															
	State Response	None															
	Recommendation(s)	No further action is needed.															

CWA Element 4 — Completion of Commitments: Degree to which all enforcement/compliance commitments in relevant agreements are met and any products or projects are completed.

4-1	This finding is a(n)	<input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required <input type="checkbox"/> Good Practice
	Finding	For FY2010, MDEQ met or exceeded most of the compliance and enforcement commitments from their CWA §106 Grant Work Plan.
	Explanation	<p>The compliance and enforcement aspects of MDEQ’s FY 2010 CWA §106 Grant Work Plan describes planned inspection requirements; data management requirements; reporting/enforcement requirements; pretreatment facilities requirements; and policy, strategy and management requirements for the fiscal year. MDEQ’s FY 2010 Grant Work Plan contained 26 compliance and enforcement tasks/commitments. Twenty-five (96%) of the Grant Work Plan tasks were met. The State did not meet the Work Plan’s inspection commitments related to Compliance Monitoring Inspections (CMIs) of Significant Industrial Users (SIUs). The work plan commitment required 100% of the State’s SIUs to be inspected. They completed 83% of their CMIs for SIUs. To address the CMI shortfall, MDEQ coordinated among divisions to develop new processes and flow charts that are now being implemented.</p> <p>Since the one noted concern is being addressed by the State, this is an area that meets SRF Program requirements.</p>
	Metric(s) and Quantitative Value(s)	<p><u>Metric</u> 4a – Planned inspections completed/committed: Majors: 51/43 (119%); Minors: 216/217 (99%); SSOs: 97/15 (647%); SIUs/CEIs: 200/198 (101%); SIUs/CMIs: 165/198 (83%); General Permitted Minors: 110/44 (250%); MS4 Phase II: 9/7 (129%); Industrial Stormwater: 236/93 (254%); Construction Stormwater: 355/214 (166%); CAFOs: 25/25 (100%); and AFOs: 25/25 (100%)</p> <p>4b – Planned commitments complete: 96% (25/26)</p>

	State Response	None
	Recommendation(s)	No further action is needed.

CWA Element 5 — Inspection Coverage: Degree to which state completed the universe of planned inspections/compliance evaluations.

5-1	This finding is a(n)	<input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required <input type="checkbox"/> Good Practice				
	Finding	MDEQ met or exceeded the inspection commitments required by EPA’s CMS and as outlined by the State’s FY 2010 CWA §106 Work Plan.				
	Explanation	<p>Element 5 measures the degree of the State’s core inspection coverage. The Agency’s Compliance Monitoring Strategy (CMS) set a goal of 100% inspections of major permittees every two fiscal years; and an inspection frequency of at least once in each five (5) year permit term for “traditional” minor permittees. The State submits a detailed inspection plan that lays out the inspection framework for the coming year. In the State’s FY 2010 CWA §106 Work Plan, MDEQ committed to inspect 50% of their NPDES majors and 20% of their NPDES minor facilities. Additionally, the State committed to inspect 44 minors with General Permits.</p> <p>Per the review of the data metrics (shown below) and the end-of-year Work Plan, the State met or exceeded their FY 2010 core inspection commitments. As a result of this level of performance, the State meets SRF Program requirements.</p>				
	Metric(s) and Quantitative Value(s)	<table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left; border-bottom: 1px solid black;">Data Metrics</th> <th style="text-align: right; border-bottom: 1px solid black;">Grant Work Plan Completed/Commitment</th> </tr> </thead> <tbody> <tr> <td>5a: Inspection Coverage - Majors</td> <td style="text-align: right;">51/43 = 119% of the Work Plan Commitment</td> </tr> </tbody> </table> <p>(Note: The ODS shows 96 majors, while the FY 2010 106 Work Plan shows 86 majors. For the purposes of this Data Metric, the Work Plan will be used.)</p>	Data Metrics	Grant Work Plan Completed/Commitment	5a: Inspection Coverage - Majors	51/43 = 119% of the Work Plan Commitment
Data Metrics	Grant Work Plan Completed/Commitment					
5a: Inspection Coverage - Majors	51/43 = 119% of the Work Plan Commitment					

		<p>5b1: Inspection Coverage - Non-major individual permits 217/216 = 101% of the Work Plan Commitment</p> <p>(Note: The ODS shows 1,384 non-majors, while the FY 2010 106 Work Plan shows 1,085 non-majors. For the purposes of this Data Metric, the Work Plan will be used.)</p> <p style="text-align: right;">Grant Work Plan</p> <p>Data Metrics Completed/Commitment</p> <p>5b2: Inspection Coverage - non-major general permits 110/44 = 250% of the Work Plan Commitment</p>
	State Response	None
	Recommendation(s)	No further action is needed.

CWA 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.

		<input type="checkbox"/> Meets SRF Program Requirements <input checked="" type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required <input type="checkbox"/> Good Practice
6-1	This finding is a(n)	
	Finding	The majority of the State’s CWA inspection reports were of good quality, timely and provided documentation to appropriately determine compliance. The inspection reports were, however, found to be incomplete because the State did not include the time of the inspection and phone numbers; information that is required by the State’s Compliance Inspection Manual to be included in inspection reports.
	Explanation	<p>Element 6 is supported by SRF File Metrics 6a (number of inspection reports reviewed), 6b (inspection report completeness), 6c (if a compliance determination could be drawn from documentation found in the inspection files), and 6d (timeliness of the inspection reports).</p> <p>Thirty-two inspection reports for twenty different facilities were</p>

reviewed for Element 6 (File Metric 6a).

File Metric 6b assesses the completeness of inspection reports. Completeness is based on the CWA Plain Language Guide (PLG) and the State's Compliance Inspection Manual. Of the inspection reports reviewed, none were considered to be complete. Elements most commonly missing from the inspection reports were the time of the inspection and the phone numbers of the facility's representatives, both requirements of the State's Compliance Inspection Manual. Additionally, it is noted that the Section III of the State's Compliance One Stop Integrated Information Management System called enSite (electronic Environmental Site information System) using the form contained in Attachment B of the manual. The form in Attachment B, however, does not specifically require the time of the on-site inspection or the phone numbers of the facility's representatives. Therefore, there are inconsistencies within the State's Compliance Inspection Manual concerning these missing report elements and these inconsistencies should be addressed.

Additionally, there was one report that was undated, unsigned and did not indicate if photos or other materials were attached; and another report had no signatures on the file copies. Therefore, while the majority of inspection reports were well written and complete except for inspection times and phone numbers, this is an area for State attention, and MDEQ can examine current procedures to consistently complete inspection reports.

File Metric 6c addresses whether the inspection report provided sufficient information to determine the compliance status of the facility. Of the 32 inspection reports reviewed, all had adequate documentation to determine compliance.

File Metric 6d measures the timely completion of inspection reports. Section III of the MDEQ Compliance Inspection Manual establishes the following criteria: *The report must be finalized and transmitted to the facility within 45 days of the inspection, if no violations were found. Generally, if violations are found, a Notice of Violation must be transmitted to the facility within 50 days of completion of the inspection. If additional information (i.e. beyond that obtained during the inspection) is needed to make a compliance determination – For example, the results of laboratory analysis of samples taken during the inspection – the inspection report must be finalized as soon as practicable after the additional information is received.*

Of the 32 inspection reports reviewed, 29 reports (91%) were completed within 45 days or within 50 days if a violation was found.

		For the three reports that were not timely, the timeframes ranged from 75 days to 330 days. While the majority of inspection reports were completed in a timely manner, the few that were late are not indicative of significant problems. This is an area for State attention.										
	Metric(s) and Quantitative Value(s)	<table border="1"> <thead> <tr> <th>File Review Metrics</th> <th>State Performance</th> </tr> </thead> <tbody> <tr> <td>6a: # of inspection reports reviewed</td> <td>32</td> </tr> <tr> <td>6b: % of inspection reports that are complete (Note: The missing elements in the inspection reports were phone numbers and the time of inspection.)</td> <td>0%</td> </tr> <tr> <td>6c: % of inspection reports with sufficient documentation</td> <td>100%</td> </tr> <tr> <td>6d: % of inspection reports that are timely</td> <td>91%</td> </tr> </tbody> </table>	File Review Metrics	State Performance	6a: # of inspection reports reviewed	32	6b: % of inspection reports that are complete (Note: The missing elements in the inspection reports were phone numbers and the time of inspection.)	0%	6c: % of inspection reports with sufficient documentation	100%	6d: % of inspection reports that are timely	91%
File Review Metrics		State Performance										
6a: # of inspection reports reviewed	32											
6b: % of inspection reports that are complete (Note: The missing elements in the inspection reports were phone numbers and the time of inspection.)	0%											
6c: % of inspection reports with sufficient documentation	100%											
6d: % of inspection reports that are timely	91%											
	State Response	MDEQ respectfully disagrees with EPA on this metric classification and believes that the finding should be modified to “Meets SRF Program Requirements.” MDEQ disagrees with EPA that the approved Compliance Inspection Manual requires the time of the inspection. In fact, the guidance states that reports “should” include, but does not categorically require, the date and time of the inspection. Further evidence that the time of inspection is not required is the fact that the required inspection report form generated by enSite does not include a place for “time of inspection.” While the inspection report form and the policy narrative are arguably inconsistent, generally the time of the inspection is irrelevant. Furthermore, nothing in MDEQ’s inspection manual or inspection report form requires the facility telephone number to be included in a report. The facility contact information is maintained in the enSite database and is readily available at anytime to all MDEQ staff. MDEQ, frankly, considers disingenuous EPA statements that none of the inspection reports reviewed were complete based solely on “time of inspection” and “facility phone numbers”, particularly when 100% of them were suitable to make an adequate compliance determination. In response to EPA’s findings during the SRF, MDEQ will remove reference to “time of inspection” from our inspection manual.										
	Recommendation(s)	No formal recommendation is being tracked for this element.										

CWA 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.

7-1	This finding is a(n)	<input checked="" type="checkbox"/> Meets SRF Program Requirement <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required <input type="checkbox"/> Good Practice
	Finding	Compliance determinations were accurately made and single event violations were reported.
	Explanation	<p>Data Metrics 7a1 and 7a2 track Single Event Violations (SEVs) for active majors and non-majors, respectively, which are reported in PCS. SEVs are one-time or long-term violations discovered by the State, typically during inspections and not through automated reviews of Discharge Monitoring Reports. In FY 2010, the State entered 3 SEVs for majors and 2 SEVs for non-majors. This level of SEV identification is greater than or equal to SEV data entry over the last few years. Since the State has maintained a level of SEV data entry, no action is needed.</p> <p>Data Metrics 7b and 7c address the percent of facilities with unresolved compliance schedule violations at the end FY 2010, and the percent of facilities with unresolved permit schedule violations at the end of the FY 2010, respectively. For Data Metric 7b, MDEQ data show 5 of 60 facilities (8.3%) with unresolved compliance schedule violations. This percentage is below the National Average of 22.6%. For Data Metric 7c, the State had originally shown 1 of 1 facility (100%) with unresolved permit violations at the end of the Fiscal Year, but corrected this data point to now show no facilities with unresolved permit schedule violations - the National Average for this Data Metric is 21.9%. No further action is needed.</p> <p>Data Metric 7d addresses the percent of major facilities with DMR violations in PCS. For MDEQ, 47 of 96 major facilities (49%) have DMR violations reported in PCS. Data Metric 7d is slightly below the National Average of 52.8%. Since the rate of DMR-identified violations in PCS, supported by the File Review, is in line with the National Average, there are no concerns with the State’s reporting of DMR violations in PCS.</p> <p>File Review Metric 7e addresses the percent of inspection reports reviewed that led to an accurate compliance determination. Since accurate compliance determinations were made for each cited violation (100%), no further action is needed.</p>
	Metric(s) and	Data Metrics _____ State

	Quantitative Value(s)	7a1: # SEVs at active majors 3 7a2: # SEVs at non-majors 2 7b: % facilities with unresolved compliance schedule violations 8.3% 7c: % facilities with unresolved permit schedule violations 0% 7d: Major facilities with DMR violations 49% <u>File metric</u> <u>State</u> 7e: % inspection reports reviewed that led to an accurate compliance determination (32 of 32) 100%
	State Response	None
	Recommendation(s)	No further action is needed.

CWA 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	This finding is a(n)	<input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required <input type="checkbox"/> Good Practice
	Finding	MDEQ correctly identified SNC violation determinations in all files reviewed.

	Explanation	<p>Element 8 addresses the accurate identification of SNCs and the timely entry of SEVs that are SNCs into PCS.</p> <p>In addressing the accurate identification of SNCs, Data Metric 8a1, focuses on active major facilities in SNC during the reporting year. In FY 2010, the State listed 11 facilities in SNC.</p> <p>Data Metric 8a2 focuses on the percent of active major facilities in SNC during the reporting year. The State reported 11.5% (11/96) in FY 2010 - the National Average is 24.6%. To verify the accuracy of SNC data in PCS, 7 SNC facilities were evaluated during the SRF File Review process to determine if the SNC designations were supported by the files. Of the facilities reviewed, all 7 (100%) had information in the files that matched the information in the data system. Since the rate of MDEQ's SNC identification rate in PCS, supported by the File Review, is less than the National Average, there are no concerns with the State's SNC identification rate in PCS.</p> <p>File Metric 8b addresses SEVs that are accurately identified as SNC or non-SNC, and File Metric 8b addresses the timely reporting of SEVs that are SNCs into PCS. For File Metric 8b, of the 4 files reviewed in which a SEV was noted, all were properly identified as a non-SNC. Of these four, two were minors and two were majors.</p> <p>For File Metric 8c, since all 4 SEVs were properly identified as non-SNCs, the timely entry of SEVs that are SNCs into PCS could not be evaluated.</p> <p>The State meets the SRF Program requirements for this element.</p>																		
	Metric(s) and Quantitative Value(s)	<table border="1"> <thead> <tr> <th><u>Data Metric</u></th> <th><u>National Average</u></th> <th><u>State</u></th> </tr> </thead> <tbody> <tr> <td>8a1: Number of major facilities in SNC</td> <td>NA</td> <td>11</td> </tr> <tr> <td>8a2: % active major facilities in SNC</td> <td>24.6%.</td> <td>11.5%</td> </tr> <tr> <th><u>File Metric</u></th> <th colspan="2"><u>State</u></th> </tr> <tr> <td>8b: % SEVs that are accurately reported as SNCs or non-SNCs (8/8)</td> <td colspan="2">100%</td> </tr> <tr> <td>8c: % SEVs that are SNCs timely reported in PCS</td> <td colspan="2">NA</td> </tr> </tbody> </table>	<u>Data Metric</u>	<u>National Average</u>	<u>State</u>	8a1: Number of major facilities in SNC	NA	11	8a2: % active major facilities in SNC	24.6%.	11.5%	<u>File Metric</u>	<u>State</u>		8b: % SEVs that are accurately reported as SNCs or non-SNCs (8/8)	100%		8c: % SEVs that are SNCs timely reported in PCS	NA	
<u>Data Metric</u>	<u>National Average</u>	<u>State</u>																		
8a1: Number of major facilities in SNC	NA	11																		
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8b: % SEVs that are accurately reported as SNCs or non-SNCs (8/8)	100%																			
8c: % SEVs that are SNCs timely reported in PCS	NA																			
	State Response	None																		

	Recommendation(s)	No further action is needed.
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CWA Element 9 — Enforcement Actions Promote Return to Compliance: Degree to which 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	This finding is a(n)	<input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required <input type="checkbox"/> Good Practice
	Finding	The State’s enforcement actions, as a whole, include complying or corrective action that will return facilities to compliance.
	Explanation	<p>Element 9 addresses the degree to which State enforcement actions include required corrective action that will return facilities to compliance in a specific time frame.</p> <p>File Metric 9a establishes the universe of formal/informal enforcement responses reviewed in calculating percentages in File Metrics 9b and 9c. Files selected for EPA’s File Review for Element 9 included 8 major facilities (4 SNCs and 5 non-SNCs - one facility was counted as both a SNC and non-SNC) and 13 minor facilities (3 SNCs and 10 non-SNCs) covering 49 formal and informal enforcement actions.</p> <p>File Metric 9b is the percentage of enforcement responses reviewed that have returned or will return a SNC to compliance. The CWA Plain Language Guide notes that this File Metric pertains only to major facilities, (as these facilities are the only ones for which national criteria for SNC violations have been established). Of the four major SNC facilities, all enforcement responses reviewed contained requirements that have returned or will return the source to compliance. One major SNC did not include an enforcement response and was, therefore, not included as part of the review for this File Metric.</p> <p>File Metric 9c is the percentage of enforcement responses reviewed that have returned or will return a non-SNC to compliance. Of the enforcement actions in the 40 non-SNC files reviewed, all have returned or will return the source to compliance.</p> <p>Since all 49 enforcement actions reviewed have returned or will return a</p>

		source to compliance, the State meets the SRF Program requirements.								
	Metric(s) and Quantitative Value(s)	<table border="1"> <thead> <tr> <th>File Metric</th> <th>State</th> </tr> </thead> <tbody> <tr> <td>9a: # of Enforcement Actions Reviewed for all sources</td> <td>49</td> </tr> <tr> <td>9b: % of Enforcement Responses for major SNCs that have or will return SNC to compliance (3/3)</td> <td>100%</td> </tr> <tr> <td>9c: % of Enforcement Responses have or will return non-SNC majors and minors to compliance (40/40)</td> <td>100%</td> </tr> </tbody> </table>	File Metric	State	9a: # of Enforcement Actions Reviewed for all sources	49	9b: % of Enforcement Responses for major SNCs that have or will return SNC to compliance (3/3)	100%	9c: % of Enforcement Responses have or will return non-SNC majors and minors to compliance (40/40)	100%
File Metric	State									
9a: # of Enforcement Actions Reviewed for all sources	49									
9b: % of Enforcement Responses for major SNCs that have or will return SNC to compliance (3/3)	100%									
9c: % of Enforcement Responses have or will return non-SNC majors and minors to compliance (40/40)	100%									
	State Response	None								
	Recommendation(s)	No further action is needed.								

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

		<input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input checked="" type="checkbox"/> Area for State Improvement – Recommendations Required <input type="checkbox"/> Good Practice
10-1	This finding is a(n)	
	Finding	The State needs to show improvement in taking timely enforcement action for SNCs and non-SNCs in accordance with the NPDES Enforcement Management System (EMS) and the State's EMS.
	Explanation	Element 10 addresses the degree to which the State takes timely and appropriate enforcement actions. The 1989 National EMS and the May 29, 2008, memo <i>Clarification of NPDES EMS Guidance on Timely and Appropriate Response to Significant Noncompliance</i> , and the December 1, 2009 White Paper on the Basis for Identification and Reporting of CWA/NPDES SNC Violation defines what a timely and

appropriate enforcement response is for SNC violations at major facilities. These documents state that “(A)dministering agencies are expected to take a formal enforcement action before the violations appear on the second Quarterly Non-Compliance Report (QNCR), generally within 60 days of the first QNCR.” Additionally, the State’s EMS notes that formal enforcement actions should generally be concluded within 180 days of the date of discovery of the violation.

Data Metric 10a is a goal metric that identifies the percentage of facilities in which enforcement actions that were taken to address SNC violations by major facilities were not timely. The State’s Data Metric 10a shows 7.4% (7 of 95) major facilities without timely action. The National Goal for this Data Metric is less than 2%. Therefore, the State’s performance does not meet the National Goal and requires improvement. (Note: The ODS shows 95 major facilities for this Data Metric instead of 96 because one facility in the universe is regulated by EPA, not the State.)

File Metric 10b addresses the percentage of reviewed enforcement responses that have been taken to address major SNCs in a timely manner and is used to assess the accuracy of Data Metric 10a. Of the major SNCs reviewed, none (0 of 2) of the enforcement responses were timely. This finding supports Data Metric 10a in that the National Goal of less than 2% is not being met and further highlights the need for State improvement in the timeliness of enforcement responses for major SNCs.

File Metric 10c assesses whether the enforcement action taken for a SNC is appropriate, meaning was a formal enforcement action taken or the source returned to compliance by no later than the time the same SNC violation appears on the second official QNCR. The State is also required by the National EMS to have a written record to justify informal enforcement actions. Of the major SNC files reviewed, two contained formal enforcement actions that were taken in FY2010 (the year of review). Two additional SNC files revealed that 7 informal enforcement actions were taken in FY2010 that were then followed by formal enforcement actions in FY2011. No further action is needed for this File Metric.

File Metric 10d assesses whether the enforcement action taken for “violations at minor permittees, and non-SNC violations at major permittees” is appropriate. The State had taken a total of 40 actions at 18 non-SNC major and minor facilities in which they had taken 11 formal enforcement actions and 29 informal enforcement actions. 100% (40 of 40) of enforcement responses reviewed appropriately addressed non-SNCs. No further action is needed for this File Metric.

		<p>File Metric 10e examines the timeliness of enforcement for non-SNCs. The State’s March 2009 EMS addresses timeframes for responding to non-SNCs, as follows: “Issue NOV to the AI (Agency Interest) within 60 days of the date of discovery.” Of the 42 non-SNC enforcement responses examined during the File Review, 32 (76%) of the enforcement actions were considered to be timely. (Note: 42 enforcement responses were evaluated for timeliness instead of 40 because 2 enforcement responses were taken after the year of review and were determined not to be timely although the enforcement response was not reviewed for appropriateness.)</p> <p>This rate of timeliness for this File Metric highlights the need for State improvement in the timeliness of enforcement responses for non-SNC facilities.</p>																					
	<p>Metric(s) and Quantitative Value(s)</p>	<table border="1"> <thead> <tr> <th data-bbox="537 716 987 758"><u>Data Metric</u></th> <th data-bbox="987 716 1328 758"><u>National Goal</u></th> <th data-bbox="1328 716 1448 758"><u>State</u></th> </tr> </thead> <tbody> <tr> <td data-bbox="537 793 987 867">10a: Major facilities without timely action</td> <td data-bbox="987 831 1328 867"><2%</td> <td data-bbox="1328 831 1448 867">7.4%</td> </tr> <tr> <td colspan="2" data-bbox="537 905 1328 940"><u>File Metric</u></td> <td data-bbox="1328 905 1448 940"><u>State</u></td> </tr> <tr> <td data-bbox="537 940 987 976">10b: % timely SNC enforcement responses (0 of 2)</td> <td colspan="2" data-bbox="987 940 1448 976">0%</td> </tr> <tr> <td data-bbox="537 976 987 1050">10c: % of enforcement responses that appropriately address SNC violations (2 of 2)</td> <td colspan="2" data-bbox="987 1014 1448 1050">100%</td> </tr> <tr> <td data-bbox="537 1050 987 1123">10d: % of enforcement responses that appropriately address non-SNC violations (40 of 40)</td> <td colspan="2" data-bbox="987 1087 1448 1123">100%</td> </tr> <tr> <td data-bbox="537 1123 987 1163">10e: % timely non-SNC enforcement responses (32 of 42)</td> <td colspan="2" data-bbox="987 1123 1448 1163">76%</td> </tr> </tbody> </table>	<u>Data Metric</u>	<u>National Goal</u>	<u>State</u>	10a: Major facilities without timely action	<2%	7.4%	<u>File Metric</u>		<u>State</u>	10b: % timely SNC enforcement responses (0 of 2)	0%		10c: % of enforcement responses that appropriately address SNC violations (2 of 2)	100%		10d: % of enforcement responses that appropriately address non-SNC violations (40 of 40)	100%		10e: % timely non-SNC enforcement responses (32 of 42)	76%	
<u>Data Metric</u>	<u>National Goal</u>	<u>State</u>																					
10a: Major facilities without timely action	<2%	7.4%																					
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10b: % timely SNC enforcement responses (0 of 2)	0%																						
10c: % of enforcement responses that appropriately address SNC violations (2 of 2)	100%																						
10d: % of enforcement responses that appropriately address non-SNC violations (40 of 40)	100%																						
10e: % timely non-SNC enforcement responses (32 of 42)	76%																						
	<p>State Response</p>	<p>MDEQ began a process improvement initiative following Round 1 SRF. All EPA recommendations precipitated by SRF Round 1 have been implemented by MDEQ. Staff were trained on these new business processes and full implementation began around the beginning of FFY10. MDEQ continues to monitor and track enforcement actions and strives to initiate and resolve enforcement in accordance with the timelines agreed upon. However, MDEQ’s revised policies and procedures recognize and specifically mention that complex and other otherwise difficult cases may exceed the designated timelines. MDEQ suggests that some portion of the cases that did not meet the timeline requirement included such difficult cases.</p> <p>Furthermore, MDEQ has repeatedly advised EPA that a significant number of the state’s enforcement actions include multi-media violations, and that MDEQ business practice is to address all violations, regardless of media, under one enforcement action. MDEQ’s enforcement approach may result in a particular media’s timeline goal being exceeded. While MDEQ recognizes this potential</p>																					

		situation, MDEQ has no intention to change its business practice to specifically address this EPA recommendation. MDEQ will, however, continue to monitor each enforcement case and improve enforcement management to yield more timely enforcement resolution.
	Recommendation(s)	The State should take steps to ensure that timely enforcement is used to address SNCs and non-SNCs as established by the NPDES EMS and the State's EMS. The EPA Region 4 Clean Water Enforcement Branch (CWEB) will evaluate the enforcement responses being taken by the State against SNCs through the quarterly Pacesetter calls and/or other routine calls with a progress report to be prepared after the last FY2012 Pacesetter call. If, by March 31, 2013, the State is consistently issuing timely enforcement responses, this issue will be considered resolved.

CWA 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	This finding is a(n)	<input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input checked="" type="checkbox"/> Area for State Improvement – Recommendations Required <input type="checkbox"/> Good Practice
	Finding	MDEQ documents initial penalty calculations that include gravity, however, inclusion and documentation of economic benefit in the penalty calculations occurs much less often.
	Explanation	<p>Element 11 addresses whether penalty calculations consider and include a gravity portion and, where appropriate, economic benefit.</p> <p>For File Metric 11a, there were ten initial penalty calculations evaluated as part of the File Review. The penalty calculations reviewed during the file review were well documented using a penalty worksheet. All ten files incorporated a penalty calculation and/or narrative that included a gravity component, however, one facility's penalty calculation was confusing in that there were three penalty calculations provided that were all different. It was unclear which calculation was the one to be used. As to economic benefit, only three of ten (30%) files reviewed provided sufficient documentation of the appropriate economic benefit component of the penalty. The remaining files did not provide sufficient information to demonstrate</p>

		<p>that economic benefit had been considered.</p> <p>As noted in EPA’s Policy, <i>Oversight of State and Local Penalty Assessments: Revisions to the Policy Framework for State/EPA Enforcement Agreements</i>, from Steven A. Herman, Assistant Administrator, June 23, 1993, one is not to settle for less than the amount of economic benefit of noncompliance, where it is possible to calculate it, unless (1) the benefit component is a <i>de minimis</i> amount, (2) a violator demonstrates an inability to pay, (3) there is a compelling public concern, or (4) there are litigation-related reasons for such settlement. Additionally, the State’s March 2009 EMS outlines the State’s Clean Water Act Penalty Policy which includes a penalty calculation methodology that incorporates both gravity and economic benefit components. In the case of economic benefit, the policy states that “an economic benefit amount is generally considered <i>de minimis</i> if, considering all of the facts and circumstances of the case, the amount would not justify the commitment of resources that would be necessary to calculate and/or collect it.”</p> <p>The State needs to better document its rationale for how economic benefit is considered and, if determined to be nonexistent or <i>de minimis</i>, the rationale for that decision should be documented in the penalty calculation. This is an area for State improvement.</p>				
	<p>Metric(s) and Quantitative Value(s)</p>	<table border="0"> <tr> <td data-bbox="537 1045 1242 1087">File Metric</td> <td data-bbox="1242 1045 1448 1087">State</td> </tr> <tr> <td data-bbox="537 1087 1242 1203">11a: % of penalty calculations reviewed that consider and include where appropriate gravity and economic benefit (3 of 10)</td> <td data-bbox="1242 1087 1448 1203">30%</td> </tr> </table>	File Metric	State	11a: % of penalty calculations reviewed that consider and include where appropriate gravity and economic benefit (3 of 10)	30%
File Metric	State					
11a: % of penalty calculations reviewed that consider and include where appropriate gravity and economic benefit (3 of 10)	30%					
	<p>State Response</p>	<p>MDEQ respectfully disagrees with EPA on this metric classification and believes that the finding should be modified to “Area for State Attention.” As MDEQ recalls the on-site review by EPA, EPA was initially pleased with the documentation and consideration of economic benefit by MDEQ staff. Only after reviewing a particular penalty calculation which happened to contain more specific documentation of economic benefit considerations than others, did EPA determine that MDEQ may be deficient in its consideration of economic benefit. Consideration and/or documentation of economic benefit was an issue identified in the Round 1 SRF. Staff were trained on the new business processes and full implementation began around the beginning of FFY10. Following the on-site SRF, MDEQ managers were advised of EPA’s concerns and we have already implemented actions to better document economic benefit considerations.</p>				

	Recommendation(s)	The State should better demonstrate implementation of EPA’s Policy and the State’s EMS in documenting its rationale for considering economic benefit in penalty calculations. The EPA Region 4 CWEB will evaluate the State’s penalty calculations through the quarterly Pacesetter calls and/or other routine calls with a progress report to be prepared after the last FY2012 Pacesetter call. If, by March 31, 2013, the State is consistently including and documenting economic benefit in its penalty calculations, this issue will be considered resolved.
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CWA 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	This finding is a(n)	<input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required <input type="checkbox"/> Good Practice						
	Finding	MDEQ documented the difference between initial and final penalties in enforcement cases, and maintained documentation that the final penalty was collected.						
	Explanation	<p>File Metric 12a addresses the percent of penalties reviewed that document the difference and rationale between the initial and final assessed penalty. In reviewing 10 penalty cases, the State provided the rationale and documentation for the difference between the initial and final assessed penalty in 3 instances, did not provide the rationale or documentation in 1 case, and in 6 cases there was no difference between the initial and final assessed penalty. Therefore, the State documented the difference between the initial and final assessed penalty in 9 of 10 files (90%).</p> <p>File Metric 12b addresses the percent of enforcement actions with penalties that document the collection of the penalty. The State had documentation that 10 of 10 (100%) of the enforcement actions with penalties documented collection of the penalty. No further action is needed for this File Metric.</p>						
	Metric(s) and Quantitative Value(s)	<table border="0"> <thead> <tr> <th style="text-align: left;"><u>File Metric</u></th> <th style="text-align: right;"><u>State</u></th> </tr> </thead> <tbody> <tr> <td>12a: % of formal enforcement actions that document the difference and rationale between initial and final assessed penalty (9 of 10)</td> <td style="text-align: right;">90%</td> </tr> <tr> <td>12b: % of final enforcement actions that document collection of final penalty (10 of 10)</td> <td style="text-align: right;">100%</td> </tr> </tbody> </table>	<u>File Metric</u>	<u>State</u>	12a: % of formal enforcement actions that document the difference and rationale between initial and final assessed penalty (9 of 10)	90%	12b: % of final enforcement actions that document collection of final penalty (10 of 10)	100%
<u>File Metric</u>	<u>State</u>							
12a: % of formal enforcement actions that document the difference and rationale between initial and final assessed penalty (9 of 10)	90%							
12b: % of final enforcement actions that document collection of final penalty (10 of 10)	100%							

	State Response	MDEQ believes that EPA's findings in the CWA Element 12 substantiate MDEQ's assertions that EPA's findings in CAA Element 12 were isolated and the results of a misunderstanding within one ECED Branch.
	Recommendation(s)	No further action is needed.

Resource Conservation and Recovery Act Program

RCRA Element 1 — Data Completeness: Degree to which the Minimum Data Requirements are complete.

1-1	This finding is a(n)	<input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required <input type="checkbox"/> Good Practice																								
	Finding	MDEQ has entered the Minimum Data Requirements into RCRAInfo for regulated universes, compliance monitoring and enforcement information.																								
	Explanation	Element 1 is supported by SRF Data Metrics 1a through 1g, and measures the completeness of the data in RCRAInfo. EPA provided the SRF data metrics to MDEQ for comment on March 18, 2011. In their response, MDEQ did not identify any discrepancies in the data, therefore the RCRAInfo data is considered complete.																								
	Metric(s) and Quantitative Value(s)	<table border="0"> <thead> <tr> <th style="text-align: left;"><u>Data Metrics</u></th> <th style="text-align: right;"><u>Frozen State Data</u></th> </tr> </thead> <tbody> <tr> <td>1a1 - # of operating TSDs in RCRAInfo</td> <td style="text-align: right;">7</td> </tr> <tr> <td>1a2 - # of active LQGs in RCRAInfo</td> <td style="text-align: right;">146</td> </tr> <tr> <td>1a3 - # of active SQGs in RCRAInfo</td> <td style="text-align: right;">391</td> </tr> <tr> <td>1a5 - # of LQGs per latest official biennial report</td> <td style="text-align: right;">122</td> </tr> <tr> <td>1b1 - # of inspections</td> <td style="text-align: right;">95</td> </tr> <tr> <td>1c1 - # of sites with violations</td> <td style="text-align: right;">22</td> </tr> <tr> <td>1d2 - Informal Actions: number of actions</td> <td style="text-align: right;">11</td> </tr> <tr> <td>1e1 - SNC: number of sites with new SNC</td> <td style="text-align: right;">4</td> </tr> <tr> <td>1e2 - SNC: number of sites in SNC</td> <td style="text-align: right;">13</td> </tr> <tr> <td>1f2 - Formal action: number taken</td> <td style="text-align: right;">9</td> </tr> <tr> <td>1g - Total amount of final penalties</td> <td style="text-align: right;">\$77,860</td> </tr> </tbody> </table>	<u>Data Metrics</u>	<u>Frozen State Data</u>	1a1 - # of operating TSDs in RCRAInfo	7	1a2 - # of active LQGs in RCRAInfo	146	1a3 - # of active SQGs in RCRAInfo	391	1a5 - # of LQGs per latest official biennial report	122	1b1 - # of inspections	95	1c1 - # of sites with violations	22	1d2 - Informal Actions: number of actions	11	1e1 - SNC: number of sites with new SNC	4	1e2 - SNC: number of sites in SNC	13	1f2 - Formal action: number taken	9	1g - Total amount of final penalties	\$77,860
<u>Data Metrics</u>	<u>Frozen State Data</u>																									
1a1 - # of operating TSDs in RCRAInfo	7																									
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1e2 - SNC: number of sites in SNC	13																									
1f2 - Formal action: number taken	9																									
1g - Total amount of final penalties	\$77,860																									
	State Response	None																								

	Recommendation(s) No further action is needed.
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RCRA Element 2 — Data Accuracy: Degree to which data reported in the national system is accurately entered and maintained.

2-1	This finding is a(n)	<input type="checkbox"/> Meets SRF Program Requirements <input checked="" type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required <input type="checkbox"/> Good Practice
	Finding	In general, MDEQ accurately enters all MDR data into RCRAInfo with only minor exceptions.
	Explanation	<p>RCRA Element 2 is supported by data metrics 2a, 2b, and file review metric 2c and measures the accuracy of data in RCRAInfo.</p> <p>Data Metrics 2a1 and 2a2 measure the closeness of the Significant Non-Complier (SNC) determination to date of the formal action. These metrics are used as an indicator of enforcement cases where the SNC entry was withheld until the enforcement action was taken. Mississippi had nine formal actions in FY2010 and all actions were taken after the SNC determination. Therefore, delayed SNC entry into RCRAInfo is not a concern.</p> <p>Data Metric 2b measures RCRA secondary violators (non-SNCs) that have violations not-returned-to-compliance within 240 days. According to the RCRA Enforcement Response Policy (ERP), all secondary violators should be returned to compliance within 240 days. If the violations are open for more than the 240 day time period, the enforcement action should be elevated to SNC status and addressed through formal enforcement. For data metric 2b, Mississippi did not have any facilities identified as Secondary Violators (SVs) greater than 240 days in FY2010.</p> <p>File Review Metric 2c measures the percentage of files where corresponding data was reported accurately in RCRAInfo. A file is considered inaccurate if information in the inspection report, enforcement action, or civil and administrative enforcement response is missing or reported inaccurately in RCRAInfo. For data metric 2c, 20 files were reviewed. Of the 20 files reviewed, 15 (75%) had complete and accurate data reported in RCRAInfo. The following data</p>

		<p>inaccuracies were identified in the remaining five files:</p> <ul style="list-style-type: none"> • In three files, there was a one-day difference between the day of the inspection reported in the file and the date reported in RCRAInfo. • In the fourth file, the facility had changed generator status and it was not updated in RCRAInfo. • In the fifth file, there were violations in the inspection report that were not entered into RCRAInfo. <p>This Metric found that MDEQ is entering the majority of data into RCRAInfo accurately; however, some data does not reflect what is in the file. These data inaccuracies are infrequent instances that do not constitute a significant problem.</p>												
	<p>Metric(s) and Quantitative Value(s)</p>	<table border="0"> <tr> <td><u>Data Metrics</u></td> <td style="text-align: right;"><u>State</u></td> </tr> <tr> <td>2a1 - # of sites SNC determinations made on day of formal action</td> <td style="text-align: right;">0</td> </tr> <tr> <td>2a2 - # of sites SNC determinations made within one week of formal action</td> <td style="text-align: right;">0</td> </tr> <tr> <td>2b – # of sites in violation greater than 240 days</td> <td style="text-align: right;">0</td> </tr> <tr> <td> <u>File Review Metric</u></td> <td style="text-align: right;"> <u>State</u></td> </tr> <tr> <td>2c – % files with accurate data elements in RCRAInfo</td> <td style="text-align: right;">75%</td> </tr> </table>	<u>Data Metrics</u>	<u>State</u>	2a1 - # of sites SNC determinations made on day of formal action	0	2a2 - # of sites SNC determinations made within one week of formal action	0	2b – # of sites in violation greater than 240 days	0	 <u>File Review Metric</u>	 <u>State</u>	2c – % files with accurate data elements in RCRAInfo	75%
<u>Data Metrics</u>	<u>State</u>													
2a1 - # of sites SNC determinations made on day of formal action	0													
2a2 - # of sites SNC determinations made within one week of formal action	0													
2b – # of sites in violation greater than 240 days	0													
 <u>File Review Metric</u>	 <u>State</u>													
2c – % files with accurate data elements in RCRAInfo	75%													
	<p>State Response</p>	<p>All MDEQ RCRAInfo data entry responsibilities now reside within the Environmental Compliance and Enforcement Division. The organizational change occurred in FFY11. Data entry is being closely monitored for accuracy and timeliness and MDEQ anticipates better internal coordination and a much higher level of data accountability. These organizational changes will improve timeliness and accuracy of data in the national system.</p> <p>MDEQ is currently conducting monthly comparisons between MDEQ’s internal database and RCRAInfo to ensure accuracy of data. New standard operating procedures are in place to ensure all SNC violations are appropriately linked to the addressing enforcement action. In FY11 all SNC were linked appropriately.</p>												
	<p>Recommendation(s)</p>	<p>No formal recommendation is being tracked for this element.</p>												

RCRA Element 3 — Timeliness of Data Entry: Degree to which the Minimum Data Requirements are timely.

3-1	This finding is a(n)	<input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input checked="" type="checkbox"/> Area for State Improvement – Recommendations Required <input type="checkbox"/> Good Practice				
	Finding	Not all of the Minimum Data Requirements were entered timely, as there were several SNCs that were entered into RCRAInfo more than two months after the SNC determination date.				
	Explanation	<p>RCRA Element 3 is supported by SRF Data Metrics 3a, which measures the percentage of SNCs that are entered into RCRAInfo more than 60 days after the SNC determination date. It is used as an indicator of late data entry. According to the RCRA ERP, SNCs should be entered into RCRAInfo upon SNC determination, and not withheld to enter at a later time.</p> <p>In FY2010, Data Metrics 3a indicates that five of six SNCs were entered into RCRAInfo more than 60 days after the date that the state recorded the SNC determination. It appears that data entry is initiated by the State when the Notice of Violation is sent to the facility. At this time, the SNC-Yes code is entered into RCRAInfo; the date of the inspection is used as the date of the SNC determination. This is an area for state improvement.</p>				
	Metric(s) and Quantitative Value(s)	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;">Data Metrics</th> <th style="text-align: right;">State</th> </tr> </thead> <tbody> <tr> <td>3a – % of SNCs that were entered > or = 60 days</td> <td style="text-align: right;">83.3%</td> </tr> </tbody> </table>	Data Metrics	State	3a – % of SNCs that were entered > or = 60 days	83.3%
Data Metrics	State					
3a – % of SNCs that were entered > or = 60 days	83.3%					
	State Response	<p>All MDEQ RCRA Info data entry responsibilities now reside within the Environmental Compliance and Enforcement Division. The organizational change occurred in FFY11. Data entry is being closely monitored for accuracy and timeliness and MDEQ anticipates better internal coordination and a much higher level of data accountability. These organizational changes will improve timeliness and accuracy of data in the national system.</p> <p>Generally MDEQ finds that the Date of Discovery is often the date of</p>				

		the inspection. MDEQ's business practice has been to input SNC determination information into RCRAInfo upon sending a Notice of Violation (NOV) to the responsible party. The time required to draft accurate and quality inspection reports and have such reports reviewed and approved by first level management, and the time required to draft the NOV, sometimes exceeds 60 days. Thus, using the date of the inspection as the Date of Discovery results in the SNC designation exceeding the SNC data entry requirement. MDEQ plans to implement small modifications to its processes that will aid in complying with the SNC data entry requirement.
	Recommendation(s)	By September 30, 2012, MDEQ should submit and implement procedures for entering SNC codes into RCRAInfo within the 60 day time period. If by March 31, 2013, EPA observes a pattern of timely data entry, this issue will be considered resolved.

RCRA Element 4 — Completion of Commitments: Degree to which all enforcement/compliance commitments in relevant agreements are met and any products or projects are completed.

4-1	This finding is a(n)	<input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required <input type="checkbox"/> Good Practice						
	Finding	The MDEQ Environmental Compliance and Enforcement Division met its FY 2010 enforcement and inspection commitments.						
	Explanation	The FY 2010 MDEQ RCRA grant work plan includes specific commitments for compliance monitoring activities, including inspections, financial record reviews, and the review of groundwater monitoring reports. Based on the FY 2011 annual reports completed by MDEQ and the EPA RCRA Program, MDEQ met all of its FY 2010 grant commitments.						
	Metric(s) and Quantitative Value(s)	<table border="1"> <thead> <tr> <th>File Metric</th> <th>State</th> </tr> </thead> <tbody> <tr> <td>4a – Planned inspections complete</td> <td>100%</td> </tr> <tr> <td>4b – Planned commitments complete</td> <td>100%</td> </tr> </tbody> </table>	File Metric	State	4a – Planned inspections complete	100%	4b – Planned commitments complete	100%
File Metric	State							
4a – Planned inspections complete	100%							
4b – Planned commitments complete	100%							

	State Response	None
	Recommendation(s)	No further action is needed.

RCRA Element 5 — Inspection Coverage: Degree to which state completed the universe of planned inspections/compliance evaluations.

5-1	This finding is a(n)	<input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required <input type="checkbox"/> Good Practice																
	Finding	Mississippi completed core inspection coverage for Treatment, Storage, and Disposal facilities (two-year coverage) and Large Quantity Generators (one-year and five-year coverage).																
	Explanation	<p>Element 5 is supported by Data Metrics 5a, 5b, and 5c. The EPA Office of Compliance and Enforcement (OECA), National Program Managers (NPM) Guidance provides the core program inspection coverage for Treatment, Storage, and Disposal facilities (TSDs) and Large Quantity Generators (LQGs). MDEQ met the two-year TSD requirement (Metric 5a) by completing inspections at 100% of the TSD universe over a two year period.</p> <p>The OECA NPM Guidance also provides that 20% of the LQG universe be inspected annually and, every five years, 100% of LQG universe be inspected. For the one-year LQG inspection coverage, Data Metric 5b showed that MDEQ exceeded the annual requirement by inspecting 32% of the universe (39 of 122 facilities). Furthermore, for the five-year LQG inspection coverage, between FY2006-FY2010, Data Metric 5c shows that 95.9% (117 of 122) LQGs received an inspection. This meets SRF program requirements.</p>																
	Metric(s) and Quantitative Value(s)	<table border="1"> <thead> <tr> <th><u>Data Metrics</u></th> <th colspan="2"><u>National Goal</u></th> <th><u>State</u></th> </tr> </thead> <tbody> <tr> <td>5a - TSD inspection coverage (2 years)</td> <td>100%</td> <td></td> <td>100%</td> </tr> <tr> <td>5b - LQG inspection coverage (1 year)</td> <td>20%</td> <td>32.0%</td> <td>(39 of 122)</td> </tr> <tr> <td>5c - LQG inspection coverage (5 years)</td> <td>100%</td> <td>95.9%</td> <td>(117 of 122)</td> </tr> </tbody> </table>	<u>Data Metrics</u>	<u>National Goal</u>		<u>State</u>	5a - TSD inspection coverage (2 years)	100%		100%	5b - LQG inspection coverage (1 year)	20%	32.0%	(39 of 122)	5c - LQG inspection coverage (5 years)	100%	95.9%	(117 of 122)
<u>Data Metrics</u>	<u>National Goal</u>		<u>State</u>															
5a - TSD inspection coverage (2 years)	100%		100%															
5b - LQG inspection coverage (1 year)	20%	32.0%	(39 of 122)															
5c - LQG inspection coverage (5 years)	100%	95.9%	(117 of 122)															

	State Response	None
	Recommendation(s)	No further action is needed

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

6-1	This finding is a(n)	<input type="checkbox"/> Meets SRF Program Requirements <input checked="" type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required <input type="checkbox"/> Good Practice
	Finding	The majority of the MDEQ RCRA inspection reports were of good quality, were found complete, and provided documentation to appropriately determine compliance. However, the State is not timely in the completion of their inspection reports.
	Explanation	<p>Element 6 is supported by SRF file review metrics 6a, 6b, and 6c. Twenty inspection reports were reviewed under Metric 6a.</p> <p>File Metric 6b assesses the completeness of inspection reports and whether they provide sufficient documentation to determine compliance at the facility. Of the inspection reports reviewed, 85% (17 of 20) were complete and had sufficient documentation to determine compliance at the facility. Examples of missing information in the three incomplete reports were: identification of facility type and inconsistent documentation of issues identified. This does not indicate problems with inspection report completeness and MDEQ should strive to have all inspection reports complete.</p> <p>File Review Metric 6c measures the timely completion of inspection reports. The MDEQ RCRA Compliance Inspection Manual (dated March 2009) establishes the following criteria: <i>The report must be finalized and transmitted to the facility within 45 days of the inspection, if no violations were found. Generally, if violations are</i></p>

		<p><i>found, a Notice of Violation (NOV) must be transmitted to the facility within 50 days of completion of the inspection. If additional information (i.e., beyond that obtained during the inspection) is needed to make a compliance determination – for example, the results of laboratory analysis of samples taken during the inspection – the inspection report must be finalized as soon as practicable after the additional information is received.</i></p> <p>Out of the 20 inspection reports reviewed, four of nine reports that cited no violations were completed within 45 days of the inspection and six of 11 reports that were followed by a NOV were completed within 50 days of the inspection. As such, 45% of the reports that did not cite violations were within the 45 day timeframe, and 35% of the reports that were followed by a NOV were within the 50 day timeframe. On average, it took 53 days to complete an inspection report that did not cite violations and 49 days to complete an inspection report that was followed by a NOV.</p> <p>Moreover, the range of days it took for inspection reports to be completed, is as follows: inspection reports that did not cite violations were completed between 25 days and 98 days; and, inspection reports that were followed by a NOV were completed between 2 days and 103 days.</p> <p>This is an area for State attention, and MDEQ can examine current procedures to identify efficiencies in the completion of inspection report.</p>												
	<p>Metric(s) and Quantitative Value(s)</p>	<table border="1"> <thead> <tr> <th data-bbox="537 1188 1344 1234">File Review Metrics</th> <th data-bbox="1344 1188 1448 1234">State</th> </tr> </thead> <tbody> <tr> <td data-bbox="537 1234 1344 1270">6a - # of inspection reports reviewed</td> <td data-bbox="1344 1234 1448 1270">20</td> </tr> <tr> <td data-bbox="537 1270 1344 1306">6b - % of inspection reports that are complete</td> <td data-bbox="1344 1270 1448 1306">85%</td> </tr> <tr> <td data-bbox="537 1306 1344 1344">6c - % of inspection reports that are timely:</td> <td data-bbox="1344 1306 1448 1344"></td> </tr> <tr> <td data-bbox="537 1344 1344 1379"> -Inspection reports that did not cite violations:</td> <td data-bbox="1344 1344 1448 1379">45%</td> </tr> <tr> <td data-bbox="537 1379 1344 1423"> -Inspection reports that were followed by a NOV:</td> <td data-bbox="1344 1379 1448 1423">35%</td> </tr> </tbody> </table>	File Review Metrics	State	6a - # of inspection reports reviewed	20	6b - % of inspection reports that are complete	85%	6c - % of inspection reports that are timely:		-Inspection reports that did not cite violations:	45%	-Inspection reports that were followed by a NOV:	35%
File Review Metrics	State													
6a - # of inspection reports reviewed	20													
6b - % of inspection reports that are complete	85%													
6c - % of inspection reports that are timely:														
-Inspection reports that did not cite violations:	45%													
-Inspection reports that were followed by a NOV:	35%													
	<p>State Response</p>	<p>MDEQ began a process improvement initiative following Round 1 SRF. All EPA recommendations precipitated by SRF Round 1 have been implemented by MDEQ. Staff were trained on these new business processes and full implementation began around the beginning of FFY10. MDEQ continues to monitor and track staff activities and attempts to complete all activities within the applicable timelines. Timeliness is, however, secondary to quality work but remains an area of continued attention.</p>												

	Recommendation(s)	No formal recommendation is being tracked for this element.
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RCRA Element 7 — Identification of Alleged Violations: Degree to which compliance determinations are accurately made and promptly reported in the national database based upon compliance monitoring report observations and other compliance monitoring information.

7-1	This finding is a(n)	<input type="checkbox"/> Meets SRF Program Requirements <input checked="" type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required <input type="checkbox"/> Good Practice						
	Finding	The majority of the Mississippi inspection reports reviewed included correct compliance determinations, and the inspection findings were promptly entered into RCRAInfo.						
	Explanation	<p>File Metric 7a assesses whether accurate compliance determinations were made based on inspection reports. Of the inspection reports reviewed, 90% (18 of 20) had accurate compliance determinations (i.e., proper identification of SNCs or SVs and/or source confirmed to be in compliance). There was one inspection where potential violations were missing from the report and another inspection where the facility was inspected as a RCRA SQG when the facility was listed as an LQG in RCRAInfo. Neither facility was identified as an SV.</p> <p>In File Review Metric 7b, the files were also reviewed to assess if violations were determined within 150 days and entered into RCRAInfo. There were twelve facility inspections where violations were found. With the exception of the two facilities referenced above, all facilities were issued a Notice of Violation within 150 days after the inspection and the information was entered into RCRAInfo by day 150. Since these issues are primarily isolated, non-systemic occurrences that do not represent a pattern, this is designated as an area for State attention.</p>						
	Metric(s) and Quantitative Value(s)	<table border="1"> <thead> <tr> <th data-bbox="537 1425 1349 1482"><u>File Review Metrics</u></th> <th data-bbox="1349 1425 1448 1482"><u>State</u></th> </tr> </thead> <tbody> <tr> <td data-bbox="537 1482 1349 1551">7a - % of inspection reports reviewed that led to accurate compliance determinations</td> <td data-bbox="1349 1482 1448 1551">90%</td> </tr> <tr> <td data-bbox="537 1551 1349 1633">7b - % of violation determinations in the files that are reported within 150 days</td> <td data-bbox="1349 1551 1448 1633">83%</td> </tr> </tbody> </table>	<u>File Review Metrics</u>	<u>State</u>	7a - % of inspection reports reviewed that led to accurate compliance determinations	90%	7b - % of violation determinations in the files that are reported within 150 days	83%
<u>File Review Metrics</u>	<u>State</u>							
7a - % of inspection reports reviewed that led to accurate compliance determinations	90%							
7b - % of violation determinations in the files that are reported within 150 days	83%							
	State Response	The two referenced facilities were discussed in detail during the EPA SRF review. MDEQ disagreed at that time, and continues to disagree, with the reviewer’s compliance determinations regarding the two referenced facilities. With the exclusion of the two referenced sites, MDEQ respectfully disagrees with EPA on this metric classification and believes that, because of the difference of opinion regarding the two facilities noted above, the finding should be modified to “Meets						

		SRF Program Requirements.”
	Recommendation(s)	No formal recommendation is being tracked for this element.

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

8-1	This finding is a(n)	<input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required <input type="checkbox"/> Good Practice						
	Finding	Mississippi correctly identified SNC violation determinations in all files reviewed.						
	Explanation	<p>Data Metric 8a identifies the percent of the facilities that received a state SNC designation in FY 2010. Mississippi’s SNC identification rate is 4.3 % (4 of the 93 inspections conducted were identified as SNCs). The state’s SNC identification rate is above the national average of 2.6 %.</p> <p>Data Metric 8b measures the number of SNCs determinations that were made within 150 days of the first day of inspection, which is the requirement in the RCRA ERP. In FY2010, MDEQ identified and entered 100% (4 of 4) of their SNCs into RCRAInfo in a timely manner. The national goal is 100%.</p> <p>File Metric 8d measures the percentage of violations in the files that were accurately determined to be a SNC. It serves as a verification measure for data metric 8a. There were 20 inspection reports reviewed, and 100% of the SNCs (10 of 10) were correctly identified by the State.</p>						
	Metric(s) and Quantitative Value(s)	<table border="1"> <thead> <tr> <th>Data Metrics</th> <th>State</th> </tr> </thead> <tbody> <tr> <td>8a - SNC identification rate</td> <td>4.3%</td> </tr> <tr> <td>8b - % of SNC determinations made within 150 days</td> <td>100%</td> </tr> </tbody> </table>	Data Metrics	State	8a - SNC identification rate	4.3%	8b - % of SNC determinations made within 150 days	100%
Data Metrics	State							
8a - SNC identification rate	4.3%							
8b - % of SNC determinations made within 150 days	100%							

		<u>File Review Metric</u> 8d - % of violations in files reviewed that were accurately determined to be SNC 100% (10 of 10)
	State Response	None
	Recommendation(s)	No further action is needed.

RCRA Element 9 — Enforcement Actions Promote Return to Compliance: Degree to which 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	This finding is a(n)	<input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required <input type="checkbox"/> Good Practice						
	Finding	In the files reviewed, 100% of the enforcement responses included corrective action to return the facilities to compliance.						
	Explanation	<p>Under File Review Metric 9a, EPA reviewed a total of eleven enforcement responses, including ten SNCs and one SV.</p> <p>File Review Metric 9b is the percentage of the SNC enforcement responses reviewed that returned or will return the facility to compliance. From a review of the files, all ten SNCs had documentation in the files showing the facility had returned to compliance or that the enforcement action required them to return to compliance within a specified timeframe.</p> <p>File Review Metric 9c is the percentage of SV enforcement responses reviewed that returned or will return the facility to compliance. In the one SV file reviewed, the correct documentation in the file showed that the facility returned to compliance or that the enforcement action required them to return to compliance in a specified timeframe.</p>						
	Metric(s) and Quantitative Value(s)	<table border="0" style="width: 100%;"> <tr> <td><u>File Review Metrics</u></td> <td style="text-align: right;"><u>State</u></td> </tr> <tr> <td>9a - # of enforcement responses reviewed</td> <td style="text-align: right;">10 SNCs 1 SVs</td> </tr> <tr> <td>9b - % of enforcement responses that returned SNCs to compliance</td> <td style="text-align: right;">100% (10 of 10)</td> </tr> </table>	<u>File Review Metrics</u>	<u>State</u>	9a - # of enforcement responses reviewed	10 SNCs 1 SVs	9b - % of enforcement responses that returned SNCs to compliance	100% (10 of 10)
<u>File Review Metrics</u>	<u>State</u>							
9a - # of enforcement responses reviewed	10 SNCs 1 SVs							
9b - % of enforcement responses that returned SNCs to compliance	100% (10 of 10)							

		9c - % of enforcement responses that returned SVs to compliance	100% (1 of 1)
	State Response	None	
	Recommendation(s)	No further action is needed.	

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

		<input type="checkbox"/> Meets SRF Program Requirements <input checked="" type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required <input type="checkbox"/> Good Practice
10-1	This finding is a(n)	
	Finding	Mississippi takes appropriate and timely enforcement actions for SNCs. However, these actions are not reflected correctly because they are not linked in RCRAInfo
	Explanation	<p>Element 10 is supported by Data Metrics 10a, and File Review Metrics 10c and 10d.</p> <p>Data Metric 10a is used to determine if MDEQ conducted formal enforcement actions within 360 days, as required by the ERP. It shows only 25% (1 of 4) having formal enforcement action taken within 360 days. The national goal is 80% so it appears that MDEQ is not meeting this goal.</p> <p>A file review was conducted to verify the metric data. The three enforcement actions carried as not meeting the timeliness criteria were examined and the results showed that the enforcement actions were timely. Upon further investigation, it was determined that the discrepancy deals with a common issue where SNCs need to be linked in RCRAInfo to final enforcement actions. When this link is not made, it will appear as if SNCs have not been resolved through enforcement, and therefore response times have been exceeded.</p> <p>Since the issue is data related vs. the state not following the SNC timeliness criteria, the state meets the SRF program requirements but</p>

		<p>this is an area for state attention due to the data linkage issue. Data issues are addressed under the recommendation in Element 2.</p> <p>File Review Metric 10c measures the combined percentage of enforcement responses reviewed that are taken in a timely manner (for both SV and SNC facilities). There is no specific goal for the combined metric. Eleven of 11 facilities, or 100%, of the enforcement actions reviewed were addressed within the ERP timeframes, as outlined below:</p> <ul style="list-style-type: none"> • <u>SV timeliness:</u> There was one informal enforcement response reviewed, and it was taken in a timely manner (i.e., within 240 days). • <u>SNC timeliness:</u> There were ten SNC enforcement responses reviewed where final formal enforcement was taken. All ten enforcement responses, or 100%, were taken within the 360-day timeframe. However, these actions were not accurately captured in the RCRAInfo database, data was not linked properly. <p>This supports the previous conclusion that MDEQ is addressing SNCs in a timely manner.</p>															
	<p>Metric(s) and Quantitative Value(s)</p>	<table border="1"> <thead> <tr> <th><u>Data Metric</u></th> <th><u>National Goal</u></th> <th><u>State</u></th> </tr> </thead> <tbody> <tr> <td>10a - % timely SNC actions</td> <td>80%</td> <td>25% (1 of 4)</td> </tr> <tr> <td colspan="2"><u>File Review Metrics</u></td> <td><u>State</u></td> </tr> <tr> <td>10c - % of enforcement actions taken in a timely manner</td> <td></td> <td>SV 100% (1 of 1) SNC 100% (10 of 10) Combined 100% (11 of 11)</td> </tr> <tr> <td>10d - % of enforcement actions that are appropriate to the violations</td> <td></td> <td>100% (11 of 11)</td> </tr> </tbody> </table>	<u>Data Metric</u>	<u>National Goal</u>	<u>State</u>	10a - % timely SNC actions	80%	25% (1 of 4)	<u>File Review Metrics</u>		<u>State</u>	10c - % of enforcement actions taken in a timely manner		SV 100% (1 of 1) SNC 100% (10 of 10) Combined 100% (11 of 11)	10d - % of enforcement actions that are appropriate to the violations		100% (11 of 11)
<u>Data Metric</u>	<u>National Goal</u>	<u>State</u>															
10a - % timely SNC actions	80%	25% (1 of 4)															
<u>File Review Metrics</u>		<u>State</u>															
10c - % of enforcement actions taken in a timely manner		SV 100% (1 of 1) SNC 100% (10 of 10) Combined 100% (11 of 11)															
10d - % of enforcement actions that are appropriate to the violations		100% (11 of 11)															
	<p>State Response</p>	<p>EPA’s finding above states: “Mississippi takes appropriate and timely enforcement actions for SNCs. However, these actions are not reflected correctly because they are not linked in RCRAInfo (See Element 2).” RCRA Element 10 is for “Timely and Appropriate Action: Degree to which state takes timely and appropriate enforcement actions in accordance with policy relating to specific media.” The metric is not a review of data management although MDEQ is receiving a rating of “Area for State Attention” for data issues. MDEQ appreciates EPA’s recognition that the problem occurred with data management and not enforcement timeliness, and respectfully disagrees with EPA on this metric classification and believes that, based on the intent of the metric stated and EPA comments in that regard, the finding should be modified to “Meets SRF Program Requirements.”</p>															

		All MDEQ RCRAInfo data entry responsibilities now reside within the Environmental Compliance and Enforcement Division. The organizational change occurred in FFY11. Data entry is being closely monitored for accuracy and timeliness and MDEQ anticipates better internal coordination and a much higher level of data accountability. These organizational changes will improve timeliness and accuracy of data in the national system. New standard operating procedures are in place to ensure all SNC violations are appropriately linked to the addressing enforcement action.
	Recommendation(s)	No formal recommendation is being tracked for this element.

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

11-1	This finding is a(n)	<input type="checkbox"/> Meets SRF Program Requirements <input checked="" type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required <input type="checkbox"/> Good Practice
	Finding	In general, Mississippi documents initial penalty calculations that include both gravity and economic benefit, with a few exceptions.
	Explanation	Element 11 determines whether penalty calculations consider and include a gravity portion and, where appropriate, economic benefit. For file metric 11a, there were ten initial penalty calculations evaluated as part of the file review. All ten files incorporated a penalty calculation and/or narrative that included a gravity component. For economic benefit, 70% (7 of 10) of the files provided sufficient documentation of the appropriate economic benefit considerations. The other three penalties stated that economic benefit was “not applicable” for the case. The State explained that for RCRA, there is often little or no economic benefit related to the violations so the factor is “not applicable.” It was recommended that even if economic benefit is determined to be nonexistent or <i>de minimis</i> (e.g., labeling violations, inspection records, etc.), the rationale for that decision

		should be included in the penalty calculation. The State has agreed to these steps. The Region will follow up at the end of FY 2012 to ensure that economic benefit is being documented in all cases, even if it is <i>de minimis</i> .				
	Metric(s) and Quantitative Value(s)	<table border="1"> <thead> <tr> <th>File Review Metric</th> <th>State</th> </tr> </thead> <tbody> <tr> <td>11a - % of penalty calculations reviewed that consider and include where appropriate gravity and economic benefit consistent with national policy.</td> <td>70%</td> </tr> </tbody> </table>	File Review Metric	State	11a - % of penalty calculations reviewed that consider and include where appropriate gravity and economic benefit consistent with national policy.	70%
File Review Metric	State					
11a - % of penalty calculations reviewed that consider and include where appropriate gravity and economic benefit consistent with national policy.	70%					
	State Response	MDEQ maintains that for RCRA, there is often little or no economic benefit related to the many of the violations observed and therefore economic benefit is “not applicable.” However, immediately following the on-site SRF, MDEQ began documenting that rational in the penalty calculations. MDEQ will continue to emphasize to staff the need, consistent with the applicable EMS, to adequately document economic benefit considerations.				
	Recommendation(s)	No formal recommendation is being tracked for this element.				

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

		<input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required <input type="checkbox"/> Good Practice
12-1	This finding is a(n)	
	Finding	Mississippi documented the difference between initial and final penalties in enforcement cases, and maintained documentation that the final penalty was collected.
	Explanation	It is important that documentation of any differences and rationale between initial and final penalty calculations are maintained to determine if appropriate penalties have been recovered for the violations cited in the enforcement actions. A downward adjustment of the penalty in the final enforcement action may be appropriate due to new information provided in settlement negotiations, or a facility’s inability to pay a penalty. In file review metric 12a, 100% (9 of 9) enforcement cases had, where applicable, the needed documentation

		<p>to support a downward adjustment of the calculated penalty.</p> <p>Mississippi maintains records of all penalty collections through a central database, as reported in file metric 12b. Of the nine enforcement orders reviewed as part of the SRF, 100% had documentation that penalties were collected or were on a schedule for collection.</p>						
	Metric(s) and Quantitative Value(s)	<table border="1"> <thead> <tr> <th>File Review Metrics</th> <th>State</th> </tr> </thead> <tbody> <tr> <td>12a - % of formal enforcement actions that document the difference and rationale between initial and final assessed penalty</td> <td>100%</td> </tr> <tr> <td>12b - % of final formal actions that document the collection of the final penalty</td> <td>100%</td> </tr> </tbody> </table>	File Review Metrics	State	12a - % of formal enforcement actions that document the difference and rationale between initial and final assessed penalty	100%	12b - % of final formal actions that document the collection of the final penalty	100%
File Review Metrics	State							
12a - % of formal enforcement actions that document the difference and rationale between initial and final assessed penalty	100%							
12b - % of final formal actions that document the collection of the final penalty	100%							
	State Response	<p>MDEQ believes that EPA's findings in the RCRA Element 12 substantiate MDEQ's assertions that EPA's findings in CAA Element 12 were isolated and the results of a misunderstanding within one ECED Branch. Two of the three media reviewed show that MDEQ meets SRF program requirements for this Element.</p>						
	Recommendation(s)	<p>No further action is needed.</p>						

V. ELEMENT 13 SUBMISSION

No submission by the MDEQ

APPENDIX A: STATUS OF RECOMMENDATIONS FROM PREVIOUS REVIEWS

During the first SRF review of MDEQ's compliance and enforcement programs, Region 4 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.

Status	Due Date	Media	Element	Finding	Explanation	Completion Verification
Completed	10/9/2007	CAA	Insp Universe	243 FCEs were performed out of 293 (83%) CMS identified major sources for FY 2004-2005. Though this surpasses the national average of 78.4%, it is below the 100% commitment in MDEQ's CMS plan	MDEQ should: Propose a plan that will ensure the implementation and fulfillment of your biennial CMS Schedule commitments. Recognizing the dynamic nature of source changes (i.e., sources close, change categories, etc.), ensure that the CMS flags in AFS are updated so CMS accuracy is maintained.	MDEQ developed a Process Improvement Plan which includes revisions of business processes and incorporates those processes as Standard Operating Procedures (SOPs). These efforts, which are continuing, have resulted in improvements in MDEQ's compliance and enforcement programs and, for the most part, the completion of the recommendations identified in the Round 1 review.
Completed	10/9/2007	CAA	Violations ID'ed Appropriately	33 source files showed 13 having complete documentation of all FCE/CMR elements. 20 source files had one or more elements not documented.	MDEQ should develop and implement a plan that will ensure that all elements of a CMR and FCE are consistently completed and documented for all source files.	MDEQ submitted revised SOP for documenting CAA FCE procedures to EPA on December 7, 2007.
Completed	10/9/2007	CAA	Violations ID'ed Timely	Based on the 20 inspection reports found in the files reviewed (note 13 of the files reviewed were missing their inspection reports), 14 were written within 150 days of the inspection (6 under 60 days) and 6 greater than 150 days.	MDEQ should propose and implement a plan for ensuring timely issuance of inspection reports. The process should consider the timely and appropriate aspects of EPA's December 22, 1998 HPV policy.	MDEQ developed a Process Improvement Plan which includes revisions of business processes and incorporates those processes as Standard Operating Procedures (SOPs). These efforts, which are continuing, have resulted in improvements in MDEQ's compliance and enforcement programs and, for the most part, the completion of the recommendations identified in the Round 1 review.
Completed	10/9/2007	CAA	SNC Accuracy	The low HPV discovery rate is a significant deficiency in MDEQ's air enforcement program. According to the data	MDEQ should examine their present practices of identifying HPVs including timely identification to EPA and propose and implement a plan that will ensure	MDEQ developed a Process Improvement Plan which includes revisions of business processes and incorporates those processes as Standard Operating Procedures (SOPs). These efforts, which are continuing, have resulted in

				metrics, MDEQ's HPV discovery rate was 4.2% with the national average at 10.1%.	conformance with the processing requirements of the HPV policy.	improvements in MDEQ's compliance and enforcement programs and, for the most part, the completion of the recommendations identified in the Round 1 review.
Completed	10/9/2007	CAA	Timely & Appropriate Actions	MDEQ's processing time for enforcement cases is significantly over the EPA guideline for timeliness. 71%, 12 of MDEQ's 17 HPVs, remained unaddressed past 270 days, with the average timeframe for MDEQ resolving a violation being approximately 520 days.	MDEQ should examine their present practices of identifying HPVs and institute a plan that will ensure conformance with the processing requirements, entry into the national AFS data system, and reporting HPVs to EPA in a timely manner.	MDEQ developed a Process Improvement Plan which includes revisions of business processes and incorporates those processes as Standard Operating Procedures (SOPs). These efforts, which are continuing, have resulted in improvements in MDEQ's compliance and enforcement programs and, for the most part, the completion of the recommendations identified in the Round 1 review.
Completed	10/9/2007	CAA	Penalties Collected	Of the 13 situations where EPA asked for the worksheet, only five penalty worksheets were shared. Upon examination, it could not be determined how MDEQ applies the economic benefit component as it was determined to be not applicable in the five penalty worksheets reviewed.	MDEQ should develop and implement a plan to ensure that their penalty worksheet is consistently used and placed in the appropriate source file. MDEQ should also include in the monthly state/region enforcement call a discussion on penalties assessed and how economic benefit and gravity components were addressed.	MDEQ developed a Process Improvement Plan which includes revisions of business processes and incorporates those processes as Standard Operating Procedures (SOPs). These efforts, which are continuing, have resulted in improvements in MDEQ's compliance and enforcement programs and, for the most part, the completion of the recommendations identified in the Round 1 review.
Completed	10/9/2007	CAA	Data Timely	MDEQ's data shows 6 of 8 (75%) HPVs are entered more than 60 days following the date of discovery. This is higher than the national average of 56.4%.	MDEQ should examine why their HPV data entry practice routinely takes greater than 60 days after designation and develop and implement a plan that will ensure conformance with the HPV data entry requirements of AFS.	MDEQ developed a Process Improvement Plan which includes revisions of business processes and incorporates those processes as Standard Operating Procedures (SOPs). These efforts, which are continuing, have resulted in improvements in MDEQ's compliance and enforcement programs and, for the most part, the completion of the recommendations identified in the Round 1 review.
Completed	10/9/2007	CAA	Data Accurate	The data metrics show that in FY 2005 there were only 9 of 16 (56%) HPV sources being carried in AFS as in non vv	MDEQ should examine why their HPV sources are not carried in AFS as in non compliance and institute a plan that will ensure the accuracy of AFS compliance	MDEQ developed a Process Improvement Plan which includes revisions of business processes and incorporates those processes as Standard Operating Procedures (SOPs). These efforts, which are continuing, have resulted in

				compliance, i.e., 7 HPV sources are carried in AFS as something other than non compliance. The goal should be for 100% of all HPV sources to be coded in AFS as in noncompliance (national average of accurate coding is 97.4%)	status for HPV sources.	improvements in MDEQ's compliance and enforcement programs and, for the most part, the completion of the recommendations identified in the Round 1 review.
Completed	10/9/2007	CAA	Data Complete	Discrepancies with the CMS identifier and elsewhere throughout the findings in this report indicate that MDEQ's database could be improved.	MDEQ should examine the overall integrity of the data in AFS and develop and implement a plan to rectify any found timeliness, accuracy and completeness issues.	MDEQ developed a Process Improvement Plan which includes revisions of business processes and incorporates those processes as Standard Operating Procedures (SOPs). These efforts, which are continuing, have resulted in improvements in MDEQ's compliance and enforcement programs and, for the most part, the completion of the recommendations identified in the Round 1 review.
Completed	10/9/2007	CWA	Violations ID'ed Appropriately	The sampling conducted during a CMI generally did not address the full list of parameters in the permit and there was seldom any evaluation of the self monitoring program. Issues discovered during the CMI were addressed in the cover letter or the NOV but the inspection report was generally very limited in specific observations. As such, the CMI does not qualify for either a CSI or CEI designation or credit towards the annual inspection commitments.	MDEQ should ensure that permitted facilities receive at least one CEI/CSI during a five year permit cycle to determine compliance with applicable permit requirements. MDEQ should assess the value of CMIs both in terms of the number of such inspections conducted versus the number of CEI or CSI performed and the specific insight yielded by the CMI concerning facility operation and compliance with its permit requirements. MDEQ should utilize all enforcement response options to address noncompliance/deficiencies noted during inspection, which includes the use of formal enforcement actions.	MDEQ developed a Process Improvement Plan which includes revisions of business processes and incorporates those processes as Standard Operating Procedures (SOPs). These efforts, which are continuing, have resulted in improvements in MDEQ's compliance and enforcement programs and, for the most part, the completion of the recommendations identified in the Round 1 review.
Completed	10/9/2007	CWA	Violations ID'ed Timely	94% of the inspection reports reviewed (30/32) were timely	Skills in recognizing the gravity of violation(s) or observation(s) needs	MDEQ developed a Process Improvement Plan which includes revisions of business processes and incorporates those

				<p>completed and issued to the permittee. There were some cases where the inspection report(s) was missing from the file(s). In one instance, an inspection report was not issued for over a year from the date of inspection. In one case, the inspector noted issues in the inspection report which if cross-checked against the NPDES permit requirements would render the permittee in noncompliance with its permit. The inspection report was void of any citation of this discrepancy.</p>	<p>improvement as it impacts staff recommendations to management and the enforcement response regarding pursuit of corrective action(s). Identifying and citing violation(s) observed during an inspection should be emphasized in inspector training.</p>	<p>processes as Standard Operating Procedures (SOPs). These efforts, which are continuing, have resulted in improvements in MDEQ's compliance and enforcement programs and, for the most part, the completion of the recommendations identified in the Round 1 review.</p>
Completed	10/9/2007	CWA	SNC Accuracy	<p>MDEQ is required to maintain a DMR and parameter data entry rate at or above 95% by the PCS policy statement and the annual CWA section 106 work plan commitment. For FY2005, MDEQ data entry rate averaged 93.5%, exceeding the national average by 4%, however, still 1.5% below the national goal. MDEQ should consistently enter violations arising from major compliance monitoring at major facilities, including single event violations (SEVs) at majors.</p>	<p>MDEQ should evaluate its DMR handling process to determine the reason why the DMR and parameter data entry rate at or above 95% has not been achieved. Once the cause has been determined, MDEQ should either modify the process or implement existing processes to assure that this goal is achieved and maintained.</p>	<p>MDEQ developed a Process Improvement Plan which includes revisions of business processes and incorporates those processes as Standard Operating Procedures (SOPs). These efforts, which are continuing, have resulted in improvements in MDEQ's compliance and enforcement programs and, for the most part, the completion of the recommendations identified in the Round 1 review.</p>
Completed	10/9/2007	CWA	Return to Compliance	<p>The majority of enforcement actions taken by MDEQ were NOVs. This generally has proven to be</p>	<p>MDEQ should revise the existing EMS, dated 1991, to update Attachment C under the Enforcement Section such that a more streamlined</p>	<p>MDEQ developed a Process Improvement Plan which includes revisions of business processes and incorporates those processes as Standard Operating Procedures (SOPs). These efforts, which</p>

				adequate in returning the facility back to compliance. In some cases where the NOV(s) proved to be inadequate in returning the facility back into compliance, MDEQ chose to issue additional NOVs instead of escalating enforcement by pursuing appropriate administrative actions such as a CO or a UO or pursuing a civil judicial action.	approach to formal enforcement for violation category II, IV, V, and VI is established. If the facility is in SNC, the escalation to a formal enforcement action with or without prior NOV actions should be considered as the enforcement response.	are continuing, have resulted in improvements in MDEQ's compliance and enforcement programs and, for the most part, the completion of the recommendations identified in the Round 1 review.
Completed	10/9/2007	CWA	Timely & Appropriate Actions	The SNC rate, the enforcement process and escalation as described in the EMS, and the number and/or percent of facilities without timely action as reported in the CWA State Review Framework Metrics Data Pull is indicative of significant need to improve formal enforcement response time against permittees in SNC status and the need for EMS revision.	Timely formal enforcement action should be pursued when informal enforcement has not been successful in returning a facility back to compliance and/or when pursuing a formal enforcement action directly is determined to be more appropriate.	MDEQ developed a Process Improvement Plan which includes revisions of business processes and incorporates those processes as Standard Operating Procedures (SOPs). These efforts, which are continuing, have resulted in improvements in MDEQ's compliance and enforcement programs and, for the most part, the completion of the recommendations identified in the Round 1 review.
Completed	10/9/2007	CWA	Penalty Calculations	The EMS contains a section on economic benefit and penalty assessment which includes gravity. The MDEQ was requested to provide at least two examples of economic benefit and penalty assessment calculations for review since no formal enforcement actions were contained or taken in FY 2005 in the selected facility	For all penalties assessed, consideration for economic benefit or potential economic benefit should always be performed and documented. If such an assessment is not feasible, a notation in the file should be made to that effect along with any explanation.	MDEQ developed a Process Improvement Plan which includes revisions of business processes and incorporates those processes as Standard Operating Procedures (SOPs). These efforts, which are continuing, have resulted in improvements in MDEQ's compliance and enforcement programs and, for the most part, the completion of the recommendations identified in the Round 1 review.

				files.		
Completed	10/9/2007	CWA	Penalties Collected	Since there were no formal or informal enforcement action with penalties or stipulated penalties documented within the 30 facilities' files that were reviewed, the extent to which the MDEQ pursues collection of penalties assessed could not be determined.	The MDEQ should ensure penalty assessment and collection information is properly and timely encoded into PCS as required pursuant to the CWA§106 work plan requirement. Proper documentation of penalties collected (payment acknowledgement letter, copy of payment checks, etc.) should also be retained in the facility files.	MDEQ submitted PCS SOP to EPA Region 4
Completed	10/9/2007	CWA	Data Timely	The Section 106 work plan contains requirements and commitments for MDEQ to enter all inspection and enforcement actions for majors and minors. Currently, there is no automatic interface between MDEQ's internal tracking systems and PCS. All data are entered directly into both PCS and the state database.	The MDEQ should institute procedures that assure that all information that should be entered into PCS is routed to data entry staff for timely entry.	MDEQ submitted PCS SOP to EPA Region 4.
Completed	10/9/2007	CWA	Data Accurate	Improvement in the accuracy of the inspection type coding is needed when coding a CMI. Given that the sampling conducted during the CMI in many cases did account for all of the parameters in a given permit, the CMI should be coded and credited as RI only.	The MDEQ should ensure that appropriate inspection type codes are used in PCS for CMIs. The inspection codes for CEIs or CSIs are not appropriate coding for CMIs in PCS.	MDEQ submitted PCS SOP to EPA Region 4.
Completed	10/9/2007	CWA	Data Complete	Two enforcement actions were documented in the file but not entered into PCS, and three	MDEQ should evaluate its DMR handling process to determine the reason why the DMR and parameter data entry rate at or above 95%	MDEQ developed a Process Improvement Plan which includes revisions of business processes and incorporates those processes as Standard Operating Procedures (SOPs). These efforts, which

				inspections and/or enforcement actions were noted in PCS but not found in the facility files. For FY2005, the data entry rate averaged 93.5%, which was 4% above the national average, but 1.5% below the national goal.	has not been achieved. Once the cause has been determined, the MDEQ should either modify the process or implement existing processes to assure that this goal is achieved and maintained.	are continuing, have resulted in improvements in MDEQ's compliance and enforcement programs and, for the most part, the completion of the recommendations identified in the Round 1 review.
Completed	10/9/2007	RCRA	Insp Universe	There is one federally-owned TSD located in Mississippi, and in FY2005 the facility received a compliance inspection as required by federal statute. However, RCRAInfo indicates that during the five-year timeframe from FY2001-2005, the facility was only inspected twice, which does not meet the statutory requirements. From FY2003-FY2005 only 14 facilities (56% of universe) received a CEM and/or OAM evaluation. This is far below the requirements that 100% of LDF universe should receive a groundwater monitoring evaluation at least once every three years. MDEQ inspected only 74% of the LQG universe which is below the recommended inspection coverage.	It is recommended that MDEQ reevaluate their inspection targeting to ensure that, at a minimum, the inspections required by statute and the applicable OECA NPM guidance are conducted. If MDEQ cannot meet the inspection requirements, they should consult EPA Region 4 RCRA Enforcement and Compliance Branch to discuss options for the required inspections.	MDEQ developed a Process Improvement Plan which includes revisions of business processes and incorporates those processes as Standard Operating Procedures (SOPs). These efforts, which are continuing, have resulted in improvements in MDEQ's compliance and enforcement programs and, for the most part, the completion of the recommendations identified in the Round 1 review.
Completed	10/9/2007	RCRA	Violations ID'ed Appropriately	Of the 23 inspection files reviewed, 55% of the reports were found to contain either minimal or no	EPA Region 4 recommends that MDEQ establish a consistent protocol for thoroughly documenting RCRA compliance	MDEQ developed a Process Improvement Plan which includes revisions of business processes and incorporates those processes as Standard Operating Procedures (SOPs). These efforts, which

				information regarding facility operations and hazardous waste management activities observed during the time of the inspection. None of the inspection reports contained photographs or inspection checklists.	inspections, using the Revised RCRA Inspection Manual (November 1998) as guidance in this process. This protocol should be submitted to EPA R4 for review and comment prior to implementation. MDEQ should forward copies of the requested inspection reports to EPA Region 4.	are continuing, have resulted in improvements in MDEQ's compliance and enforcement programs and, for the most part, the completion of the recommendations identified in the Round 1 review.
Completed	10/9/2007	RCRA	Violations ID'ed Timely	In the Memorandum between MDEQ and EPA (dated January 21, 1994), MDEQ should finalize all inspection reports within 45 days of the inspection. Of the inspection files reviewed, MDEQ RCRA Inspectors complete the inspection report on average 49 days from the date of the inspection. One inspection took over 17 months to complete.	Inspections reports appear to be completed in a timely manner (with the exception of the cited report), close to the negotiated timeframe in the MDEQ/EPA RCRA MOA. EPA recommends that MDEQ monitor all inspection reports to ensure timely completion.	MDEQ developed a Process Improvement Plan which includes revisions of business processes and incorporates those processes as Standard Operating Procedures (SOPs). These efforts, which are continuing, have resulted in improvements in MDEQ's compliance and enforcement programs and, for the most part, the completion of the recommendations identified in the Round 1 review.
Completed	10/9/2007	RCRA	SNC Accuracy	During FY2005, MDEQ did not identify any SNC facilities. In the FY2005 RCRA Annual Evaluation Report (dated June 7, 2006) MDEQ indicated the reason for the lack of SNC identification as "The state targets inspections at facilities that will count toward grant commitments, rather than targeting potential noncompliance."	EPA Region 4 is concerned that MDEQ suggests it is not addressing noncompliance in their state using their current inspection targeting. The strategic goal of all compliance and enforcement programs is to improve compliance among regulated facilities through compliance assurance activities and enforcement. MDEQ should work with EPA Region 4 RCRA program in developing grant commitments to ensure compliance monitoring activities are being targeted in areas of potential noncompliance.	MDEQ developed a Process Improvement Plan which includes revisions of business processes and incorporates those processes as Standard Operating Procedures (SOPs). These efforts, which are continuing, have resulted in improvements in MDEQ's compliance and enforcement programs and, for the most part, the completion of the recommendations identified in the Round 1 review.
Completed	10/9/2007	RCRA	Return to Compliance	MDEQ signed a	It is recommended that	MDEQ developed a Process Improvement

				consent order with one facility +/- 450 days after the joint MDEQ/EPA inspection, which exceeds the ERP limit for timely enforcement response. The consent order did not include all the violations identified by MDEQ and/or EPA during the inspection. The Order did not include any RCRA injunctive relief. There was no documented/verified return to compliance in the files.	MDEQ review proposed enforcement actions during the bi-monthly conference calls with the EPA Region 4 RCRA enforcement program to review appropriate injunctive relief for return to compliance. MDEQ should also implement quality assurance procedures to ensure that all appropriate data is entered into RCRAInfo.	Plan which includes revisions of business processes and incorporates those processes as Standard Operating Procedures (SOPs). These efforts, which are continuing, have resulted in improvements in MDEQ's compliance and enforcement programs and, for the most part, the completion of the recommendations identified in the Round 1 review.
Completed	10/9/2007	RCRA	Timely & Appropriate Actions	In FY2005, the MDEQ RCRA program concluded two consent orders with SNC facilities, while negotiating a third order which concluded in FY2006. Of the three consent orders, two actions or 66% of the cases exceeded the 360 day time line for entering into a final order.	EPA recommends that MDEQ closely review and follow the RCRA Enforcement Response Policy to determine the appropriate response to violations at RCRA facilities. Enforcement case timelines should be reviewed during the bi-monthly conference calls with EPA Region 4 RCRA enforcement program.	MDEQ developed a Process Improvement Plan which includes revisions of business processes and incorporates those processes as Standard Operating Procedures (SOPs). These efforts, which are continuing, have resulted in improvements in MDEQ's compliance and enforcement programs and, for the most part, the completion of the recommendations identified in the Round 1 review.
Completed	10/9/2007	RCRA	Penalty Calculations	It is MDEQ's policy not to include penalty calculations in the enforcement files. MDEQ maintains that the gravity of the violations and economic benefit are considered in the penalty calculation, however no documentation of this is maintained in the file.	In order to maintain consistency in enforcement proceedings and penalty calculations, MDEQ should consider options and develop and implement a plan to document the calculations in the enforcement files.	MDEQ developed a Process Improvement Plan which includes revisions of business processes and incorporates those processes as Standard Operating Procedures (SOPs). These efforts, which are continuing, have resulted in improvements in MDEQ's compliance and enforcement programs and, for the most part, the completion of the recommendations identified in the Round 1 review.
Completed	10/9/2007	RCRA	Penalties Collected	It is MDEQ's policy not to include penalty	In order to maintain consistency in enforcement	MDEQ developed a Process Improvement Plan which includes revisions of business

				calculations in the enforcement files. The final penalties were reflected in RCRAInfo, but the penalty calculations were not formally documented in the files.	proceedings and penalty calculations, MDEQ should consider options and develop and implement a plan to maintain both initial and final penalty documentation, including economic benefit and gravity-based calc	processes and incorporates those processes as Standard Operating Procedures (SOPs). These efforts, which are continuing, have resulted in improvements in MDEQ's compliance and enforcement programs and, for the most part, the completion of the recommendations identified in the Round 1 review.
Completed	10/9/2007	RCRA	Grant Commitments	In the FY2005/FY2006 RCRA Review, the report found that MDEQ met enforcement and compliance grant work plan inspection commitments for FY2005.	While MDEQ did meet the FY2005 grant commitments, some key national statutory/guidance requirements were not met. It is recommended that MDEQ work with EPA Region 4 during the development of the fiscal year grant work plan to ensure the statutory inspections and OECA guidance requirements are included in the grant commitments.	MDEQ developed a Process Improvement Plan which includes revisions of business processes and incorporates those processes as Standard Operating Procedures (SOPs). These efforts, which are continuing, have resulted in improvements in MDEQ's compliance and enforcement programs and, for the most part, the completion of the recommendations identified in the Round 1 review.

APPENDIX B: OFFICIAL DATA PULL

CLEAN AIR ACT OFFICIAL DATA SET

Metric	Metric Description	Metric Type	Agency	Nat'l Goal	Nat'l Average	MDEQ	Count	Universe	Not Counted	State Discrepancy (Yes/No)	State Correction	State Data Source	Discrepancy Explanation
A01A1S	Title V Universe: AFS Operating Majors (Current)	Data Quality	State			279	NA	NA	NA				
A01A2S	Title V Universe: AFS Operating Majors with Air Program Code = V (Current)	Data Quality	State			277	NA	NA	NA				

A01B1S	Source Count: Synthetic Minors (Current)	Data Quality	State			274	NA	NA	NA				
A01B2S	Source Count: NESHAP Minors (Current)	Data Quality	State			3	NA	NA	NA				
A01B3S	Source Count: Active Minor facilities or otherwise FedRep, not including NESHAP Part 61 (Current)	Informational Only	State			44	NA	NA	NA				
A01C1S	CAA Subprogram Designations: NSPS (Current)	Data Quality	State			254	NA	NA	NA				
A01C2S	CAA Subprogram Designations: NESHAP (Current)	Data Quality	State			34	NA	NA	NA				
A01C3S	CAA Subprogram Designations: MACT (Current)	Data Quality	State			190	NA	NA	NA				
A01C4S	CAA Subpart Designations: Percent NSPS facilities with FCEs conducted after 10/1/2005	Data Quality	State	100%	87.7%	100.0%	246	246	0				
A01C5S	CAA Subpart Designations: Percent NESHAP facilities with FCEs conducted after 10/1/2005	Data Quality	State	100%	48.5%	100.0%	20	20	0				
A01C6S	CAA Subpart Designations: Percent MACT facilities with FCEs conducted	Data Quality	State	100%	94.4%	99.4%	159	160	1				

	after 10/1/2005												
A01D1S	Compliance Monitoring: Sources with FCEs (1 FY)	Data Quality	State			204	NA	NA	NA				
A01D2S	Compliance Monitoring: Number of FCEs (1 FY)	Data Quality	State			208	NA	NA	NA				
A01D3S	Compliance Monitoring: Number of PCEs (1 FY)	Informational Only	State			50	NA	NA	NA				
A01E0S	Historical Non-Compliance Counts (1 FY)	Data Quality	State			56	NA	NA	NA				
A01F1S	Informal Enforcement Actions: Number Issued (1 FY)	Data Quality	State			59	NA	NA	NA				
A01F2S	Informal Enforcement Actions: Number of Sources (1 FY)	Data Quality	State			57	NA	NA	NA				
A01G1S	HPV: Number of New Pathways (1 FY)	Data Quality	State			22	NA	NA	NA				
A01G2S	HPV: Number of New Sources (1 FY)	Data Quality	State			20	NA	NA	NA				
A01H1S	HPV Day Zero Pathway Discovery date: Percent DZs with discovery	Data Quality	State	100%	59.7%	100.0%	22	22	0				

A01H2S	HPV Day Zero Pathway Violating Pollutants: Percent DZs	Data Quality	State	100%	91.3%	100.0%	22	22	0				
A01H3S	HPV Day Zero Pathway Violation Type Code(s): Percent DZs with HPV Violation Type Code(s)	Data Quality	State	100%	91.2%	100.0%	22	22	0				
A01I1S	Formal Action: Number Issued (1 FY)	Data Quality	State				24	NA	NA	NA			
A01I2S	Formal Action: Number of Sources (1 FY)	Data Quality	State				23	NA	NA	NA			
A01J0S	Assessed Penalties: Total Dollar Amount (1 FY)	Data Quality	State				\$162,512	NA	NA	NA			
A01K0S	Major Sources Missing CMS Policy Applicability (Current)	Review Indicator	State	0			0	NA	NA	NA			
A02A0S	Number of HPVs/Number of NC Sources (1 FY)	Data Quality	State	<= 50%	45.5%	50.0%	15	30	15				
A02B1S	Stack Test Results at Federally-Reportable Sources - % Without Pass/Fail Results (1 FY)	Goal	State	0%	1.3%	0.0%	0	357	357				
A02B2S	Stack Test Results at Federally-	Data Quality	State				6	NA	NA	NA			

	Reportable Sources - Number of Failures (1 FY)												
A03A0S	Percent HPVs Entered <= 60 Days After Designation, Timely Entry (1 FY)	Goal	State	100%	34.7%	0.0%	0	22	22				
A03B1S	Percent Compliance Monitoring related MDR actions reported <= 60 Days After Designation, Timely Entry (1 FY)	Goal	State	100%	59.0%	47.6%	413	867	454				
A03B2S	Percent Enforcement related MDR actions reported <= 60 Days After Designation, Timely Entry (1 FY)	Goal	State	100%	70.3%	56.2%	45	80	35				
A05A1S	CMS Major Full Compliance Evaluation (FCE) Coverage (2 FY CMS Cycle)	Goal	State	100%	89.2%	98.9%	263	266	3				
A05A2S	CAA Major Full Compliance Evaluation (FCE) Coverage(most recent 2 FY)	Review Indicator	State	100%	84.4%	96.5%	277	287	10				
A05B1S	CAA Synthetic Minor 80% Sources (SM-80) FCE Coverage (5	Review Indicator	State	20% - 100%	92.0%	83.5%	207	248	41				

	FY CMS Cycle)												
A05B2S	CAA Synthetic Minor 80% Sources (SM-80) FCE Coverage (last full 5 FY)	Informational Only	State	100%	92.4%	91.2%	249	273	24				
A05C0S	CAA Synthetic Minor FCE and reported PCE Coverage (last 5 FY)	Informational Only	State		79.2%	92.9%	290	312	22				
A05D0S	CAA Minor FCE and Reported PCE Coverage (last 5 FY)	Informational Only	State		28.8%	8.0%	37	462	425				
A05E0S	Number of Sources with Unknown Compliance Status (Current)	Review Indicator	State			0	NA	NA	NA				
A05F0S	CAA Stationary Source Investigations (last 5 FY)	Informational Only	State			0	NA	NA	NA				
A05G0S	Review of Self-Certifications Completed (1 FY)	Goal	State	100%	94.3%	100.0%	265	265	0				
A07C1S	Percent facilities in noncompliance that have had an FCE, stack test, or enforcement (1 FY)	Review Indicator	State	> 1/2 National Avg	22.3%	17.9%	48	268	220				
A07C2S	Percent facilities that have had a failed stack test and have noncompliance status (1 FY)	Review Indicator	State	> 1/2 National Avg	44.0%	25.0%	1	4	3				

A08A0S	High Priority Violation Discovery Rate - Per Major Source (1 FY)	Review Indicator	State	> 1/2 National Avg	6.4%	3.9%	11	279	268				
A08B0S	High Priority Violation Discovery Rate - Per Synthetic Minor Source (1 FY)	Review Indicator	State	> 1/2 National Avg	0.4%	3.3%	9	274	265				
A08C0S	Percent Formal Actions With Prior HPV - Majors (1 FY)	Review Indicator	State	> 1/2 National Avg	67.8%	90.9%	10	11	1				
A08D0S	Percent Informal Enforcement Actions Without Prior HPV - Majors (1 FY)	Review Indicator	State	< 1/2 National Avg	49.8%	65.5%	19	29	10				
A08E0S	Percentage of Sources with Failed Stack Test Actions that received HPV listing - Majors and Synthetic Minors (2 FY)	Review Indicator	State	> 1/2 National Avg	40.5%	50.0%	5	10	5				
A10A0S	Percent HPVs not meeting timeliness goals (2 FY)	Review Indicator	State		36.4%	46.5%	20	43	23				
A12A0S	No Activity Indicator - Actions with Penalties (1 FY)	Review Indicator	State				24	NA	NA	NA			
A12B0S	Percent Actions at HPVs With Penalty (1 FY)	Review Indicator	State	>= 80%	89.0%	92.3%	12	13	1				

CLEAN WATER ACT OFFICIAL DATA SET

Metric	Metric Description	Metric Type	Agency	Nat'l Goal	Nat'l Average	MDEQ	Count	Universe	Not Counted	State Discrepancy (Yes/No)	State Correction	State Data Source	Discr Expl
W01A1C	Active facility universe: NPDES major individual permits (Current)	Data Quality	Combined			96	NA	NA	NA				
W01A2C	Active facility universe: NPDES major general permits (Current)	Data Quality	Combined			0	NA	NA	NA				
W01A3C	Active facility universe: NPDES non-major individual permits (Current)	Data Quality	Combined			1,384	NA	NA	NA				
W01A4C	Active facility universe: NPDES non-major general permits (Current)	Data Quality	Combined			1,698	NA	NA	NA				
W01B1C	Major individual permits: correctly coded limits (Current)	Goal	Combined	>=; 95%	91.9%	97.9%	94	96	2				
C01B2C	Major individual permits: DMR entry rate based on MRs expected (Forms/Forms) (1 Qtr)	Goal	Combined	>=; 95%	92.6%	98.5%	448	455	7				

C01B3C	Major individual permits: DMR entry rate based on DMRs expected (Permits/Permits) (1 Qtr)	Goal	Combined	>=; 95%	96.0%	100.0%	94	94	0				
W01B4C	Major individual permits: manual RNC/SNC override rate (1 FY)	Data Quality	Combined			0.0%	0	11	11				
W01C1C	Non-major individual permits: correctly coded limits (Current)	Informational Only	Combined			86.6%	1,199	1,384	185				
C01C2C	Non-major individual permits: DMR entry rate based on DMRs expected (Forms/Forms) (1 Qtr)	Informational Only	Combined			98.5%	969	984	15				
C01C3C	Non-major individual permits: DMR entry rate based on DMRs expected (Permits/Permits) (1 Qtr)	Informational Only	Combined			98.2%	331	337	6				
W01D1C	Violations at non-majors: noncompliance rate (1 FY)	Informational Only	Combined			39.4%	545	1,384	839				
C01D2C	Violations at non-majors: noncompliance rate in the annual noncompliance report (ANCR)(1 CY)	Informational Only	Combined			0 / 0	0	0	0				
W01D3C	Violations at non-majors: DMR non-	Informational Only	Combined			219	NA	NA	NA				

	receipt (3 FY)												
W01E1S	Informal actions: number of major facilities (1 FY)	Data Quality	State			44	NA	NA	NA				
W01E2S	Informal actions: number of actions at major facilities (1 FY)	Data Quality	State			107	NA	NA	NA				
W01E3S	Informal actions: number of non- major facilities (1 FY)	Data Quality	State			510	NA	NA	NA				
W01E4S	Informal actions: number of actions at non-major facilities (1 FY)	Data Quality	State			627	NA	NA	NA				
W01F1S	Formal actions: number of major facilities (1 FY)	Data Quality	State			12	NA	NA	NA				
W01F2S	Formal actions: number of actions at major facilities (1 FY)	Data Quality	State			12	NA	NA	NA				
W01F3S	Formal actions: number of non- major facilities (1 FY)	Data Quality	State			66	NA	NA	NA				
W01F4S	Formal actions: number of actions at non-major facilities (1 FY)	Data Quality	State			66	NA	NA	NA				
W01G1S	Penalties: total number of penalties (1 FY)	Data Quality	State			36	NA	NA	NA				
W01G2S	Penalties: total penalties (1 FY)	Data Quality	State			\$536,8 04	NA	NA	NA				
W01G3S	Penalties: total collected pursuant to civil judicial actions (3 FY)	Data Quality	State			\$0	NA	NA	NA				

W01G4S	Penalties: total collected pursuant to administrative actions (3 FY)	Informational Only	State			\$1,578,904	NA	NA	NA				
W01G5S	No activity indicator - total number of penalties (1 FY)	Data Quality	State			\$536,804	NA	NA	NA				
W02A0S	Actions linked to violations: major facilities (1 FY)	Data Quality	State	>=; 80%		100.0%	12	12	0				
W05A0S	Inspection coverage: NPDES majors (1 FY)	Goal	State	100%	60.7%	61.5%	59	96	37				
W05B1S	Inspection coverage: NPDES non-major individual permits (1 FY)	Goal	State			9.5%	132	1,384	1,252				
W05B2S	Inspection coverage: NPDES non-major general permits (1 FY)	Goal	State			5.9%	101	1,698	1,597				
W05C0S	Inspection coverage: NPDES other (not 5a or 5b) (1 FY)	Informational Only	State			0.8%	4	483	479				
W07A1C	Single-event violations at majors (1 FY)	Review Indicator	Combined			3	NA	NA	NA				
W07A2C	Single-event violations at non-majors (1 FY)	Informational Only	Combined			2	NA	NA	NA				
W07B0C	Facilities with unresolved compliance schedule violations (at end of FY)	Data Quality	Combined		22.6%	8.3%	5	60	55				

W07C0C	Facilities with unresolved permit schedule violations (at end of FY)	Data Quality	Combined		21.9%	100.0%	1	1	0				
W07D0C	Percentage major facilities with DMR violations (1 FY)	Data Quality	Combined		52.8%	49.0%	47	96	49				
W08A1C	Major facilities in SNC (1 FY)	Review Indicator	Combined			11	NA	NA	NA				
W08A2C	SNC rate: percent majors in SNC (1 FY)	Review Indicator	Combined		24.6%	11.5%	11	96	85				
W10A0C	Major facilities without timely action (1 FY)	Goal	Combined	< 2%	18.3%	8.3%	8	96	88				

RESOURCE CONSERVATION AND RECOVERY ACT OFFICIAL DATA SET

Metric	Metric Description	Metric Type	Agency	Nat'l Goal	Nat'l Average	MDEQ	Count	Universe	Not Counted	State Discrepancy (Yes/No)	State Correction	State Data Source	Discrepancy Explanation
R01A1S	Number of operating TSDFs in RCRAInfo	Data Quality	State			7	NA	NA	NA				
R01A2S	Number of active LQGs in RCRAInfo	Data Quality	State			146	NA	NA	NA				
R01A3S	Number of active SQGs in RCRAInfo	Data Quality	State			391	NA	NA	NA				
R01A4S	Number of all other active sites in RCRAInfo	Data Quality	State			2,279	NA	NA	NA				
R01A5S	Number of LQGs per latest official biennial report	Data Quality	State			122	NA	NA	NA				
R01B1S	Compliance monitoring: number of inspections (1 FY)	Data Quality	State			95	NA	NA	NA				
R01B2S	Compliance monitoring: sites inspected (1 FY)	Data Quality	State			93	NA	NA	NA				
R01C1S	Number of sites with violations determined at any time (1 FY)	Data Quality	State			22	NA	NA	NA				
R01C2S	Number of sites with violations determined during the FY	Data Quality	State			11	NA	NA	NA				

R01D1S	Informal action: number of sites (1 FY)	Data Quality	State			11	NA	NA	NA				
R01D2S	Informal action: number of actions (1 FY)	Data Quality	State			11	NA	NA	NA				
R01E1S	SNC: number of sites with new SNC (1 FY)	Data Quality	State			4	NA	NA	NA				
R01E2S	SNC: number of sites in SNC (1 FY)	Data Quality	State			13	NA	NA	NA				
R01F1S	Formal action: number of sites (1 FY)	Data Quality	State			9	NA	NA	NA				
R01F2S	Formal action: number taken (1 FY)	Data Quality	State			9	NA	NA	NA				
R01G0S	Total amount of final penalties (1 FY)	Data Quality	State			\$77,860	NA	NA	NA				
R02A1S	Number of sites SNC-determined on day of formal action (1 FY)	Data Quality	State			0	NA	NA	NA				
R02A2S	Number of sites SNC-determined within one week of formal action (1 FY)	Data Quality	State			0	NA	NA	NA				
R02B0S	Number of sites in violation for greater than 240 days	Data Quality	State			0	NA	NA	NA				
R03A0S	Percent SNCs entered ≥ 60 days after designation (1 FY)	Review Indicator	State			83.3%	5	6	1				

R05A0S	Inspection coverage for operating TSDFs (2 FYs)	Goal	State	100%	87.4%	100.0%	7	7	0				
R05B0S	Inspection coverage for LQGs (1 FY)	Goal	State	20%	24.1%	32.0%	39	122	83				
R05C0S	Inspection coverage for LQGs (5 FYs)	Goal	State	100%	61.7%	95.9%	117	122	5				
R05D0S	Inspection coverage for active SQGs (5 FYs)	Informational Only	State			34.0%	133	391	258				
R05E1S	Inspections at active CESQGs (5 FYs)	Informational Only	State			252	NA	NA	NA				
R05E2S	Inspections at active transporters (5 FYs)	Informational Only	State			6	NA	NA	NA				
R05E3S	Inspections at non-notifiers (5 FYs)	Informational Only	State			1	NA	NA	NA				
R05E4S	Inspections at active sites other than those listed in 5a-d and 5e1-5e3 (5 FYs)	Informational Only	State			11	NA	NA	NA				
R07C0S	Violation identification rate at sites with inspections (1 FY)	Review Indicator	State			11.8%	11	93	82				
R08A0S	SNC identification rate at sites with inspections (1 FY)	Review Indicator	State	1/2 National Avg	2.6%	4.3%	4	93	89				
R08B0S	Percent of SNC determinations made within 150 days (1 FY)	Goal	State	100%	83.2%	100.0%	4	4	0				

R08C0S	Percent of formal actions taken that received a prior SNC listing (1 FY)	Review Indicator	State	1/2 National Avg	62.3%	100.0%	9	9	0				
R10A0S	Percent of SNCs with formal action/referral taken within 360 days (1 FY)	Review Indicator	State	80%	46.5%	25.0%	1	4	3				
R10B0S	No activity indicator - number of formal actions (1 FY)	Review Indicator	State			9	NA	NA	NA				
R12A0S	No activity indicator - penalties (1 FY)	Review Indicator	State			\$77,860	NA	NA	NA				
R12B0S	Percent of final formal actions with penalty (1 FY)	Review Indicator	State	1/2 National Avg	80.6%	100.0%	7	7	0				

APPENDIX C: PDA TRANSMITTAL LETTER

Appendices C, D, and E provide the results of the Preliminary Data Analysis (PDA). The Preliminary Data Analysis forms the initial structure for the SRF report, and helps ensure that the data metrics are adequately analyzed prior to the on-site review.

This is a critical component of the SRF process because it allows the reviewers to be prepared and knowledgeable about potential problem areas before the on-site 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 metric results.

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

May 20, 2011

Ms. Trudy D. Fisher
Executive Director
Mississippi Department of Environmental Quality
P.O. Box 2261
Jackson, Mississippi 39225-2261

Dear Ms. Fisher:

On March 18, 2011, the Environmental Protection Agency (EPA) Region 4 notified the Mississippi Department of Environmental Quality (MDEQ) of its intention to begin the State Review Framework (SRF) evaluation via an opening letter. As the next step in the process, the region has analyzed the SRF data sent with the opening letter against established goals and commitments, incorporating any data corrections or discrepancies provided by MDEQ.

This follow-up letter includes (1) EPA's preliminary analysis of the state SRF data metrics results, (2) the official preliminary data analysis (PDA) worksheets, and (3) the files that have been selected for the SRF file reviews. The file reviews have been coordinated between MDEQ and EPA to take place during June 13-17, 2011, for the CWA and RCRA programs, and July 25-29, 2011, for the CAA program. All reviews will take place at MDEQ's offices in Jackson, Mississippi.

We are providing this information to you in advance so that your staff will have adequate time to compile the files that we will review and can begin pulling together any supplemental information that you think may be of assistance during the review. After reviewing the enclosed information, if there are additional circumstances that the region should consider during the review, please have your staff provide that information to Becky Hendrix, the Region 4 SRF coordinator, prior to the on-site file review. Becky Hendrix can be reached at (404) 562-8342.

Please note that the enclosed preliminary analyses are largely based only on the FY2010 data metrics results that were "frozen" in March 2011. Any corrections or updates to the data in the national data systems since that time may not be reflected in the preliminary analyses. Final SRF findings may be

significantly different based upon the revised and/or updated FY2010 data, the results of the file review, and ongoing discussions with your staff.

Please also note that all information and material used in this review may be subject to federal and/or state disclosure laws. While EPA intends to use this information only for discussions with MDEQ, it may be necessary to release information in response to a properly submitted information request.

At this time I would also like to bring to your attention the opportunity for MDEQ to highlight any priorities and accomplishments that you would like to have included in the SRF Report. EPA is also requesting specific information on your resources, staffing, and the current data systems used by your state for the SRF Report. An outline of this information is included in Enclosure 10 of this letter. EPA is requesting this information be sent electronically to Becky Hendrix at hendrix.becky@epa.gov by August 19, 2011.

We look forward to working with you and your staff in this effort. Should you require additional information, or wish to discuss this matter in greater detail, please feel free to contact Scott Gordon, the Associate Director of the Office of Environmental Accountability, at (404) 562-9741.

Sincerely,

Mary J. Wilkes
Regional Counsel and Director
Office of Environmental Accountability

Enclosure 1 – CAA Preliminary Data Analysis
Enclosure 2 – CAA Preliminary Data Analysis Worksheet
Enclosure 3 – CAA Table of Selected Files and selection logic
Enclosure 4 – CWA Preliminary Data Analysis
Enclosure 5 – CWA Preliminary Data Analysis Worksheet
Enclosure 6 – CWA Table of Selected Files and selection logic
Enclosure 7 – RCRA Preliminary Data Analysis
Enclosure 8 – RCRA Preliminary Data Analysis Worksheet
Enclosure 9 – RCRA Table of Selected Files and selection logic
Enclosure 10 – Background Information for SRF Report

APPENDIX D: PRELIMINARY DATA ANALYSIS CHART

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

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

Clean Air Act

Original Data Pulled from Online Tracking Information System (OTIS)							EPA Preliminary Analysis
Metric	Metric Description	Metric Type	Agency	National Goal	National Average	MDEQ	Initial Findings
A03A0S	Percent HPVs Entered <= 60 Days After Designation, Timely Entry (1 FY)	Goal	State	100%	34.7%	0.0%	State process for determining HPVs appears to result in late reporting. Discuss HPV management process with state
A10A0S	Percent HPVs not meeting timeliness goals (2 FY)	Review Indicator	State		36.4%	46.5%	Discuss multimedia enforcement process with state during file review. Supplemental files selected.
A03B2S	Percent Enforcement related MDR actions reported <= 60 Days After Designation, Timely Entry (1 FY)	Goal	State	100%	70.3%	56.2%	Discuss data management processes and issues with State during onsite visit. Supplemental files selected.
A03B1S	Percent Compliance Monitoring related MDR actions reported <= 60 Days After Designation, Timely Entry (1 FY)	Goal	State	100%	59.0%	47.6%	Discuss data management processes and issues with State during onsite visit. Supplemental files selected.

Clean Water Act

Original Data Pulled from Online Tracking Information System (OTIS)							EPA Preliminary Analysis
Metric	Metric Description	Metric Type	Agency	National Goal	National Average	MDEQ	Initial Findings
W05A0S	Inspection coverage: NPDES majors (1 FY)	Goal	State	100%	60.7%	61.5%	State metric falls below 70% - further discussion with the state is needed to determine if additional minors are being inspected in lieu of majors.
W05B1S	Inspection coverage: NPDES non-major individual permits (1 FY)	Goal	State			9.5%	State metric falls below 20%, so further discussion with state needed. Additional clarification is needed on the state's discrepancy explanation (i.e., the new inspection coverage rate).
W05B2S	Inspection coverage: NPDES non-major general permits (1 FY)	Goal	State			5.9%	State metric falls below 20%, so further discussion with state needed. Additional clarification is needed on the state's discrepancy explanation (i.e., the new inspection coverage rate).
W07A1C	Single-event violations at majors (1 FY)	Review Indicator	Combined			3	Although there is no National goal, the SEV rate is low (3 of 96). Supplemental CEI files will be reviewed to see if SEVs are being reported into PCS.
W07A2C	Single-event violations at non-majors (1 FY)	Informational Only	Combined			2	Although there is no national goal, the SEV rate is low (2 of 1384). Supplemental CEI files will be reviewed to see if SEVs are being reported into PCS.
W10A0C	Major facilities without timely action (1 FY)	Goal	Combined	<2%	18.3%	8.3%	State correction accepted. While the State metric is below the national average, it does not meet the national goal.

Resource Conservation and Recovery Act

Original Data Pulled from Online Tracking Information System (OTIS)							EPA Preliminary Analysis
Metric	Metric Description	Metric Type	Agency	National Goal	National Average	MDEQ	Initial Findings
R03A0S	Percent SNCs entered > 60 days after designation (1 FY)	Review Indicator	State			83.3%	Five of the six SNCs identified in FY2010 had delayed entry into RCRAInfo. The SNC identification and data entry procedures will be discussed with MDEQ during file review.

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

Clean Air Act PDA Worksheet

Metric	Metric Description	Metric Type	Agency	Nat'l Goal	Nat'l Average	MDEQ	Count	Universe	Not Counted	State Discrepancy (Yes/No)	State Correction	State Data Source	Discrepancy Explanation	Initial Findings
A01A1S	Title V Universe: AFS Operating Majors (Current)	Data Quality	State			279	NA	NA	NA	No			No comment - OK	
A01A2S	Title V Universe: AFS Operating Majors with Air Program Code = V (Current)	Data Quality	State			277	NA	NA	NA	No			No comment - OK	
A01B1S	Source Count: Synthetic Minors (Current)	Data Quality	State			274	NA	NA	NA	No			No comment - OK	
A01B2S	Source Count: NESHAP Minors (Current)	Data Quality	State			3	NA	NA	NA	No			No comment - OK	
A01B3S	Source Count: Active Minor facilities or otherwise FedRep, not including NESHAP Part 61 (Current)	Informational Only	State			44	NA	NA	NA	No			No comment - OK	
A01C1S	CAA Subprogram Designations: NSPS (Current)	Data Quality	State			254	NA	NA	NA	No			No comment - OK	
A01C2S	CAA Subprogram Designations: NESHAP (Current)	Data Quality	State			34	NA	NA	NA	No			No comment - OK	
A01C3S	CAA Subprogram Designations: MACT (Current)	Data Quality	State			190	NA	NA	NA	No			No comment - OK	

A01C4S	CAA Subpart Designations: Percent NSPS facilities with FCEs conducted after 10/1/2005	Data Quality	State	100%	87.7%	100.0 %	246	246	0	No			No comment - OK	
A01C5S	CAA Subpart Designations: Percent NESHAP facilities with FCEs conducted after 10/1/2005	Data Quality	State	100%	48.5%	100.0 %	20	20	0	No			No comment - OK	
A01C6S	CAA Subpart Designations: Percent MACT facilities with FCEs conducted after 10/1/2005	Data Quality	State	100%	94.4%	99.4%	159	160	1	YES	100%		A list of erroneous MACT air programs in AFS were sent to EPA-Region 4 for deletion. One of the MACT air programs on the list did not get deleted. Therefore, a subsequent email was sent to EPA-Region 4 requesting the MACT be deleted, which would bring the Not Counted to 0.	State correction accepted.
A01D1S	Compliance Monitoring: Sources with FCEs (1 FY)	Data Quality	State			204	NA	NA	NA	No			No comment - OK	
A01D2S	Compliance Monitoring: Number of FCEs (1 FY)	Data Quality	State			208	NA	NA	NA	No			No comment - OK	
A01D3S	Compliance Monitoring: Number of PCEs (1 FY)	Informational Only	State			50	NA	NA	NA	No			No comment - OK	

A01E0S	Historical Non-Compliance Counts (1 FY)	Data Quality	State			56	NA	NA	NA	No			No comment - OK	
A01F1S	Informal Enforcement Actions: Number Issued (1 FY)	Data Quality	State			59	NA	NA	NA	No			No comment - OK	
A01F2S	Informal Enforcement Actions: Number of Sources (1 FY)	Data Quality	State			57	NA	NA	NA	No			No comment - OK	
A01G1S	HPV: Number of New Pathways (1 FY)	Data Quality	State			22	NA	NA	NA	No			No comment - OK	
A01G2S	HPV: Number of New Sources (1 FY)	Data Quality	State			20	NA	NA	NA	No			No comment - OK	
A01H1S	HPV Day Zero Pathway Discovery date: Percent DZs with discovery	Data Quality	State	100%	59.7%	100.0 %	22	22	0	No			No comment - OK	
A01H2S	HPV Day Zero Pathway Violating Pollutants: Percent DZs	Data Quality	State	100%	91.3%	100.0 %	22	22	0	No			No comment - OK	
A01H3S	HPV Day Zero Pathway Violation Type Code(s): Percent DZs with HPV Violation Type Code(s)	Data Quality	State	100%	91.2%	100.0 %	22	22	0	No			No comment - OK	
A01I1S	Formal Action: Number Issued (1 FY)	Data Quality	State			24	NA	NA	NA	No			No comment - OK	
A01I2S	Formal Action: Number of Sources (1 FY)	Data Quality	State			23	NA	NA	NA	No			No comment - OK	
A01J0S	Assessed Penalties: Total Dollar Amount (1 FY)	Data Quality	State			\$162,512	NA	NA	NA	No			No comment - OK	

A01K0S	Major Sources Missing CMS Policy Applicability (Current)	Review Indicator	State	0		0	NA	NA	NA	No			No comment - OK	
A02A0S	Number of HPVs/Number of NC Sources (1 FY)	Data Quality	State	<= 50%	45.5%	50.0%	15	30	15	No			No comment - OK	
A02B1S	Stack Test Results at Federally-Reportable Sources - % Without Pass/Fail Results (1 FY)	Goal	State	0%	1.3%	0.0%	0	357	357	No			No comment - OK	
A02B2S	Stack Test Results at Federally-Reportable Sources - Number of Failures (1 FY)	Data Quality	State			6	NA	NA	NA	No			No comment - OK	
A03A0S	Percent HPVs Entered <= 60 Days After Designation, Timely Entry (1 FY)	Goal	State	100%	34.7%	0.0%	0	22	22	Caveat			This metric evaluates the timely entry of HPVs in AFS by determining how long it takes to enter the Day Zero date in AFS. Because of the difficulty in AFS changing a HPV day zero to a non-HPV day zero, and vice versa, MDEQ does not enter a day zero until certain of the violation type. Therefore, we often do not make the determination until we've reviewed the company's response to our	State process for determining HPVs appears to result in late reporting. Discuss HPV management process with state during file review. Supplemental files selected.

A03B1S	Percent Compliance Monitoring related MDR actions reported <= 60 Days After Designation, Timely Entry (1 FY)	Goal	State	100%	59.0%	47.6%	413	867	454	Caveat			<p>This metric evaluates the timely entry of actions such as a Stack Tests, ACCs or FCEs in AFS. For a Stack Test, the data entry is measured from the date the stack test was conducted. Permits typically allow a company 45 to 60 days to submit a stack test report. Our data entry on the report does not occur until our review of the report has been completed. This process creates the potential for the 60 day entry time to be exceeded. Of the 454 Not Counted universe, 319 actions were associated with Stack Tests (70%). There are 89 ACC/FCE (20%) actions that MDEQ identified as simple upload issues from the Universal Interface. If the upload issues had been addressed in a timely manner, the Not Counted universe would</p>	<p>Discuss data management processes and issues with State during onsite visit. Supplemental files selected.</p>
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A03B2S	Percent Enforcement related MDR actions reported <= 60 Days After Designation, Timely Entry (1 FY)	Goal	State	100%	70.3%	56.2%	45	80	35	YES		<p>Because of the difficulty in AFS changing a HPV day zero to a non-HPV day zero, and vice versa, MDEQ does not enter a day zero until certain of the violation type. Therefore, we often do not make the determination until we've reviewed the company's response to our NOV. This means our actual determination of HPV status is after the day zero. Consequently, we cannot guarantee day zero's are entered within 60 days. Likewise, NOV's and most discovery activities are not entered into AFS until the appropriate day zero is created to facilitate linking of these actions to the day zero. We believe the data entry for the enforcement minimum data requirements other than NOV's and discovery activities</p>	<p>Discuss data management processes and issues with State during onsite visit. Supplemental files selected.</p>
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A05A2S	CAA Major Full Compliance Evaluation (FCE) Coverage(most recent 2 FY)	Review Indicator	State	100%	84.4%	96.5%	277	287	10	YES				This metric indicates whether the state has successfully met its commitment for FCE coverage at majors for the last completed 2 fiscal years. The results are expressed in a percent (numerator=facilities with FCEs, denominator=facilities in the Major universe at the time of the data pull). The universe for this metric is dynamic and the Not Counted list includes facilities that have been recently added to the AFS Major universe but does not yet require a FCE.	
A05B1S	CAA Synthetic Minor 80% Sources (SM-80) FCE Coverage (5 FY CMS Cycle)	Review Indicator	State	20% - 100%	92.0%	83.5%	207	248	41	No				No comment - OK	Since FY2010 is the 4th year of the CMS cycle, the state value of 83.5% exceeds the national goal of 80%.

A05B2S	CAA Synthetic Minor 80% Sources (SM-80) FCE Coverage (last full 5 FY)	Informational Only	State	100%	92.4%	91.2%	249	273	24	YES				This metric indicates whether the state has successfully met its commitment for FCE coverage at Synthetic Minors for the last completed 5 fiscal years. The results are expressed in a percent (numerator=facilities with FCEs, denominator=facilities in the Synthetic Minor universe at the time of the data pull). The universe for this metric is dynamic and the Not Counted list includes facilities that have been recently added to the AFS Synthetic Minor universe but does not yet require a FCE.
A05C0S	CAA Synthetic Minor FCE and reported PCE Coverage (last 5 FY)	Informational Only	State		79.2%	92.9%	290	312	22	No				No comment - OK
A05D0S	CAA Minor FCE and Reported PCE Coverage (last 5 FY)	Informational Only	State		28.8%	8.0%	37	462	425	No				No comment - OK
A05E0S	Number of Sources with Unknown Compliance Status	Review Indicator	State			0	NA	NA	NA	No				No comment - OK

	(Current)													
A05F0S	CAA Stationary Source Investigations (last 5 FY)	Informational Only	State			0	NA	NA	NA	No			No comment - OK	
A05G0S	Review of Self-Certifications Completed (1 FY)	Goal	State	100%	94.3%	100.0 %	265	265	0	No			No comment - OK	
A07C1S	Percent facilities in noncompliance that have had an FCE, stack test, or enforcement (1 FY)	Review Indicator	State	> 1/2 National Avg	22.3%	17.9%	48	268	220	No			No comment - OK	
A07C2S	Percent facilities that have had a failed stack test and have noncompliance status (1 FY)	Review Indicator	State	> 1/2 National Avg	44.0%	25.0%	1	4	3	No			No comment - OK	
A08A0S	High Priority Violation Discovery Rate - Per Major Source (1 FY)	Review Indicator	State	> 1/2 National Avg	6.4%	3.9%	11	279	268	No			No comment - OK	
A08B0S	High Priority Violation Discovery Rate - Per Synthetic Minor Source (1 FY)	Review Indicator	State	> 1/2 National Avg	0.4%	3.3%	9	274	265	No			No comment - OK	
A08C0S	Percent Formal Actions With Prior HPV - Majors (1 FY)	Review Indicator	State	> 1/2 National Avg	67.8%	90.9%	10	11	1	No			No comment - OK	
A08D0S	Percent Informal Enforcement Actions Without Prior HPV - Majors (1 FY)	Review Indicator	State	< 1/2 National Avg	49.8%	65.5%	19	29	10	No			No comment - OK	

A08E0S	Percentage of Sources with Failed Stack Test Actions that received HPV listing - Majors and Synthetic Minors (2 FY)	Review Indicator	State	> 1/2 National Avg	40.5%	50.0%	5	10	5	No			No comment - OK	
A10A0S	Percent HPVs not meeting timeliness goals (2 FY)	Review Indicator	State		36.4%	46.5%	20	43	23	Caveat			This data metric evaluates only the Air HPV enforcement timeline goals and does not account for more than one media being evaluated. A significant number of MDEQ's enforcement actions are multi-media and our business practice is to address all violations, regardless of media, under one enforcement action. Due to the complexity of having multimedia violations included in one enforcement action and each media having their respective timeline(s), a particular media's timeline goal may be exceeded in resolving the enforcement.	Discuss multimedia enforcement process with state during file review. Supplemental files selected.

A12A0S	No Activity Indicator - Actions with Penalties (1 FY)	Review Indicator	State			24	NA	NA	NA	No			No comment - OK
A12B0S	Percent Actions at HPVs With Penalty (1 FY)	Review Indicator	State	>= 80%	89.0%	92.3%	12	13	1	No			No comment - OK

Clean Water Act PDA Worksheet

Metric	Metric Description	Metric Type	Agency	Nat'l Goal	Nat'l Average	MDEQ	Count	Universe	Not Counted	State Discrepancy (Yes/No)	Discrepancy Explanation	Initial Findings
W01A1C	Active facility universe: NPDES major individual permits (Current)	Data Quality	Combined			96	NA	NA	NA	No	No Comment	
W01A2C	Active facility universe: NPDES major general permits (Current)	Data Quality	Combined			0	NA	NA	NA	No	No Comment	
W01A3C	Active facility universe: NPDES non-major individual permits (Current)	Data Quality	Combined			1,384	NA	NA	NA	No	No Comment	

W01A4C	Active facility universe: NPDES non-major general permits (Current)	Data Quality	Combined			1,698	NA	NA	NA	No	No Comment	
W01B1C	Major individual permits: correctly coded limits (Current)	Goal	Combined	>=; 95%	91.9%	97.9%	94	96	2	Caveat	The 2 Not Counted sites are due to permit start date and the limit start date not being the same. The 2 sites have permit start dates mid month, and limit start dates the 1st day of the month. These discrepancies have no impact on the functionality of PCS.	State metric exceeds national goal.
C01B2C	Major individual permits: DMR entry rate based on MRs expected (Forms/Forms) (1 Qtr)	Goal	Combined	>=; 95%	92.6%	98.5%	448	455	7	YES	The Not Counted universe is 1 as of 3/31/2011, Choctaw Pearl River WWTP, MS0053503 a Federal Facility.	State data correction accepted; State metric exceeds national goal.
C01B3C	Major individual permits: DMR entry rate based on DMRs expected (Permits/Permits) (1 Qtr)	Goal	Combined	>=; 95%	96.0%	100.0%	94	94	0	No	No Comment	State metric exceeds national goal.
W01B4C	Major individual permits: manual RNC/SNC override rate (1 FY)	Data Quality	Combined			0.0%	0	11	11	No	No Comment	

W01C1C	Non-major individual permits: correctly coded limits (Current)	Informational Only	Combined			86.6%	1,199	1,384	185	Caveat	<p>106 of the Not Counted sites are due to permit start date and the limit start date not being the same. These sites have permit start dates mid month, and limit start dates the 1st day of the month. These discrepancies have no impact on the functionality of PCS.</p> <p>46 of the Not Counted sites have No Discharge NPDES permits which have no limits associated with the permit. 33 of the Not Counted sites have Application Letter Received only, and a permit with limits has not been issued as of the data pull.</p>	Additional clarification is needed on the state's discrepancy explanation (i.e., permit start dates vs. limit start dates).
C01C2C	Non-major individual permits: DMR entry rate based on DMRs expected (Forms/Forms) (1 Qtr)	Informational Only	Combined			98.5%	969	984	15	No	No Comment	

C01C3C	Non-major individual permits: DMR entry rate based on DMRs expected (Permits/Permits) (1 Qtr)	Informational Only	Combined			98.2%	331	337	6	No	No Comment	
W01D1C	Violations at non-majors: noncompliance rate (1 FY)	Informational Only	Combined			39.4%	545	1,384	839	No	No Comment	
C01D2C	Violations at non-majors: noncompliance rate in the annual noncompliance report (ANCR)(1 CY)	Informational Only	Combined			0 / 0	0	0	0	No	No Comment	
W01D3C	Violations at non-majors: DMR non-receipt (3 FY)	Informational Only	Combined			219	NA	NA	NA	No	No Comment	
W01E1S	Informal actions: number of major facilities (1 FY)	Data Quality	State			44	NA	NA	NA	No	No Comment	
W01E2S	Informal actions: number of actions at major facilities (1 FY)	Data Quality	State			107	NA	NA	NA	No	No Comment	
W01E3S	Informal actions: number of non-major facilities (1 FY)	Data Quality	State			510	NA	NA	NA	No	No Comment	
W01E4S	Informal actions: number of actions at non-major facilities (1 FY)	Data Quality	State			627	NA	NA	NA	No	No Comment	

W01F1S	Formal actions: number of major facilities (1 FY)	Data Quality	State			12	NA	NA	NA	No	No Comment	
W01F2S	Formal actions: number of actions at major facilities (1 FY)	Data Quality	State			12	NA	NA	NA	No	No Comment	
W01F3S	Formal actions: number of non- major facilities (1 FY)	Data Quality	State			66	NA	NA	NA	No	No Comment	
W01F4S	Formal actions: number of actions at non-major facilities (1 FY)	Data Quality	State			66	NA	NA	NA	No	No Comment	
W01G1S	Penalties: total number of penalties (1 FY)	Data Quality	State			36	NA	NA	NA	No	No Comment	
W01G2S	Penalties: total penalties (1 FY)	Data Quality	State			\$536,804	NA	NA	NA	No	No Comment	
W01G3S	Penalties: total collected pursuant to civil judicial actions (3 FY)	Data Quality	State			\$0	NA	NA	NA	No	No Comment	
W01G4S	Penalties: total collected pursuant to administrative actions (3 FY)	Informational Only	State			\$1,578,904	NA	NA	NA	No	No Comment	
W01G5S	No activity indicator - total number of penalties (1 FY)	Data Quality	State			\$536,804	NA	NA	NA	No	No Comment	
W02A0S	Actions linked to violations: major facilities (1 FY)	Data Quality	State	>=; 80%		100.0%	12	12	0	No	No Comment	

W05A0S	Inspection coverage: NPDES majors (1 FY)	Goal	State	100%	60.7%	61.5%	59	96	37	No	No Comment	State metric falls below 70% - further discussion with the state is needed to determine if additional minors are being inspected in lieu of majors.
W05B1S	Inspection coverage: NPDES non-major individual permits (1 FY)	Goal	State			9.5%	132	1,384	1,252	Caveat	This data represents the Non-Major NPDES facilities that had an inspection completed for FY10. The SRF/OTIS logic does not include inspections that were performed at Non-Major NPDES facilities that are now Inactive (14 evaluations for FY10). Based on the number of facilities that have had inspections for FY10, the inspection coverage should be 146/1383, or 10.6%.	State metric falls below 20%, so further discussion with state needed. Additional clarification is needed on the state's discrepancy explanation (i.e., the new inspection coverage rate).

W05B2S	Inspection coverage: NPDES non-major general permits (1 FY)	Goal	State			5.9%	101	1,698	1,597	Caveat	This data represents the Non-Major general permit facilities that had an inspection completed for FY10. The SRF/OTIS logic does not include inspections that were performed at Non-Major general permit facilities that are now Inactive (41 evaluations for FY10). Based on the number of facilities that have had inspections for FY10, the inspection coverage should be 144/1684, or 8.6%.	State metric falls below 20%, so further discussion with state needed. Additional clarification is needed on the state's discrepancy explanation (i.e., the new inspection coverage rate).
W05C0S	Inspection coverage: NPDES other (not 5a or 5b) (1 FY)	Informational Only	State			0.8%	4	483	479	No	No Comment	Need clarification on why the state metric is below 1% and additional clarification is needed from the state with regard to commitments from the state's 106 work plan.

W07A1C	Single-event violations at majors (1 FY)	Review Indicator	Combined			3	NA	NA	NA	No	No Comment	Although there is no National goal, the SEV rate is low (3 of 96). Supplemental CEI files will be reviewed to see if SEVs are being reported into PCS.
W07A2C	Single-event violations at non-majors (1 FY)	Informational Only	Combined			2	NA	NA	NA	No	No Comment	Although there is no national goal, the SEV rate is low (2 of 1384). Supplemental CEI files will be reviewed to see if SEVs are being reported into PCS.
W07B0C	Facilities with unresolved compliance schedule violations (at end of FY)	Data Quality	Combined		22.6%	8.3%	5	60	55	No	No Comment	State value is below national average
W07C0C	Facilities with unresolved permit schedule violations (at end of FY)	Data Quality	Combined		21.9%	100.0%	1	1	0	YES	This metric is now 0. The facility listed in the counted universe was due to a data entry error after MDEQ's final review but before the data pull. This error has been corrected.	State correction tentatively accepted.
W07D0C	Percentage major facilities with DMR violations (1 FY)	Data Quality	Combined		52.8%	49.0%	47	96	49	No	No Comment	State value is below national average

W08A1C	Major facilities in SNC (1 FY)	Review Indicator	Combined			11	NA	NA	NA	No	No Comment	
W08A2C	SNC rate: percent majors in SNC (1 FY)	Review Indicator	Combined		24.6%	11.5%	11	96	85	No	No Comment	State value is below national average.
W10A0C	Major facilities without timely action (1 FY)	Goal	Combined	< 2%	18.3%	8.3%	8	96	88	Caveat	The universe that EPA is using for this metric includes one facility that is regulated by EPA, Choctaw Pearl River WWTP, MS0053503. Therefore, the major facilities without timely actions should be 7/95, or 7.4%.	State correction accepted. While the State metric is below the national average, it does not meet the national goal.

Resource Conservation and Recovery Act PDA Worksheet

Metric	Metric Description	Metric Type	Agency	Nat'l Goal	Nat'l Average	MDEQ	Count	Universe	Not Counted	State Discrepancy (Yes/No)	Discrepancy Explanation	Initial Findings
R01A1S	Number of operating TSDFs in RCRAInfo	Data Quality	State			7	NA	NA	NA	No	No Comment	
R01A2S	Number of active LQGs in RCRAInfo	Data Quality	State			146	NA	NA	NA	No	No Comment	
R01A3S	Number of active SQGs in RCRAInfo	Data Quality	State			391	NA	NA	NA	No	No Comment	
R01A4S	Number of all other active sites in RCRAInfo	Data Quality	State			2,279	NA	NA	NA	No	No Comment	
R01A5S	Number of LQGs per latest official biennial report	Data Quality	State			122	NA	NA	NA	No	No Comment	
R01B1S	Compliance monitoring: number of inspections (1 FY)	Data Quality	State			95	NA	NA	NA	No	No Comment	
R01B2S	Compliance monitoring: sites inspected (1 FY)	Data Quality	State			93	NA	NA	NA	No	No Comment	
R01C1S	Number of sites with violations determined at any time (1 FY)	Data Quality	State			22	NA	NA	NA	No	No Comment	
R01C2S	Number of sites with violations determined during the FY	Data Quality	State			11	NA	NA	NA	No	No Comment	

R01D1S	Informal action: number of sites (1 FY)	Data Quality	State			11	NA	NA	NA	No	No Comment	
R01D2S	Informal action: number of actions (1 FY)	Data Quality	State			11	NA	NA	NA	No	No Comment	
R01E1S	SNC: number of sites with new SNC (1 FY)	Data Quality	State			4	NA	NA	NA	No	No Comment	
R01E2S	SNC: number of sites in SNC (1 FY)	Data Quality	State			13	NA	NA	NA	No	No Comment	
R01F1S	Formal action: number of sites (1 FY)	Data Quality	State			9	NA	NA	NA	No	No Comment	
R01F2S	Formal action: number taken (1 FY)	Data Quality	State			9	NA	NA	NA	No	No Comment	
R01G0S	Total amount of final penalties (1 FY)	Data Quality	State			\$77,860	NA	NA	NA	No	No Comment	
R02A1S	Number of sites SNC-determined on day of formal action (1 FY)	Data Quality	State			0	NA	NA	NA	No	No Comment	
R02A2S	Number of sites SNC-determined within one week of formal action (1 FY)	Data Quality	State			0	NA	NA	NA	No	No Comment	
R02B0S	Number of sites in violation for greater than 240 days	Data Quality	State			0	NA	NA	NA	No	No Comment	

R03A0S	Percent SNCs entered > 60 days after designation (1 FY)	Review Indicator	State			83.3%	5	6	1	No	No Comment	Five of the six SNCs identified in FY2010 had delayed entry into RCRAInfo. The SNC identification and data entry procedures will be discussed with MDEQ during file review.
R05A0S	Inspection coverage for operating TSDFs (2 FYs)	Goal	State	100%	87.4%	100.0%	7	7	0	No	No Comment	
R05B0S	Inspection coverage for LQGs (1 FY)	Goal	State	20%	24.1%	32.0%	39	122	83	Caveat	The universe that EPA uses is the number of LQGs that filed a report for the Biennial Reporting System reporting cycle 2009. Mississippi's LQG universe has changed significantly since March 1, 2010, and EPA's universe number does not accurately reflect the State's LQG universe as of September 30, 2010. There were 145 active LQGs on February 17, 2011. Metric R01A2S is a more accurate representation of Mississippi's LQG universe for FY10, and should be the universe to measure inspection coverage (Metric R05B0S & R05C0S) for LQGs. The SRF counted universe for FY 2010 LQG inspection coverage is 39. The State performed a total of 52 LQG inspections during FY 2010. The discrepancy is due to a change in generator status at 13 facilities who are no longer LQGs. Due to that change in the generator status, the inspections conducted at the facilities are not being counted in this data pull, but they should be counted. Based on the number of facilities that have LQG inspections for FY 2010, the inspection coverage should be 52/145, or	State caveat accepted. The SRF protocols recognize that the BRS and RCRAInfo LQG universes are not necessarily synchronized, which can lead to differences in the reported percentage of LQG inspection coverage.

											35.9%.	
R05C0S	Inspection coverage for LQGs (5 FYs)	Goal	State	100%	61.7%	95.9%	117	122	5	Caveat	<p>The universe that EPA uses is the number of LQGs that filed a report for the Biennial Reporting System reporting cycle 2009. Mississippi's LQG universe has changed significantly since March 1, 2010, and EPA's universe number does not accurately reflect the State's LQG universe as of September 30, 2010. There are 145 active LQGs on February 17, 2011. Metric R01A2S is a more accurate representation of Mississippi's LQG universe for FY10, and should be the universe to measure inspection coverage (Metric R05B0S & R05C0S) for the LQGs. The SRF counted universe for FY 2006-2010 LQG inspections coverage is 117. The State performed a total of 133 inspections at LQGs for FY 2006-2010. This discrepancy is due to a change in generator status at facilities that are no longer LQGs. Due to that change in the generator status, the inspections conducted at those facilities are not being counted in this data pull, but they should be counted. Based on the number of facilities that have LQG inspections for FY 2006-2010, the inspection coverage should be 133/145, or 92.4%.</p>	<p>State caveat accepted. The SRF protocols recognize that the BRS and RCRAInfo LQG universes are not necessarily synchronized, which can lead to differences in the reported percentage of LQG inspection coverage.</p>

R05D0S	Inspection coverage for active SQGs (5 FYs)	Informational Only	State			34.0%	133	391	258	Caveat	The SRF counted universe for FY 2006-2010 SQG inspections coverage is 133. The State performed a total of 254 SQG inspections at SQGs for FY 2006-2010. The discrepancy is due to a change in generator status at facilities that had inspections during this period. Due to that change in the generator status, the inspections conducted at the facilities are not being counted in this data pull, but they should be counted. Based on the number of facilities that have SQG inspections for FY 2006-2010, the inspection coverage should be 254/389, or 65.3%.	This metric counts the number of SQGs inspected, rather than the number of SQG inspections. A recent RCRAInfo report indicated that for FY2006-2010, there were 128 SQGs that received a CEI, and 179 CEIs conducted at SQGs. This caveat can be discussed with MDEQ during the file review, but it is not an area of concern.
R05E1S	Inspections at active CESQGs (5 FYs)	Informational Only	State			252	NA	NA	NA	No	No Comment	
R05E2S	Inspections at active transporters (5 FYs)	Informational Only	State			6	NA	NA	NA	No	No Comment	
R05E3S	Inspections at non-notifiers (5 FYs)	Informational Only	State			1	NA	NA	NA	No	No Comment	
R05E4S	Inspections at active sites other than those listed in 5a-d and 5e1-5e3 (5 FYs)	Informational Only	State			11	NA	NA	NA	No	No Comment	
R07C0S	Violation identification rate at sites with inspections (1 FY)	Review Indicator	State			11.8%	11	93	82	No	No Comment	

R08A0S	SNC identification rate at sites with inspections (1 FY)	Review Indicator	State	1/2 National Avg	2.6%	4.3%	4	93	89	No	No Comment	
R10A0S	Percent of SNCs with formal action/referral taken within 360 days (1 FY)	Review Indicator	State	80%	46.5%	25.0%	1	4	3	Yes	RCRAInfo Version 3 requires that the addressing action be linked to the SNC. MDEQ staff was unaware of this change, but is now working to link the formal action and date to the 3 Not Counted SNCs. Prior to Version 3, an Order and a Return To Compliance date were linked to the violations which resolved the SNC in RCRAInfo. The 3 Not Counted sites all have Orders and a Return To Compliance date which resolved the violations within the 360 day timeframe. Therefore, once the link to the SNC is made, the Not Counted will be 0.	State correction accepted. As stated by MDEQ, all of the enforcement actions were resolved within 360 days, and this has been verified by a data check in RCRAInfo. Once the linkage of SNCs and formal actions takes place, the correct enforcement response times will be reflected in the data system reports.
R10B0S	No activity indicator - number of formal actions (1 FY)	Review Indicator	State			9	NA	NA	NA	No	No Comment	
R12A0S	No activity indicator - penalties (1 FY)	Review Indicator	State			\$77,860	NA	NA	NA	No	No Comment	
R12B0S	Percent of final formal actions with penalty (1 FY)	Review Indicator	State	1/2 National Avg	80.6%	100.0%	7	7	0	No	No Comment	

APPENDIX F: FILE SELECTION

Files to be reviewed are selected according to a standard protocol (available here: http://www.epa-otis.gov/srf/docs/fileselectionprotocol_10.pdf) and using a web-based file selection tool (available 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 below, states should be able to recreate the results in the table in section B.

Section A. File Selection Process

Clean Air Act File Selection Logic & Table of Selected Files for Review

Using the EPA OTIS File Selection Tool, 26 files were selected for the file review scheduled for July 25-29, 2011. As specified in the SRF File Selection Protocol, since the Mississippi universe includes fewer than 300 sources, 15 to 30 files must be reviewed. The fiscal year of review is FY2010.

Representative Files

The file review will focus on Major and Synthetic Minor 80% (SM80) sources with compliance and enforcement activities occurring during the review period (FY2010). Therefore, the targeted number of files to review was determined to be about 25 files. Since some supplemental files will need to be selected, the initial breakdown for representative files will be about 10 files each for both enforcement and compliance monitoring. This leaves about five files available for supplemental review.

Enforcement files: In order to identify files with enforcement related activity, the facility list was sorted to identify those facilities which had a formal enforcement action during the review period (FY2010). Although there were 23 sources with a formal enforcement action in FY2010, only 19 of those were Major or SM80 sources. To randomly select the target number of files, one of every two facilities was selected, which yielded ten “representative” files.

Compliance files: Just over 200 sources had full compliance evaluations (FCEs) during FY2010, so in order to identify approximately ten files, every 20th file was selected. This process led to the selection of an additional ten “representative” files.

Supplemental Files

Metric 3a & 10a: The PDA identified the timeliness of data entry for HPV-related minimum data requirements (MDRs) as a concern (Metric 3a). In addition, Data Metric 10a indicated that nearly half of the HPVs identified during the most recent 2 fiscal years were not meeting timeliness goals. Therefore, to evaluate these issues, two supplemental files were selected from among the FY2010 universe of HPV sources (Weyerhaeuser Co., Columbus Pulp & Paper; & Caledonia Energy Partners).

Metric 3b1: The PDA indicated a potential concern with the timeliness of reporting of MDRs for compliance monitoring activities. The highest percentage of late compliance monitoring activities

were stack tests (69%), and the second highest occurrence was Title 5 annual certification reviews (26%). Therefore two supplemental files (Mississippi Phosphates & Signal International, West Bank Yard) will be reviewed to evaluate this concern.

Metric 3b2: The PDA also indicated a potential concern with the timeliness of reporting of MDRs for enforcement related activities. The highest percentage of late enforcement MDRs (80%) were notices of violation (NOVs), followed by consent orders (20%). Therefore, two supplemental files (CITGO Petroleum, Vicksburg & Anderson Tully Lumber) were selected to evaluate this concern.

CLEAN AIR ACT FILE SELECTION

Facility Name	AFS ID	City	FCE	PCE	Violation	Stack Test Failure	Title V Deviation	HPV	Informal Action	Formal Action	Penalty	Universe	Select
ANDERSON TULLY LUMBER CO, WALTERSVILLE	2814900004	VICKSBURG	0	0	2	0	0	0	0	1	13,650	MAJR	Supplemental
BATESVILLE MANUFACTURING INC, BATESVILLE	2810700021	BATESVILLE	1	0	4	0	0	1	1	1	7,352	MAJR	Representative
CALEDONIA ENERGY PARTNERS, CALEDONIA COM	2808700063	CALEDONIA	0	0	0	1	0	1	1	0	0	SM80	Supplemental
CANTON MUNICIPAL UTILITIES	2808900070	CANTON	1	0	0	0	0	0	0	0	0	MAJR	Representative
CITGO PETROLEUM CORP, VICKSBURG TERMINAL	2814900063	VICKSBURG	0	1	2	0	0	0	1	0	0	SM80	Supplemental
DENBURY ONSHORE LLC, HEIDELBERG CENTRAL	2806100074	HEIDELBERG	1	0	0	0	0	0	0	0	0	SM80	Representative
DICKERSON & BOWEN, BROOKHAVEN ASPHALT #5	2808500019	BROOKHAVEN	1	0	0	0	0	0	0	0	0	SM80	Representative
FAIRBANKS SCALES, INC	2807500078	MERIDIAN	0	1	1	0	0	0	1	1	12,000	SM80	Representative
FRED NETTERVILLE LUMBER COMPANY	2815700006	WOODVILLE	1	0	4	0	0	0	0	1	5,000	MAJR	Representative
GEORGIA PACIFIC WOOD PRODUCTS,COLUMBIA	2809100008	COLUMBIA	1	0	0	0	0	0	0	0	0	MAJR	Representative
HANKINS, INC.	2813900005	RIPLEY	0	1	1	0	0	1	1	1	3,750	MAJR	Representative
HARTSON KENNEDY CABINET TOP COMPANY INC	2804700007	GULFPORT	1	0	0	0	0	0	1	0	0	MAJR	Representative

HOLCIM (US), INC.	2808700025	ARTESIA	0	1	2	0	0	1	0	1	0	MAJR	Representative
KOPPERS, INC.	2804300012	TIE PLANT	1	0	0	0	0	0	0	0	0	MAJR	Representative
MARS FOOD US, LLC	2815100113	GREENVILLE	1	0	6	0	0	0	0	1	30,000	MAJR	Representative
MISSISSIPPI PHOSPHATES CORPORATION	2805900044	PASCAGOULA	1	0	0	2	1	0	0	0	0	MAJR	Supplemental
MUELLER COPPER TUBE COMPANY	2805700012	FULTON	0	1	1	0	0	1	1	1	2,813	MAJR	Representative
ROGERS GROUP INC, SARDIS ASPHALT	2810700087	SARDIS	1	0	0	0	0	0	0	0	0	SM80	Representative
SAMSON RESOURCES CO, CORRINE FLD COMPR	2809500043	ABERDEEN	1	0	3	0	0	1	0	1	18,750	SM80	Representative
SIGNAL INTERNATIONAL LLC, WEST BANK YARD	2805900014	PASCAGOULA	1	0	0	0	2	0	0	0	0	MAJR	Supplemental
STRUCTURAL STEEL SERVICES INC, PLANT 3	2807500037	MERIDIAN	1	0	0	0	0	0	0	0	0	MAJR	Representative
TELLUS OPERATING GRP, BAXTERVILLE COMPR	2807300030	LUMBERTON	1	0	3	0	0	1	0	1	21,750	SM80	Representative
TVA CALEDONIA COMBINED CYCLE PLANT	2808700053	CALEDONIA	1	0	0	0	0	0	0	0	0	MAJR	Representative
UTILITY OPTIMIZATION GROUP LLC	2805900049	MOSS POINT	0	0	3	0	0	0	0	1	4,100	SM80	Representative
VITRO AMERICA	2804300001	GRENADA	1	0	0	0	0	0	0	0	0	MAJR	Representative
WEYERHAEUSER CO, COLUMBUS PULP & PAPER	2808700044	COLUMBUS	1	0	9	1	0	2	2	0	0	MAJR	Supplemental

Clean Water Act File Selection Logic & Table of Selected Files for Review

Using the OTIS File Selection Tool, 34 files were selected for the SRF file review scheduled for the week of June 13-17, 2011. As specified in the SRF File Selection Protocol, between 25 and 40 files are to be selected for a state with a universe greater than 700 facilities. Since Mississippi's CWA universe is greater than 700, a total of 34 files were selected for review (26 representative files and eight supplemental files).

Representative Files

There are 96 major individual permits, 1,384 non-major individual permits and 1,698 non-major general permits in the Mississippi universe of facilities. The 26 files selected for review are based on the following percentages: 32% are majors, 52% are non-major individual permits, and 16% are non-major general permits.

For the major facilities, the Mississippi universe was sorted based on inspections, Single Event Violations (SEVs), significant noncompliance, violations, informal/formal actions and penalties. Majors were then randomly selected for file reviews.

For non-major facilities, the permit type was included to introduce an additional element of variety to facilities selected for review. Non-majors included for review, therefore, include standard, storm water, unpermitted, general and pretreatment facilities.

Supplemental Files

The PDA noted that although there is no national goal for SEVs at majors (Metric W07A1C) or non-majors (Metric W07A2C), the rate of SEVs reported and tracked appears low (i.e., three of 96 majors and two of 1,384 non-majors). Therefore, to evaluate these metrics further, a total of eight supplemental files (three majors and five non-majors) were selected for review. For the non-majors, a variety of permit types (general, storm water, pretreatment and standard) were selected.

CLEAN WATER ACT FILE SELECTION

Facility Name	Program ID	City	Permit Type	Insp.	Violation	SEV	SNC	Informal Action	Formal Action	Penalty	Universe	Select
BAY SPRINGS INDUSTRIAL PARK	MS0034860	BAY SPRINGS	0	0	4	0	2	0	0	0	Minor	Representative
BFI WASTE SYSTEMS OF MS LLC - BIG RIVER LANDFILL	MSS051853	LELAND	S	0	2	0	0	0	0	0	Minor	Representative
CANEBRAKE UTILITIES ASSN INC BELLEGRASS LAGOON AND SPRAY FI	MSU060035	HATTIESBURG	U	1	0	0	0	1	1	600	Minor	Representative
CHEVRON TEXACO PRODUCTS CO	MS0001481	PASCAGOULA	0	2	2	0	0	0	1	26,235	Major	Representative
CLARKSDALE POTW	MS0020311	CLARKSDALE	0	1	0	0	0	0	0	0	Major	Supplemental
COMO POTW	MS0030104	COMO	0	0	10	0	0	3	0	0	Minor	Representative
CONSOLIDATED CATFISH CO LLC	MS0039659	ISOLA	0	0	4	0	0	2	1	24,000	Minor	Representative
CROSSTEX ENERGY SERVICES LP	MSG130079	PRENTISS	G	1	0	0	0	1	0	0	Minor	Representative

DAIRY PRODUCTION SYSTEMS MISSISSIPPI LLC	MSG210001	EDWARDS	G	2	0	0	0	0	0	0	Minor	Supplemental
DDB CONSTRUCTION COMPANY INC BALLARD PIT AND MADISON SOUTH	MSS060330	CLINTON	S	0	3	0	0	0	0	0	Minor	Supplemental
EAST JASPER SCHOOL DISTRICT WILLIAM J BERRY ELEMENTARY	MS0029289	HEIDELBERG	0	0	3	0	0	1	1	1,860	Minor	Representative
FOREST POTW	MS0020362	FOREST	0	1	6	0	2	5	0	0	Major	Representative
GULF COAST LAUNDRY SERVICES	MSP091520	GULFPORT	P	0	3	0	0	2	0	0	Minor	Representative
HATTIESBURG - SOUTH LAGOON	MS0020303	HATTIESBURG	0	2	6	0	0	2	0	0	Major	Representative
HEARTLAND CATFISH COMPANY INC	MS0051098	ITTA BENA	0	0	12	0	4	2	1	6,250	Minor	Representative
HOME DECOR INNOVATIONS	MSP090372	TUPELO	P	0	18	0	4	1	0	0	Minor	Representative
JACKSON POTW - SAVANNA STREET	MS0024295	JACKSON	0	4	10	2	0	7	1	120,000	Major	Representative
KUHLMAN ELECTRIC CORPORATION	MSP091969	CRYSTAL SPRINGS	P	0	2	0	0	1	1	12,500	Minor	Representative
LEFLORE CNTY BOARD OF SUPERVISORS LEFLORE COUNTY	MSP091115	SIDON	P	0	4	0	0	0	0	0	Minor	Supplemental

MUNICIPAL S												
LELAND POTW	MS0020761	LELAND	0	0	2	0	0	0	1	0	Minor	Representative
LUVATA GRENADA LLC COMMERCIAL COIL PLANT	MSP090730	GRENADA	P	0	4	0	0	0	0	0	Minor	Representative
MARSHALL DURBIN POULTRY CO INC	MSP090547	HATTIESBURG	P	0	17	0	4	1	0	0	Minor	Representative
MERIDIAN POTW	MS0020117	MERIDIAN	0	0	27	1	3	2	1	8,125	Major	Representative
MISSISSIPPI POWER COMPANY PLANT JACK WATSON	MS0002925	GULFPORT	0	1	0	0	0	0	0	0	Major	Supplemental
MMC MATERIALS GREENVILLE PLANT	MSG110132	GREENVILLE	G	1	0	0	0	1	1	0	Minor	Representative
MMC MATERIALS INDIANOLA 30505	MSG110037	INDIANOLA	G	1	1	0	0	1	1	0	Minor	Representative
MORTON POTW	MS0036234	MORTON	0	1	1	0	0	1	0	0	Major	Representative
PHILADELPHIA POTW	MS0021156	PHILADELPHIA	0	1	0	0	0	0	0	0	Major	Supplemental
SENATOBIA POTW	MS0021431	SENATOBIA	0	0	8	0	4	0	0	0	Major	Representative
SPENCER MEATS	MS0037605	MOOREVILLE	0	0	4	1	0	0	1	0	Minor	Representative
TRUE TEMPER SPORTS/EMHART	MS0003158	AMORY	0	1	8	2	1	0	1	0	Major	Representative

TYSON FOODS CARTHAGE PROCESSING PLANT	MS0026140	CARTHAGE	0	0	1	0	0	1	1	50,000	Minor	Representative
WESTERN ROCK PRODUCTS INC	MS0054020	LUMBERTON	0	1	0	0	0	0	0	0	Minor	Supplemental
WINONA POTW	MS0021024	WINONA	0	1	4	0	0	3	1	2,500	Major	Representative

Resource Conservation and Recovery Act File Selection Logic & Table of Selected Files for Review

Using the EPA OTIS File Selection Tool, 20 files were selected for the SRF onsite file review scheduled for June 13-17, 2011. As specified in the SRF File Selection Protocol, the number of files is based upon the compliance and enforcement activities for the fiscal year. The Mississippi RCRA universe consisted of 99 compliance and enforcement activities in the year of review (FY2010). Since the universe includes less than 300 facilities in the RCRA universe, the suggested range of files to be reviewed is between 15 to 30 files. The SRF File Selection Protocol also establishes that half of the files should be from compliance monitoring activity, and the other half should include some form of enforcement activity.

Representative Files

Enforcement files: In order to identify representative files with enforcement related activity, the facility list was sorted to identify those facilities which had a formal enforcement action during the review period. The file selection protocol indicated there were seven facilities with a final formal enforcement action. All seven facilities were selected, along with four facilities with informal enforcement actions.

Compliance files: The remaining nine files were selected randomly from the inspections conducted in FY2010. A cross-section of RCRA facility types were selected from TSDs, LQGs, SQGs, CEGs, and "Other" facilities.

Supplemental Files

The SRF File Selection Protocol also provides that supplemental files may be selected to further evaluate potential areas of concern. There were no additional RCRA files selected as supplemental files.

RESOURCE CONSERVATION AND RECOVERY ACT FILE SELECTION

Facility	RCRA ID	City	Evaluation	Violation	SNC	Informal Action	Formal Action	Penalty	Universe	Select
BONNER ANALYTICAL TESTING FORM	MSR000101493	HATTIESBURG	1	3	1	1	0	0	SQG	Representative
E.I. DU PONT DE NEMOURS AND CO	MSD096046792	PASS CHRISTIAN	1	0	0	0	0	0	TSD(TSF)	Representative
ERGON REFINING, INC.	MSD098595317	VICKSBURG	1	0	0	0	0	0	LQG	Representative
GEORGIA GULF CHEMICALS & VINYLs, LLC	MSD007031230	ABERDEEN	1	0	0	0	0	0	LQG	Representative
LAKELAND AUTO MALL DODGE	MSR000005082	JACKSON	1	0	0	0	0	0	SQG	Representative
NORTH AMERICAN PRECISION CAST	MSR000004457	COLUMBUS	1	3	1	1	0	0	SQG	Representative
ODOM INDUSTRIES INC	MSR000005025	PACHUTA	1	8	1	1	0	0	LQG	Representative
PECO FOODS, INC	MSD985976430	SEBASTOPOL	1	0	0	0	0	0	OTH	Representative
REICHHOLD, INC.	MSD001661719	GULFPORT	1	0	0	0	0	0	TSD(LDF)	Representative
TENNESSEE GAS PIPELINE STATION 546	MSD083744029	COLUMBUS	1	0	0	0	0	0	CES	Representative
TRI STATE POLE AND PILING INC	MSD981920200	LUCEDALE	1	2	0	1	0	0	LQG	Representative
US NAVY-SPECIAL BOAT UNIT 22	MSR000004929	STENNIS SPACE CENTER	1	0	0	0	0	0	SQG	Representative
WATER WAY INC	MSR000005090	IUKA	1	0	0	0	0	0	LQG	Representative
CAVENHAM FOREST INDUSTRIES, INC.	MSD057226961	GULFPORT	0	0	0	1	1	44,000	TSD(LDF)	Representative
HEADRICK SIGN COMPANY	MSD982120677	LAUREL	1	1	0	1	1	5,000	LQG	Representative

HOWARD INDUSTRIES, INC.	MSD043417476	LAUREL	0	0	0	0	1	1,760	LQG	Representative
HOWARD INDUSTRIES, INC. ELLISVILLE	MSR000102962	ELLISVILLE	0	0	0	0	1	1,100	LQG	Representative
HOWARD INDUSTRIES, INC., SANDERSVILLE	MSR000005710	LAUREL	0	0	0	0	1	5,500	LQG	Representative
SMITH'S MACHINE & WELDING CO., INC.	MSR000102541	BROOKHAVEN	1	5	1	1	1	8,500	SQG	Representative
THOMAS WOOD PRESERVING, INC.	MSD033311812	ELLIOTT	0	0	0	0	1	12,000	CES	Representative

APPENDIX G: FILE REVIEW ANALYSIS

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

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

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

CLEAN AIR ACT FILE REVIEW ANALYSIS

Name of State: Mississippi		Review Period: FY 2010		
CAA Metric #	CAA File Review Metric Description:	Metric Value	Evaluation	Initial Findings
Metric 2c	% of files reviewed where MDR data are accurately reflected in AFS.	73%	Minor Issue	During the file review, 19 of the 26 files reviewed (73%) documented all MDRs being reported accurately into AFS. The remaining seven files had one or more discrepancies identified. Three files had minor discrepancies such as an incorrect Standard Industrial Classification (SIC) code or city. More significantly, five files showed either an incorrect compliance status or an inconsistency between the compliance status and HPV status. Finally, one file indicated the potential applicability of the MACT and NSPS air programs, but these were not reflected in AFS. Considering the large number of MDR data elements the State must enter and maintain in AFS, this small number of inaccuracies represents a minor deficiency.
Metric 4a	Confirm whether all commitments pursuant to a traditional CMS plan (FCE every 2 yrs at Title V majors; 3 yrs at mega-sites; 5 yrs at SM80s) or an alternative CMS plan were completed. Did the state/local agency complete all planned evaluations negotiated in a CMS plan? Yes or no? If a state/local agency implemented CMS by following a traditional CMS plan, details concerning evaluation coverage are to be discussed pursuant to the metrics under Element 5. If a state/local agency had negotiated and received approval for conducting its compliance monitoring program pursuant to an alternative plan, details concerning the alternative plan and the S/L agency's implementation (including evaluation coverage) are to be discussed under this Metric.	100%	Appears Acceptable	MDEQ follows a traditional Compliance Monitoring Strategy (CMS) plan and completed 100% of all planned evaluations for FY2010 (208 of 208 FCEs) in their current CMS plan.
Metric 4b	Delineate the air compliance and enforcement commitments for the FY under review. This should include commitments in PPAs, PPGs, grant agreements, MOAs, or other relevant agreements. The compliance and enforcement commitments should be delineated.	100%	Appears Acceptable	See attached table for Metric 4b.
Metric 6a	# of files reviewed with FCEs.	18		
Metric 6b	% of FCEs that meet the definition of an FCE per the CMS policy.	100%	Appears Acceptable	All 18 files reviewed had documentation in the files to show that they contained all of the elements of the FCE, per the CMS.
Metric 6c	% of CMRs or facility files reviewed that provide sufficient documentation to determine compliance at the facility.	100%	Appears Acceptable	All 18 CMRs reviewed contained all of the CMR requirements listed in the CMS and they contained sufficient documentation to determine compliance at the facility.
Metric 7a	% of CMRs or facility files reviewed that led to accurate compliance determinations.	100%	Appears Acceptable	All 18 CMRs reviewed led to an accurate compliance determination.

Metric 7b	% of non-HPVs reviewed where the compliance determination was timely reported to AFS.	50%	Potential Concern	3 of the 6 files reviewed with non-HPV violations were reported timely into AFS.
Metric 8f	% of violations in files reviewed that were accurately determined to be HPV.	100%	Appears Acceptable	All 16 files reviewed accurately determined HPVs.
Metric 9a	# of formal enforcement responses reviewed.	11		
Metric 9b	% of formal enforcement responses that include required corrective action (i.e., injunctive relief or other complying actions) that will return the facility to compliance in a specified time frame.	100%	Appears Acceptable	All 11 files reviewed documented injunctive relief or complying actions. Most enforcement actions were penalty only actions, but the files documented that the facility had returned to compliance prior to issuance of the order.
Metric 10b	% of formal enforcement responses for HPVs reviewed that are addressed in a timely manner (i.e., within 270 days).	89%	Minor Issue	8 of the 9 HPVs reviewed were addressed in a timely manner.
Metric 10c	% of enforcement responses for HPVs appropriately addressed.	100%	Appears Acceptable	All 9 HPVs were appropriately addressed with a formal enforcement response.
Metric 11a	% of reviewed penalty calculations that consider and include where appropriate gravity and economic benefit.	90%	Appears Acceptable	9 of the 10 files with a penalty action provided documentation of appropriate gravity and economic benefit components of the penalty.
Metric 12c	% of penalties reviewed that document the difference and rationale between the initial and final assessed penalty.	80%	Potential Concern	8 of the 10 files reviewed which had a penalty action provided documentation of the difference between the initial and final penalty. For the actions with no documentation of this rationale, MDEQ advises that they relied on a provision of their Penalty Policy which states that "the calculated penalty may be reduced by up to 30% by the Branch Manager and up to 50% by the Division Chief."
Metric 12d	% of files that document collection of penalty.	100%	Appears Acceptable	All 12 files reviewed documented collection of the penalty.
	Evaluation Criteria			
	Minor Issues/Appears Acceptable -- No EPA recommendation required.			
	Potential Concern -- Not a significant issue. Issues that the state may be able to correct without specific recommendation. May require additional analysis.			
	Significant Issue -- File review shows a pattern that indicates a significant problem. Will require an EPA Recommendation.			

CLEAN WATER ACT FILE REVIEW ANALYSIS

CWA Metric #	CWA File Review Metric	Metric Value	Assessment	Initial Findings and Conclusions
Metric 2b	% of files reviewed where data is accurately reflected in the national data system.	84%	Minor Issues	<u>26 of 31 files have accurate data entered; 5 with inaccuracies include:</u> 1. Inactive in PCS; but no record of its status in file; 2. Long-term Compliance Schedule violations are still noted in PCS system; 3. Qtrs 10, 11 and 12 have no DMRs, but PCS reports it as NA with no non-compliance. It was reported as a Reportable Violation the previous 9 quarters; 4. An inspection was coded in PCS as a Compliance Sampling Inspection and should have been represented as a Compliance Monitoring Inspection; and 5. Inspection reports in one facility file were not recorded in PCS.
Metric 4a	% of planned inspections completed. Summarize using the Inspection Commitment Summary Table in the CWA PLG.	83-647% (See Initial Findings and Conclusions)	Minor Issues	<u>Planned inspections completed/committed:</u> Majors: 51/43 (119%); Minors: 216/217 (99%); SSOs: 97/15 (647%); SIUs/CEIs: 200/198 (101%); SIUs/CMIs: 165/198 (83%); General Permitted Minors: 110/44 (250%); MS4 Phase II: 9/7 (129%); Industrial Storm water: 236/93 (254%); Construction Storm water: 355/214 (166%); CAFOs: 25/25 (100%); and AFOs: 25/25 (100%)
Metric 4b	Other Commitments. Delineate the commitments for the FY under review and describe what was accomplished. This should include commitments in PPAs, PPGs, grant agreements, MOAs, or other relevant agreements. The commitments should be broken out and identified.	96%	Appears Acceptable	<u>Planned commitments complete: 96% (25/26)</u>
Metric 6a	# of inspection reports reviewed.	32	NA	NA

Metric 6b	% of inspection reports reviewed that are complete.	0%	Potential Concern	None of the 32 inspection reports were "complete". The missing information is related to time of inspection and phone numbers, as required by the State's Compliance Inspection Manual. Additionally, one recon report was undated and unsigned and contained no indication of photos or attachments.
Metric 6c	% of inspection reports reviewed that provide sufficient documentation to lead to an accurate compliance determination.	100%	Appears Acceptable	All 32 inspection reports had adequate documentation; one file had insufficient documentation because the inspection report was not in the facility file. This report was not included in this finding since the report was not reviewed.
Metric 6d	% of inspection reports reviewed that are timely.	91%	Minor Issues	Of the 32 inspection reports reviewed, 29 were found to be timely (i.e., completed within 45 days or 50 days if a violation was found). For those inspection reports that were not completed in a timely manner, the time needed to complete inspection reports ranged from 75 to 330 days.
Metric 7e	% of inspection reports or facility files reviewed that led to accurate compliance determinations.	100%	Appears Acceptable	32 of 32 inspection reports led to a compliance determination.
Metric 8b	% of single event violation(s) that are accurately identified as SNC or Non-SNC.	100%	Appears Acceptable	8 of 8 facilities were accurately identified as non-SNCs.
Metric 8c	% of single event violation(s) identified as SNC that are reported timely.	NA	NA	There no were SEVs identified as a SNC.
Metric 9a	# of enforcement files reviewed	49	NA	49 enforcement responses for 8 major and 13 minor facilities were reviewed.
Metric 9b	% of enforcement responses that have returned or will return a source in SNC to compliance.	100%	Appears Acceptable	3 of 3 enforcement responses have or will return a SNC to compliance.
Metric 9c	% of enforcement responses that have returned or will returned a source with non-SNC violations to compliance.	100%	Appears Acceptable	40 of 40 enforcement responses have or will return a non-SNC to compliance.
Metric 10b	% of enforcement responses reviewed that address SNC that are taken in a taken in a timely manner.	0%	Significant Issue	0 of 2 (0%) of major SNCs were addressed in a timely manner.
Metric 10c	% of enforcement responses reviewed that address SNC that are appropriate to the violations.	100%	Appears Acceptable	2 of 2 facilities had enforcement responses that were appropriate for SNCs (2 others were addressed by formal enforcement actions in FY 11 and were, therefore, not

				included in these findings).
Metric 10d	% of enforcement responses reviewed that appropriately address non-SNC violations.	100%	Appears Acceptable	40 of 40 enforcement responses were appropriate for non-SNCs.
Metric 10e	% enforcement responses for non-SNC violations where a response was taken in a timely manner.	76%	Significant Issue	32 of 42 enforcement responses were timely. Of the 10 that were not timely: <ul style="list-style-type: none"> • It took 7 years to determine non-compliance for one facility; • The NOV was issued 4 months after discovery; but Region 4's interest in the case may have delayed the NOV; • No enforcement response was taken; • The AO was issued over 180 days due to a Supplemental Environmental Project; • NOV's were issued over 60 days from the inspection; • An AO was issued in 270 days – exceeding the 180 day deadline for formal actions; • The AO was issued 11 months from the inspection; • The AO was issued over 180 days from the inspection; •• The NOV was issued over 60 days from the inspection and the AO was issued in 240 days.
Metric 11a	% of penalty calculations that consider and include where appropriate gravity and economic benefit.	30%	Significant Issue	Of the 10 penalty calculations reviewed, all 10 considered gravity, but 3 of 10 penalty calculations considered and documented the rationale for economic benefit.
Metric 12a	% of penalties reviewed that document the difference and rationale between the initial and final assessed penalty.	90%	Minor Issues	Of the 10 penalties reviewed, the difference between the initial and final assessed penalty was documented in 4 of 5 instances; in 1 case no rationale or documentation was provided; and in 5 instances, there was no difference between the initial and final assessed penalty.
Metric 12b	% of enforcement actions with penalties that document collection of penalty.	100%	Appears Acceptable	10 of 10 final enforcement actions documented the collection of the final penalty.

Findings Criteria

Minor Issues/Appears Acceptable -- No EPA recommendation required.

Potential Concern -- Not a significant issue. Issues that the state may be able to correct without specific recommendation. May require additional analysis.

Significant Issue -- File review shows a pattern that indicates a significant problem. Will require an EPA Recommendation.

RESOURCE CONSERVATION AND RECOVERY ACT FILE REVIEW ANALYSIS

Name of State: Mississippi

Review Period: FY 2010

	RCRA Metric #	RCRA File Review Metric Description:	Metric Value	Evaluation	Initial Findings
1	Metric 2c	% of files reviewed where mandatory data are accurately reflected in the national data system.	75%	Minor Issue	Of the 20 files reviewed, 15 (75%) had complete and accurate data reported in RCRAInfo. The following data inaccuracies were identified in the remaining five files: 1) In three files, there was a one-day difference between the day of the inspection reported in the file and the date reported in RCRAInfo; 2) In the fourth file, the facility had changed generator status and it was not updated in RCRAInfo; and, 3) In the fifth file, there were violations in the inspection report that were not entered into RCRAInfo. Since most of the data inaccuracies are minor in nature, this is an area for state attention.
2	Metric 4a	Planned inspections completed	100%	Appears Acceptable	The FY 2010 MDEQ RCRA grant work plan includes specific commitments, including inspections, financial record reviews, and the review of groundwater monitoring reports. MDEQ completed all inspection commitments for FY 2010 that were outlined in the MDEQ RCRA grant work plan.
3	Metric 4b	Planned commitments completed	100%	Appears Acceptable	The FY 2010 MDEQ RCRA grant work plan includes specific commitments, including inspections, financial record reviews, and the review of groundwater monitoring reports. MDEQ completed all inspection commitments for FY 2010 that were outlined in the MDEQ RCRA grant work plan.
4	Metric 6a	# of inspection reports reviewed.	20		See Metric 6b and 6c, which had minor issues.
5	Metric 6b	% of inspection reports reviewed that are complete and provide sufficient documentation to determine compliance at the facility.	85%	Minor Issue	Of the inspection reports reviewed, 85% (17 of 20) were complete and had sufficient documentation to determine compliance at the facility. Examples of missing information in the three incomplete reports were: identification of facility type and inconsistent documentation of issues identified. Since this missing information is minor in nature, this is an area for state attention.
6	Metric 6c	Inspections reports completed within a determined time frame.	50%	Minor Issue	Average 55 days: w/ violations average 49 days; w/o violations average 53 days. This is an area for state attention.

7	Metric 7a	% of accurate compliance determinations based on inspection reports.	90%	Appears Acceptable	Of the inspection reports reviewed, 90% (18 of 20) had accurate compliance determinations. There was one inspection where violations were missing from the report and another inspection where the facility was inspected as a RCRA SQG when the facility was actually a LQG. Neither facility was correctly identified as a SV.
8	Metric 7b	% of violation determinations in the files reviewed that are reported timely to the national database (within 150 days).	90%	Appears Acceptable	There were 12 facility inspections where violations were found. With the exception of the two facilities referenced above, all the facilities were issued a Notice of Violation within 150 days after the inspection and the information was entered into RCRAInfo by day 150.
9	Metric 8d	% of violations in files reviewed that were accurately determined to be SNC (or SV).	100%	Appears Acceptable	There were 20 inspection reports reviewed and 100% of the SNCs (10 out of 10) were correctly identified by the State.
10	Metric 9a	# of enforcement responses reviewed.	11		EPA reviewed a total of 11 enforcement responses, including 10 SNCs and one SV.
11	Metric 9b	% of enforcement responses that have returned or will return a source in SNC to compliance.	100%	Appears Acceptable	From a review of the files, all ten SNCs had documentation in the fields showing the facility had returned to compliance or that the enforcement action required them to return to compliance in a specified timeframe.
12	Metric 9c	% of enforcement responses that have returned or will return Secondary Violators (SV's) to compliance.	100%	Appears Acceptable	In the one SV file reviewed, the correct documentation in the file showed that the facility returned to compliance or that the enforcement action required them to return to compliance in a specified timeframe.
13	Metric 10c	% of enforcement responses reviewed that are taken in a timely manner.	100%	Appears Acceptable	(10a had minor issue) Eleven out of 11 facilities of the enforcement actions reviewed were addressed within the ERP timeframes.
14	Metric 10d	% of enforcement responses reviewed that are appropriate to the violations.	100%	Appears Acceptable	(10a had minor issue) Eleven out of 11 facilities of the enforcement actions reviewed were addressed within the ERP timeframes.
15	Metric 11a	% of reviewed penalty calculations that consider and include where appropriate gravity and economic benefit.	70%	Minor Issue	All ten files incorporated a penalty calculation and/or narrative that included a gravity component. For economic benefit, 70% (7 of 10) of the files provided sufficient documentation of the appropriate economic benefit considerations. The other three penalties stated that economic benefit was "not applicable" for the case. The State explained that for RCRA, there is often little or no economic benefit related to the violations so the factor is "not applicable." It was recommended that even if economic benefit is determined to be nonexistent or <i>de minimis</i> the rationale for that decision should be included in the penalty calculation. This is an area for state attention.
16	Metric 12a	% of penalties reviewed that document the difference and rationale between the initial and final assessed penalty.	100%	Appears Acceptable	Nine out of nine of enforcement orders had, where applicable, the needed documentation to support a downward adjustment of calculated penalty.

17	Metric 12b	% of files that document collection of penalty.	100%	Appears Acceptable	Of the nine enforcement orders reviewed, 100% had documentation that penalties were collected or were on a schedule for collection.
Findings Criteria					
No or only minor issue. Finding or recommendation may not be required in the final report.					
Potential area of concern. State is expected to make corrections on their own. Finding may be required, but EPA recommendation may not be required.					
Significant issues. Finding(s) and EPA recommendation(s) required.					

APPENDIX H: CORRESPONDENCE



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4
SAM NUNN
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA GEORGIA 30303-8960

MAR 18 2011

Ms. Trudy D. Fisher
Executive Director
Mississippi Department of Environmental Quality
P.O. Box 2261
Jackson, Mississippi 39225-2261

Dear Ms. Fisher:

The Environmental Protection Agency (EPA) Region 4 is initiating a review of the enforcement and compliance programs of the Mississippi Department of Environmental Quality (MDEQ) using the State Review Framework (SRF) protocol. The review will evaluate inspection and enforcement activity from Federal Fiscal Year 2010 for the Resource Conservation & Recovery Act (RCRA) Subtitle C program, Clean Water Act (CWA) National Pollutant Discharge Elimination System (NPDES) program, and Clean Air Act (CAA) Stationary Source program.

SRF is a continuation of a national effort that allows EPA to ensure that MDEQ meets agreed-upon minimum performance levels in providing environmental and public health protection. The review will include:

- discussions between EPA and MDEQ program managers and staff,
- examination of data in EPA and MDEQ data systems, and
- the review of selected MDEQ inspection and enforcement files and policies.

EPA and MDEQ have the option of agreeing to examine state programs that broaden the scope of traditional enforcement. This may include programs such as pollution prevention, compliance assistance, and innovative approaches to achieving compliance, documenting and reporting outputs, outcomes and indicators, or supplemental environmental projects. EPA welcomes MDEQ's suggestions for other compliance programs under Element 13 of the SRF report.

Our intent is to assist MDEQ in achieving implementation of programs that meet federal standards, in addition to the goals we have agreed to in MDEQ's program grant work plans. EPA and MDEQ are partners in carrying out the review. If any issues are identified, EPA wants to address them in the most constructive manner possible and has established a cross-program team of managers and senior staff to implement the review. Steve Hitte will be the EPA Region 4 primary SRF manager and will lead the review team, directing all aspects of the review for the region. I will be the EPA senior manager with overall responsibility for the review. The EPA regional program offices will participate in the review as available. As a follow up to this

Internet Address: (EPA) < <http://www.epa.gov> >

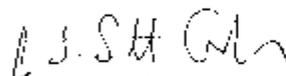
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letter, EPA's SRF review team will be available to meet with the MDEQ programs to discuss the data metrics and answer any questions or concerns.

In Attachment A to this letter is the Official Data Set (ODS) that will be used in the SRF review for the CAA, CWA, and RCRA programs. We ask that MDEQ please respond to Shannon Maher by April 15, 2011, with an indication that you agree with the ODS, or if there are discrepancies, please provide that information electronically in the provided spreadsheet file. Shannon can be reached at (404) 562-9623, or by email at maher.shannon@epa.gov. Please note that minor discrepancies that would not have a substantive impact on the review do not need to be reported. If we do not receive a response from you by the date noted above, EPA will proceed with our preliminary data analysis utilizing the ODS provided with this letter. The preliminary data analysis and file selection for the onsite file review will be sent to you by May 20, 2011.

We look forward to working with you and your staff in this effort. Should you require additional information, or wish to discuss this matter in greater detail, please feel free to contact Scott Gordon, the Associate Director of OEA, at (404) 562-9741.

Sincerely,



Mary J. Wilkes
Regional Counsel and Director
Office of Environmental Accountability

Attachment A: Official Data Sets

ATTACHMENT A

The Official Data Set (ODS) was pulled from the Online Tracking Information System (OTIS) Web site using FY2010 data that was "frozen" in February 2011. EPA also will send an electronic version in Excel format by email. States can access these reports online with additional links and information on the OTIS site.

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

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

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

Please respond by April 15, 2011, with an indication that you agree with the ODS or with a spreadsheet indicating any discrepancies. This can be submitted electronically to Shannon Maher, the Region 4 SRF Coordinator, at maher.shannon@epa.gov. Shannon can also be reached at (404) 562-9623 with any questions. If you do not respond by this date, EPA will proceed with our preliminary data analysis under the assumption that the ODS is correct.



STATE OF MISSISSIPPI

Governor
HALET SHANNON

MISSISSIPPI DEPARTMENT OF ENVIRONMENTAL QUALITY

Third Floor, Executive Building

April 14, 2011

VIA ELECTRONIC MAIL TO haletshannon@epa.gov

Ms. Shannon Maher
EPA Region 4 / OEA
61 Forsyth St, SW
Atlanta, GA 30303

Re: State Review Framework – Mississippi Response to Official Data Set

Dear Shannon:

Pursuant to Mary Wilkes' March 18, 2011, correspondence to Trudy Fisher enclosed with this letter you will find three spreadsheets which contain the State Review Framework Official Data Set along with various comments, caveats and/or discrepancies from the State of Mississippi, by and through the Mississippi Department of Environmental Quality. As we read Ms. Wilkes' letter, our providing these spreadsheets, with MDEQ's comments, fulfills MDEQ's obligations at this stage of the State Review Framework process. If you require any additional information at this point, feel free to contact me at your earliest convenience. As you know, I may be reached by telephone at 601-961-5545 and by electronic mail at ghis_wells@deq.state.ms.us.

We look forward to receiving the preliminary data analysis and file selection as we move into the next phase of the review.

Sincerely,


Christopher G. Wells
Senior Attorney
Office of Pollution Control

Enclosure



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4
ATLANTA FEDERAL CENTER
21 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

MAY 20 2011

Ms. Trudy D. Fisher
Executive Director
Mississippi Department of Environmental Quality
P O. Box 2261
Jackson, Mississippi 39225-2261

Dear Ms. Fisher:

On March 18, 2011, the Environmental Protection Agency (EPA) Region 4 notified the Mississippi Department of Environmental Quality (MDEQ) of its intention to begin the State Review Framework (SRF) evaluation via an opening letter. As the next step in the process, the region has analyzed the SRF data sent with the opening letter against established goals and commitments, incorporating any data corrections or discrepancies provided by MDEQ.

This follow-up letter includes (1) EPA's preliminary analysis of the state SRF data metrics results, (2) the official preliminary data analysis (PDA) worksheets, and (3) the files that have been selected for the SRF file reviews. The file reviews have been coordinated between MDEQ and EPA to take place during June 13-17, 2011, for the CWA and RCRA programs, and July 25-29, 2011, for the CAA program. All reviews will take place at MDEQ's offices in Jackson, Mississippi.

We are providing this information to you in advance so that your staff will have adequate time to compile the files that we will review and can begin pulling together any supplemental information that you think may be of assistance during the review. After reviewing the enclosed information, if there are additional circumstances that the region should consider during the review, please have your staff provide that information to Becky Hendrix, the Region 4 SRF coordinator, prior to the on-site file review. Becky Hendrix can be reached at (204) 562-8342.

Please note that the enclosed preliminary analyses are largely based only on the FY2010 data metrics results that were "frozen" in March 2011. Any corrections or updates to the data in the national data systems since that time may not be reflected in the preliminary analyses. Final SRF findings may be significantly different based upon the revised and/or updated FY2010 data, the results of the file review, and ongoing discussions with your staff.

Please also note that all information and material used in this review may be subject to federal and/or state disclosure laws. While EPA intends to use this information only for discussions with MDEQ, it may be necessary to release information in response to a properly submitted information request.

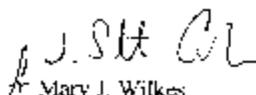
At this time I would also like to bring to your attention the opportunity for MDEQ to highlight any priorities and accomplishments that you would like to have included in the SRF Report. EPA is also requesting specific information on your resources, staffing, and the current data systems used by your state for the SRF Report. An outline of this information is included in Enclosure 10 of this letter. EPA is requesting this information be sent electronically to Becky Hendrix at hendrix.becky@epa.gov by August 19, 2011.

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We look forward to working with you and your staff in this effort. Should you require additional information, or wish to discuss this matter in greater detail, please feel free to contact Scott Gordon, the Associate Director of the Office of Environmental Accountability, at (404) 562-9741.

Sincerely,



Mary J. Wilkes
Regional Counsel and Director
Office of Environmental Accountability

- Enclosure 1 - CAA Preliminary Data Analysis
- Enclosure 2 - CAA Preliminary Data Analysis Worksheet
- Enclosure 3 - CAA Table of Selected Files and selection logic
- Enclosure 4 - CWA Preliminary Data Analysis
- Enclosure 5 - CWA Preliminary Data Analysis Worksheet
- Enclosure 6 - CWA Table of Selected Files and selection logic
- Enclosure 7 - RCRA Preliminary Data Analysis
- Enclosure 8 - RCRA Preliminary Data Analysis Worksheet
- Enclosure 9 - RCRA Table of Selected Files and selection logic
- Enclosure 10 - Background Information for SRF Report