

U.S. EPA – Region 1 Review of Rhode Island Department of Environmental Management (RIDEM) Enforcement Program - Federal Fiscal Year 2007

Final Report

October 8, 2009

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I. EXECUTIVE SUMMARY

The Environmental Protection Agency, Region 1 (EPA), used the State Review Framework to assess the Rhode Island Department of Environmental Management's (RIDEM) operation and administration of the compliance and enforcement programs for Clean Air Act stationary sources, the Clean Water Act NPDES program and Resource Conservation and Recovery Act hazardous waste.

The State Review Framework (SRF) is a program designed to ensure that EPA conducts oversight of state compliance and enforcement programs in a nationally consistent and efficient manner. Reviews look at 12 program elements covering: data (completeness, timeliness, and quality); inspections (coverage and quality); identification of violations, enforcement actions (appropriateness and timeliness); and penalties (calculation, assessment and collection). Reviews are conducted in three phases: analyzing information from the national data systems; reviewing a limited set of state files; and developing findings and recommendations. Considerable consultation is built into the process to ensure EPA and the state understand the causes of issues, and to seek agreement on identifying the actions needed to address problems. The reports generated by the reviews capture information and agreements developed during the review process in order to facilitate program improvements. They are designed to provide factual information and do not make determinations of program adequacy. EPA also uses the information in the reports to draw a "national picture" of enforcement and compliance, and to identify any issues that require a national response. Reports are not used to compare or rank state programs.

A. Major State Priorities and Accomplishments

NOTE: The Priorities and Accomplishments below were provided by RIDEM. EPA included this information in this report without edits or other changes

Priorities

The RIDEM Offices of Waste Management, Air Resources, and Compliance and Inspection have all undergone significant reductions in staff over the last 1-2 years. Given these reductions and the current budget, RIDEM's priorities are to maintain compliance and enforcement activities in its core programs.

One area that DEM has identified as a priority is implementation of LEAN techniques. Our first focus is to streamline and shorten the time to issue a formal enforcement action. The Offices of Compliance and Inspection and Legal Services have been meeting on a monthly basis since June to work on this effort. More recently, the Offices of Compliance and Inspection, Water Resources, Waste Management, and Air Resources have met to streamline the process for referral of cases for formal enforcement to Compliance and Inspection.

Accomplishments

The RIDEM's major accomplishments over the last 1-2 years have been to maintain compliance and enforcement activities in its core programs.

Element 13 – RIDEM is not submitting information under Element 13 at this time.

B. Summary of Results

- Recommendations from Round 1 – Region identified 13 recommendations from Round 1, and all are considered complete as of the start of Round 2.
- Overall Round 2 Accomplishments and Best Practices
 - CAA
 - RIDEM’s air inspection reports or compliance monitoring reports (CMRs) were comprehensive and properly documented observations noted during the inspections. RIDEM should be commended for developing and using a Title V Full Compliance Evaluation checklist. (Element 6)
 - RIDEM always seeks injunctive relief, where necessary, in its informal and formal enforcement actions, includes clear and concise descriptions of the injunctive relief necessary and a timeframe for achieving compliance, so that facilities with violations return to compliance expeditiously. (Element 9)
 - RIDEM is seeking and collecting appropriate penalties and their enforcement case files thoroughly document their rationale for reducing a penalty. In addition, all the appropriate enforcement case files reviewed included copies of penalty checks indicating that all penalties had been paid in full. (Element 12)
 - CWA
 - RIDEM issues letters following major facility inspections and tracks deficiencies noted in these letters. (Element 1)
 - Each major facility is inspected at least once per year. (Element 5)
 - The State inspectors use inspection checklists during major facility inspections. (Element 6)
 - RCRA
 - RIDEM completed 137% of their planned RCRA enforcement commitments in FY2007. (Element 4)
 - RIDEM exceeded the national average of 70% of LQGs inspected in 5 years by inspecting 94%. (Element 5)
 - RIDEM thoroughly documents all decisions associated with penalty assessment, reduction and collection. (Element 12)
- CAA Round 2 Review Results
 - *Areas with No Issues or Only Minor Issues* – Data Completeness (Element 1), Quality of Inspection or Compliance Evaluation Reports (Element 6), Enforcement Actions Promote a Return to Compliance (Element 9), Penalty Calculation Method (Element 11) and Final Penalty Assessment and Collection (Element 12).
 - *Areas for State Attention* – Completion of Commitments (Element 4) and Inspection Coverage (Element 5)

- *Areas for State Action*
 - Element 2 - Data Accuracy
 - Finding 2-1: Data Accuracy: Many of the inspection files reflected a different compliance status than did the OTIS detailed facility report.
 - Finding 2-2: RIDEM enters NOVAPs into AFS; however, the associated penalties are not included in national enforcement reports.
 - Element 3 – Timeliness of Data Entry
 - Finding 3-1: Timeliness of Date Entry: RIDEM is below the national average for having HPV data entered into AFS in a timely manner.
 - Element 7 - Identification of Violations
 - Finding 7.1: Some violations were not properly entered into AFS.
 - Element 8 – Identification of SNC and HPV
 - Finding 8-1: Delay in identifying HPVs in AFS in a timely manner.
 - Element 10 - Timely and Appropriate Action
 - Finding 10-1: RIDEM did not consistently meet the timeliness guidelines set forth in EPA’s “Timely and Appropriate” guidance document.
- CWA Round 2 Review Results
 - *Areas with No Issues or Only Minor Issues* - Timeliness of Data Entry (Element 3), Completion of Commitments (Element 4), Inspection Coverage (Element 5), Enforcement Actions Promote a Return to Compliance (Element 9) and Final Penalty Assessment and Collection (Element 12).
 - *Areas for State Attention* –Data Accuracy (Element 2), Identification of Violations, Identification of SNC (Element 8).
 - *Areas for State Action*
 - Elements 1 - Data completeness, accuracy, and timeliness
 - Finding 1-4: Data systems do not contain complete listings of informal and formal actions.
 - Element 6 – Quality of Inspection or Compliance Evaluation Reports
 - Finding 6-2: Inspections and inspection reports are not entered in the data system.
 - Element 7 - Identification of Alleged Violations
 - Finding 7-1: Single-event violations (SEVs) are not accurately identified and coded into the data system.
 - Element 10 - Timely and Appropriate Action

- Finding 10-1: Some SNCs are not resolved in a timely manner.
 - Element 11 – Penalty Calculation Method
 - Finding 11-1: Economic Benefit is usually not calculated.
- RCRA Round 2 Results
 - *Areas with No Issues or Only Minor Issues* - Data Completeness (Element 1), Timeliness of Data Entry (Element 3), Completion of Commitments (Element 4), Inspection Coverage (Element 5), Identification of SNC (Element 8), Enforcement Actions Promote a Return to Compliance (Element 9), Penalty Calculation Method (Element 11) and Final Penalty Assessment and Collection (Element 12).
 - *Areas for State Attention* – Identification of Violations (Element 7)
 - *Areas for State Action*
 - Element 2 - Data Accuracy
 - Finding 2-1: Compliance determinations, actions taken, violations discovered and/or addressed are not in RCRAInfo and do not match the data in the files.
 - Element 6 – Quality of Inspection or Compliance Evaluation Reports
 - Finding 6-1: EPA found that OWM inspection reports reviewed were not sufficiently detailed.
 - Element 10 – Timely and Appropriate Action
 - Finding 10-1: Formal enforcement actions did not have final enforcement actions issued within 360 days. 50% of initial formal actions did not occur within 240 days.

C. Significant Cross-Media Findings and Recommendations

- Data Completeness, Accuracy, and Timeliness – There are data systems issues in all three programs at RIDEM. These issues seem to stem from lack of resources, lack of understanding EPA’s data system expectations and technical problems resulting from the age of one EPA system (Air - AFS) and the implementation of EPA’s newest system (Water – ICIS NPDES)
- Timely and Appropriate Action – Timeliness of enforcement actions is an issue for each of RIDEM’s compliance and enforcement programs. The most significant factor is the ongoing reduction in resources occurring at the agency. Overall, programs are losing FTEs and when programs can fill vacancies, there is a lag in productivity as new staff are trained.

II. BACKGROUND INFORMATION ON STATE PROGRAM AND REVIEW PROCESS

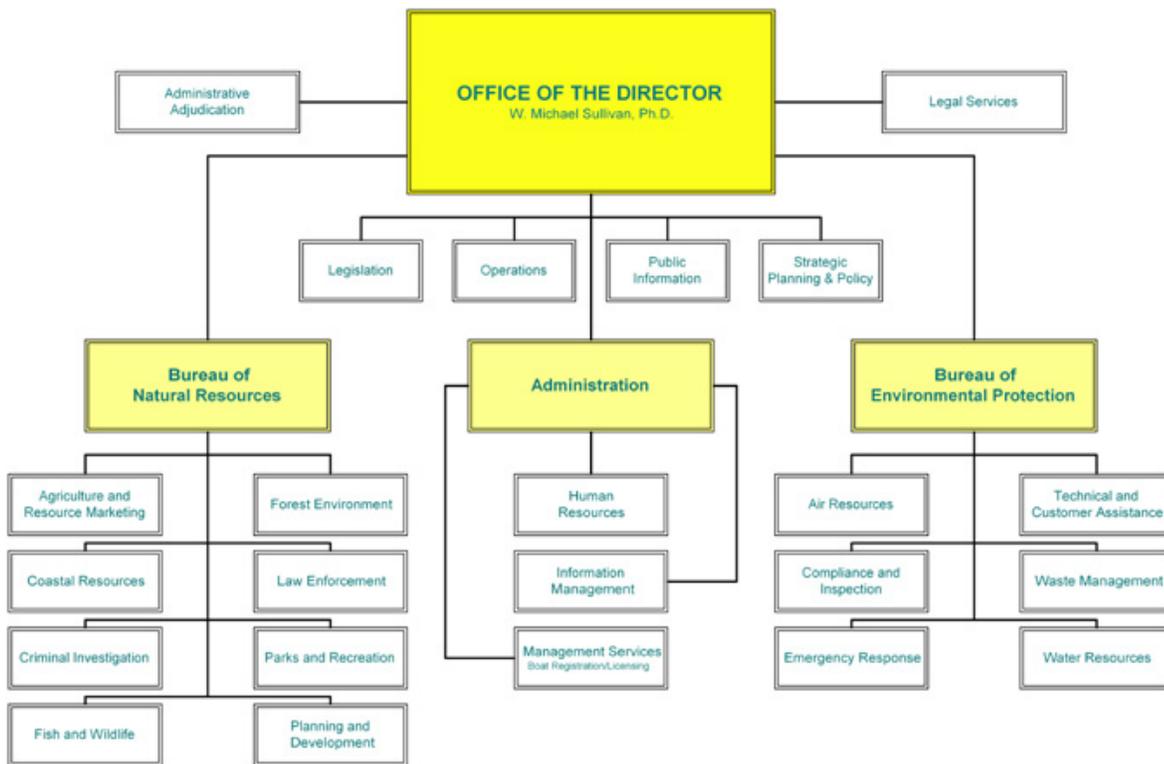
NOTE: The Background Information provided below was provided by RIDEM. EPA included this information in this report without edits or other changes. While this review examines RIDEM activities in Federal Fiscal Year 2007, this section includes budget and resource information that is current.

A. GENERAL PROGRAM OVERVIEW

Agency Structure

The Department of Environmental Management (DEM) manages and protects Rhode Island's public and common natural assets, including land, air and water resources. It manages state-owned lands, including state parks and beaches, forests, port facilities, and fish and wildlife management areas. The DEM administers a capital management program financed by general obligation bonds, funds from the Rhode Island Capital Plan Fund, federal funds, restricted receipts and third-party sources (for land acquisition). Capital program activities include: acquisition and development of recreational, open space and agricultural lands; municipal and non-profit grant programs for land acquisition and development; improvements to state-owned ports and recreation facilities; Superfund federal mandates; construction of new state environmental facilities; municipal wastewater facility construction grant programs; and grants to non-governmental entities for specified water quality improvement projects. The DEM also monitors the use and quality of state groundwater; regulates discharges and uses of surface fresh and salt water; enforces game, fishing and boating regulations; coordinates a statewide forest fire protection plan; regulates air quality; and monitors the disposal of solid and hazardous wastes.

The organizational structure of the DEM is shown in the chart below.



The mission of the DEM, working through its Bureaus and Offices is to:

- Enhance the high quality of life for this and future generations by protecting, managing, and restoring the environment, enhancing outdoor recreation opportunities, and protecting public health.
- Guiding utilization of Rhode Island’s resources to provide for sustainable economic opportunity while protecting our natural environment.
- Motivating the citizens to practice an environmental ethic based on an understanding of their environment, their own dependence on it, and the ways in which their actions affect it.

The Governor’s revised FY 2009 budget for the DEM was \$87.3 million, including \$34.0 million in general revenue, \$34.5 million in federal funds, \$13.5 million in restricted receipts, and \$5.2 million in other funds. This represents a total decrease of \$1.7 million from the enacted budget of \$89.0 million. For FY 2009, the Governor recommended 409.0 FTE positions for the DEM, a decrease of 64.0 FTE positions from the enacted level of 473.0 FTE positions. This decrease is a reflection of the number of FTE positions lost due to retirements, transfers and turnover. The Governor’s recommended FY 2010 expenditures for the DEM were \$87.5 million, including \$35.7 million in general revenue, \$30.0 million in federal funds, \$15.2 million in restricted receipts and \$6.5 million in other funds. This represents a total decrease of \$1.5 million from the FY 2009 enacted budget of \$89.0 million. The Governor recommended 417.0 FTE positions for FY 2010, which is a decrease of 56.0 FTE positions from the enacted level of 473.0 FTE positions.

Compliance/Enforcement Program Structure

Civil regulatory activities are handled by the Bureau of Environmental Protection, which consists of the Office of Air Resources, the Office of Water Resources, the Office of Waste Management, the Office of Compliance and Inspection, the Office of Technical and Customer Assistance, and the Office of Emergency Response. The management team for the Bureau of Environmental Protection consists of the Assistant Director for Water Resources; the Assistant Director for Air, Waste and Compliance; Chief, Surface Water Protection; Chief, Groundwater and Wetland Protection; Chief, Air Resources; Chief, Waste Management; Chief, Office of Technical and Customer Assistance; Chief, Office of Compliance and Inspection; and Emergency Response Coordinator, Office of Emergency Response.

Roles and Responsibilities

Enforcement of environmental laws and regulations is carried out by all the Offices within the Bureau of Environmental Protection. The response to noncompliance discovered through complaint inspections, compliance monitoring, or other channels can take several forms, but, for the most part, can be described as either **informal or formal enforcement**. **Informal enforcement** includes those actions that do not result in an enforceable order or assessment of a penalty. For the most part, these actions include correspondence such as letters of deficiency, warning letters, letters of noncompliance, and notices of intent to enforce. All of these actions are taken to allow violators to resolve noncompliance voluntarily and as quickly as possible, including repairing any environmental damage that may have resulted due to noncompliance. In the event that compliance through informal enforcement is not met, or DEM determines that the violations represent significant noncompliance, the case may proceed to **formal enforcement**. **Formal enforcement** typically involves the issuance of a Notice of Violation (NOV). A NOV advises the respondent of the alleged facts surrounding the case, the statutes and regulations that are basis of the alleged violations, the requirements to meet compliance and usually includes an administrative penalty. The requirements to return to compliance are set forth in the order portion of the NOV. The assessed penalty is developed in accordance with the administrative penalty regulations, and the NOV includes worksheets providing information on how the penalty was determined. The maximum penalty for violations is derived from the legislative statute providing DEM with the authority to assess and collect a penalty for civil (non-criminal) violations of laws or regulations. Since formal enforcement actions contain enforceable orders and assessments of penalties, such actions are subject to appeal with the DEM's Administrative Adjudication Division (AAD). Respondents have 20 days to appeal the NOV to the AAD. Prior to or even after a hearing commences, the parties may finalize a settlement of the outstanding enforcement action. Upon completion of a hearing, a recommended decision is forwarded to DEM's Director for final decision. Respondents may file an appeal to contest the AAD decision to Superior Court. In the event that an administrative hearing is not requested, the NOV becomes a final order of the Director and is enforceable in Superior Court.

Office of Air Resources

The Office of Air Resources (OAR) is responsible for the preservation, protection and improvement of air quality in Rhode Island. This is accomplished, in partnership with the U.S. Environmental Protection Agency, by regulating the emission of air pollutants from stationary and mobile emission sources. Planning, permitting, air pollutant emission inventory, air quality monitoring and inspecting emission sources are among the major activities of OAR.

Air pollutants fall into two broad categories— criteria pollutants and air toxics. National Ambient Air Quality

Standards have been set for criteria pollutants. In general, criteria pollutants are irritants or have other minor and/or acute health or environmental effects. Examples are ground level ozone and carbon monoxide. Air toxics are pollutants that, for example, are carcinogens, or have other major and/or chronic health effects. Examples are benzene and trichloroethylene. Rhode Island and most of the Northeast United States do not meet the health-based air quality standards for ozone. Much of the work of the OAR is related to assuring that Rhode Island improves its air quality to attain the standards on the schedule required by the federal Clean Air Act. A number of toxic air pollutants are present in Rhode Island's air that are above acceptable levels. The OAR works to reduce emissions of air pollutants in Rhode Island and works with other states to secure emission reductions that will help Rhode Island solve its air quality problems. Compliance with environmental laws, rules, regulations, permits and licenses is enforced through **informal enforcement**.

Office of Water Resources

The Office of Water Resources (OWR) is responsible for ensuring that rivers, lakes, and coastal waters will support healthy communities of fish, plants, and other aquatic life, and will support uses such as fishing, swimming, and drinking water quality. OWR also ensures that groundwater will be uncontaminated, freshwater wetlands will be protected and rehabilitated to provide wildlife habitat, reduce floods, and to improve water quality and public health will be protected from the adverse impacts of water pollution. This is accomplished, in partnership with the U.S. Environmental Protection Agency, by regulating the discharge of water pollutants from point sources. Planning, permitting, developing Total Maximum Daily Loads (TMDLs), water quality monitoring and inspecting sources are among the major activities of OWR. Compliance with environmental laws, rules, regulations, permits and licenses is enforced through **informal enforcement**.

Office of Waste Management

The Office of Waste Management (OWM) has two primary functions:

- To oversee the investigation and remediation of contaminated sites and releases from leaking underground storage tanks.
- To regulate and permit facilities that accept or transport solid, medical or hazardous waste or that store petroleum products in underground tanks.

These functions are divided into four programs as listed below:

- **Underground Storage Tank Management Program-** This program oversees the registration of Underground Storage Tanks (UST program) as well as the cleanup of Leaking Underground Storage Tanks (LUST program).
- **Waste Facilities Management Program-** This program regulates facilities that receive Solid, Hazardous and Medical Waste and transporters of hazardous, medical and septage waste. It also oversees the closure of active landfills.
- **Site Remediation Program-** This program oversees the investigation and remediation of sites contaminated with hazardous materials and petroleum. This includes the redevelopment and reuse of sites commonly known as Brownfields.
- **Superfund and Department of Defense Program-** This program oversees the cleanup of NPL Sites (commonly referred to as Superfund Sites) and sites used or formerly used by the U.S. Department

of Defense. This program also oversees the evaluation of sites on the U.S. Environmental Protection Agency's CERCLIS List for consideration of action under the Superfund Program.

Compliance with environmental laws, rules, regulations, permits and licenses is enforced through **informal enforcement**.

Office of Compliance and Inspection

The Office of Compliance and Inspection (OC&I) is responsible for the regulatory enforcement activities related to air, waste, and water. OC&I investigates complaints and suspected violations of environmental laws and regulations relating to air pollution, dam safety, freshwater wetlands, hazardous waste management, unpermitted releases of hazardous materials and/or petroleum, onsite wastewater treatment systems (i.e., septic systems), solid and medical waste, underground and leaking underground storage tanks, and water pollution. In addition to complaint response, the OC&I carries out compliance monitoring of regulated activities involving hazardous waste generators, underground storage tanks, and exterior lead paint removal activities. OC&I also inspects dams to monitor safety conditions and to advise dam owners of unsafe conditions. Significant noncompliance that is identified by any of the Offices within the Bureau of Environmental Protection that requires **formal enforcement** is referred to OC&I for issuance of a Notice of Violation and management of the case. Not all OC&I programs focus on compliance and enforcement activities in the same way. For example, one program may spend considerable time on citizen complaint response while another may spend most of its time on compliance monitoring. In fact, much of OC&I's compliance and enforcement effort is a team approach, either internally in the office or externally with other DEM Divisions and Offices. In many cases, OC&I's activities are coordinated with the Offices of Air Resources, Emergency Response, Water Resources, Waste Management and Legal Services. Under some circumstances, OC&I supports the Office of Criminal Investigation and assists them with sampling, regulatory interpretation, and expert witness testimony. In many cases, OC&I is in close communication with the U.S. Environmental Protection Agency since DEM has specific authority delegated under federal regulations regarding air, water, underground and leaking underground storage tanks and hazardous waste. OC&I also works with lawyers in the Office of Attorney General in prosecuting civil and criminal cases. Compliance with environmental laws, rules, regulations, permits and licenses is enforced through both **informal** and **formal enforcement**.

Office of Technical and Customer Assistance

The Office of Technical and Customer Assistance (OTCA) provides assistance to the general public, state and local governments, and the business community concerning compliance with rules, regulations, environmental standards, and the permitting process. One aspect of this service is to coordinate pre-application assistance to companies and to individuals seeking permits. Prospective applicants for environmental permits will be able to have a single point of contact who will provide information on permits required, including permits for large facilities where more than one type of environmental permit is required. Another service is to coordinate the application review process for projects that require more than one environmental permit such as the permitting of large facilities that involve air emissions as well as construction that involves more than five acres (which requires a stormwater permit). Part of this coordination function is to track projects that the Economic Development Corporation's Board has determined to be of Critical Economic Concern. OTCA also serves as an information repository for DEM's regulations and policies so that the public can easily access these regulations and policies. The DEM's web

site is coordinated and maintained by OTCA. In addition, OTCA maintains user-friendly descriptions of the regulations so that the public can easily determine the requirements associated with the regulations. OTCA also provides pollution prevention assistance to businesses, industry, and governmental agencies to help them prevent and minimize pollution at the source of generation. This outreach function includes: on-site technical assistance; training programs, conferences, and workshops; and both regulatory and economic incentives to prevent pollution and to minimize the generation of pollutant wastes associated with industrial processes. This program works with businesses to develop cost-effective ways to reduce toxic and hazardous material use and waste in the workplace. OTCA staff working with the pollution prevention program do not report regulatory violations nor do they issue enforcement actions with penalties for non-compliance. This separation of RIDEM's assistance and enforcement functions is designed to make the assistance program more attractive to industry.

Office of Emergency Response

The Office of Emergency Response (OER) is Rhode Island's first line of defense in protecting public health, safety, and welfare in an environmental emergency. Like police and fire fighters, DEM's emergency responders are prepared to handle incidents of great variety - everything from a spill of a few gallons to a whole tanker-full of petroleum, from a single abandoned drum to biological and chemical weapons. Highly trained first responders are on-call 24-hours a day, 7 days a week. These responders spend the bulk of their time remediating a stream of manageable mishaps that could otherwise pose a significant danger. Nearly every day of every year, despite preventive measures, hundreds of incidents threaten the public as well as the environment. Emergency responders are prepared to limit the risks from oil and chemical spills, failed tanks or pipes, fires or fumes, overturned trucks, sunken vessels, litter, WMD (weapons of mass destruction), abandoned drums, and the like. Compliance with environmental laws, rules, regulations, permits and licenses is enforced through **informal enforcement**.

Resources/Staffing/Training/Data Reporting Systems

Office of Water Resources

Resources

OWR has 13.0 FTEs to implement the Clean Water Act NPDES Enforcement Program (which includes Permitting, Pretreatment, O & M, and Sludge Management programs). The FTEs work on both permitting and compliance monitoring and enforcement. 5.4 FTEs are for inspection/compliance tracking, 5.3 FTEs are for permitting, and 2.3 FTEs are supervisors/program managers. There are no resource constraints in OWR that present major obstacles to implementing compliance monitoring and enforcement with the NPDES Enforcement Program. It is important to note that a substantial amount of compliance monitoring and enforcement is undertaken by OWR in other federal and state programs that were not subject to the EPA State review. These programs include Freshwater Wetlands, On Site Wastewater Treatment Systems, Underground Injection Control, and Water Quality Certification. The FTEs assigned to these programs have not been included in this summary.

Staffing/Training

Compliance monitoring and enforcement has not been impacted by vacancies nor does OWR foresee impacts in the near future. There is no specific state program for hiring and maintaining qualified staff. When vacancies occur, managers determine whether the position is critical and, if so, prepare a critical need form that is forwarded to the DEM Director and the Department of Administration for approval. Depending

on availability of funds, managers may authorize staff to attend training programs or technical conferences to refresh their knowledge or gain new knowledge.

Data Reporting Systems

OWR inputs all data directly into the EPA national data system.

Office of Air Resources

Resources

The OAR currently has 4.5 FTEs to implement the Clean Air Act Stationary Source Enforcement Program. The FTEs work on compliance monitoring and enforcement of both major air pollution sources, synthetic minor air pollution sources (those with emission caps) and other source types. 3.5 FTEs are staff that conduct inspections and 1.0 FTEs are supervisors/program managers. There are resource constraints in OAR that present major obstacles to implementing compliance monitoring and enforcement with the Stationary Source Enforcement Program.

Staffing/Training

Compliance monitoring and enforcement has been impacted by vacancies. There is no specific state program for hiring and maintaining qualified staff. When vacancies occur, managers determine whether the position is critical and, if so, prepare a critical need form that is forwarded to the DEM Director and the Department of Administration for approval. Depending on availability of funds, managers may authorize staff to attend training programs or technical conferences to refresh their knowledge or gain new knowledge.

Data Reporting Systems

OAR inputs all required data directly into the EPA national data system.

Office of Waste Management

Resources

The OWM currently has 1.5-1.75 FTEs to implement the RCRA Subtitle C Enforcement Program (which includes the TDSF, Program Authorization, Transporter, and Biennial Reporting/Data Management programs). The FTEs work on permitting, authorization and compliance monitoring and enforcement. 1.25 FTEs are inspectors and 0.5 FTEs are supervisors/program managers/permitting staff. There are resource constraints in OWM that present major obstacles to implementing compliance monitoring and enforcement with the RCRA Subtitle C Enforcement Program. It is important to note that a substantial amount of compliance monitoring and enforcement is undertaken by OWM in other federal and state programs that were not subject to the EPA State review. These programs include medical waste management, solid waste, and landfill closure. The FTEs assigned to these programs have not been included in this summary.

Staffing/Training

Compliance monitoring and enforcement has been impacted by vacancies and OWM foresees impacts in the near future. There is no specific state program for hiring and maintaining qualified staff. When vacancies occur, managers determine whether the position is critical and, if so, prepare a critical need form that is

forwarded to the DEM Director and the Department of Administration for approval. Depending on availability of funds, managers may authorize staff to attend training programs or technical conferences to refresh their knowledge or gain new knowledge.

Data Reporting Systems

OWM does not input all data directly into the EPA national data system, although it may in the future.

Office of Compliance and Inspection

Resources

OC&I currently has 2.4 FTEs assigned to the Water Enforcement Program. The FTEs work on compliance monitoring and enforcement. 1.2 FTEs are inspectors and 1.2 FTEs are supervisors/program managers. There are no resource constraints in OC&I that present major obstacles to implementing enforcement with the NPDES Enforcement Program. It is important to note that a substantial amount of enforcement is undertaken by OC&I through its citizen complaint response program that was not subject to the EPA State review. The FTEs assigned to this program are included in this summary.

OC&I currently has 4.0 FTEs assigned to the Air Enforcement Program. The FTEs work on compliance monitoring and enforcement. 2.0 FTEs are inspectors and 2.0 FTEs are supervisors/program managers. There are no resource constraints in OC&I that present major obstacles to implementing compliance monitoring and enforcement with the Clean Air Act Stationary Source Enforcement Program. It is important to note that a substantial amount of compliance monitoring and enforcement is undertaken by OC&I through its citizen complaint response program that was not subject to the EPA State review. The FTEs assigned to this program are included in this summary.

OC&I currently has 4.2 FTEs to implement the RCRA Enforcement Program. The FTEs work on compliance monitoring and enforcement. 3.0 FTEs are inspectors (although .25 FTEs are used for database entry and management) and 1.2 FTEs are supervisors/program managers. There are no resource constraints in OC&I that present major obstacles to implementing compliance monitoring and enforcement with the RCRA Enforcement Program. One of the issues raised in this State review involves the failure to properly and timely input data into the Federal database. The database staff person in OC&I responsible for entering the data retired in February 2009 and these duties have been re-assigned to an inspector. In addition, the remaining database management duties are being handled by a program manager and the remaining inspectors.

Staffing/Training

For the Water and RCRA Enforcement Programs, compliance monitoring and enforcement have been impacted by vacancies; however, OC&I does not foresee further impacts in the near future. For the Air Enforcement Program compliance monitoring and enforcement have not been impacted by vacancies. There is no specific state program for hiring and maintaining qualified staff. When vacancies occur, managers determine whether the position is critical and, if so, prepare a critical need form that is forwarded to the DEM Director and the Department of Administration for approval. Depending on availability of funds, managers may authorize staff to attend training programs or technical conferences to refresh their knowledge or gain new knowledge.

Data Reporting Systems

OC&I inputs all data for the RCRA Enforcement Program directly into the EPA national data system. A recent vacancy within OC&I has resulted in this task being split among the existing RCRA staff.

Office of Legal Services

The Office of Legal Services (OLS) has 6.0 FTEs to manage all of the legal work within the DEM. No FTEs are specifically assigned to any one office or program. Compliance monitoring and enforcement has been significantly impacted by vacancies within the OLS and there are resource constraints that present major obstacles to implementing compliance monitoring and enforcement.

Administrative Adjudication Division

The Administrative Adjudication Division (AAD) has 3.0 FTEs to manage all of the administrative appeals within the DEM. No FTEs are specifically assigned to any one office or program. Compliance monitoring and enforcement has been significantly impacted by vacancies within the AAD and there are resource constraints that present major obstacles to implementing compliance monitoring and enforcement.

B. MAJOR STATE PRIORITIES AND ACOMPLISHMENTS

Priorities

The Offices of Waste Management, Air Resources, and Compliance and Inspection have all undergone significant reductions in staff over the last 1-2 years. Given these reductions and the current budget, DEM's priorities are to maintain compliance and enforcement activities in its core programs.

One area that DEM has identified as a priority is implementation of LEAN techniques. Our first focus is to streamline and shorten the time to issue a **formal enforcement** action. The Offices of Compliance and Inspection and Legal Services have been meeting on a monthly basis since June to work on this effort. More recently, the Offices of Compliance and Inspection, Water Resources, Waste Management, and Air Resources have met to streamline the process for referral of cases for **formal enforcement** to Compliance and Inspection.

Accomplishments

The DEM's major accomplishments over the last 1-2 years have been to maintain compliance and enforcement activities in its core programs.

C. PROCESS FOR SRF REVIEW

- Review Period: Federal Fiscal Year 2007
- Key Dates:
 - September 26, 2008 – Region 1 sent Kick-off letter and Official Data Sets for CAA, CWA and RCRA to RIDEM
 - February 5, 2009 – Region 1 and RIDEM held Kick-off Meeting
 - File Review Dates
 - CAA – February 26-27, 2009, March 12-13, 2009
 - CWA - February 24-27, 2009
 - RCRA - February 11, 12, 13, 19 and 27, 2009
 - Region 1 programs sent official Preliminary Data Analysis to RIDEM programs
 - CAA-- January 8, 2009
 - CWA – January 21, 2009
 - RCRA – December 16, 2008
- Communication with RIDEM: Throughout the SRF process, Region 1 communicated frequently with RIDEM. The Region 1 coordinator spoke to his RIDEM counterpart frequently. Program staff from Region 1 and RIDEM coordinated their own communication and meetings.
- State and Region Contacts:

	Region 1	RIDEM
Senior Manager	Sam Silverman – 617-918-1731	Terrence Gray – 401-222- 4700 x 1-7100
SRF Coordinator	Mark Mahoney – 617-918-1842	Dave Chopy - 401-222-4700 x 1-7400
CAA Lead	Tom McCusker – 617-918-1862	Chris John – 401-222-1360x 1-7023
CWA Lead	Dave Turin – 617-918-1598	Dave Chopy - 401-222-4700 x 1-7400
RCRA Lead	Rich Piligian – 617-918-1757	Tracey Tyrrell - 401-222-1360 x 1-7407

III. STATUS OF OUTSTANDING RECOMMENDATIONS FROM PREVIOUS REVIEWS

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

NONE

IV. OVERALL FINDINGS AND RECOMMENDATIONS

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

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

Clean Air Act

[CAA] Element 1 – Data Completeness - Degree to which the Minimum Data Requirements are complete.

1.1	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement (Recommendation Required)
	Finding	Both the data metrics (preliminary data analysis) and the file review metrics indicate that there were no issues regarding the completeness of minimum data requirements (MDRs); however, there are some issues with accuracy that will be discussed in Element 2.
	Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	
	Metric(s) and Quantitative Value	
	State Response	
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	

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

2.1	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input checked="" type="checkbox"/> Area for State Improvement (Recommendation Required)
	Finding	Many of the inspection files reflected a different compliance status than did the OTIS detailed facility report.

<p>Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)</p>	<p>The data metrics (preliminary data analysis) indicate no issues with data accuracy. The file review metrics indicate that there are data accuracy issues. Many of the data inconsistencies were minor (e.g., SIC codes, street addresses, and zip codes not matching up between the OTIS detailed facility report and the RIDEM inspection file). However, there was one major issue regarding compliance status inconsistencies. Many of the inspection files reflected a different compliance status than did the OTIS detailed facility report.</p> <p>The primary issue here is that RIDEM has not been manually entering compliance status changes under the appropriate AFS air program codes. RIDEM stated that, based on past AFS training given to them by EPA, they thought once they entered a results code in AFS for a given action (e.g., FCE, PCE, file review, etc.) that AFS automatically revised the compliance status within the applicable AFS air program code(s).</p> <p>Another issue pertains to actions, such as stack testing, where the RIDEM revises a compliance status code to “unknown” pending the final test report results. This “unknown” compliance status is sometimes carried forward even after a determination of “in compliance” or “in violation” has been made. EPA has requested that once a stack test observation has been completed that RIDEM enter a “pending” code in AFS until such time that a final stack test report review is completed. Once the final stack test report has been reviewed and a determination has been made as to whether a given facility has either passed or failed a stack test, RIDEM should change the “pending” code to either “passed” or “failed” depending on the outcome of the report review. (Note: Currently, RIDEM has disinvested from its stack test program due to resource issues.)</p> <p>In discussing the compliance status inconsistency issue with the RIDEM, EPA came to a mutual agreement with RIDEM that for compliance code changes that encompassed more than one AFS air program (e.g., Title V, SIP, and MACT), a change in the compliance status code for only one air program code would be selected instead of changing all the applicable air program codes. This would reduce the need to change the compliance codes for multiple air programs and minimize the potential for compliance status code inconsistencies in AFS. For example, if a MACT violation occurred at a facility that was currently coded as “in compliance” in AFS, and that MACT requirement was included in a Title V operating permit, the RIDEM would revise its compliance code to “in violation” for Title V, but not make any compliance code changes to the MACT air program code.</p> <p>During the discussion of this finding, the RIDEM stressed the need for AFS modernization. The RIDEM believes a modernized database would help to alleviate most of the data accuracy issues they have experienced. For instance, if a particular facility is coded in AFS as being “in violation” and a subsequent FCE is conducted that indicates that the source is in compliance, then it would be helpful to have a database that had the ability to</p>
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		automatically change preceding compliance status codes to “in compliance” without the need for RIDEM to manually change the codes in AFS.
	Metric(s) and Quantitative Value	A total of 17 out of 22 files reviewed, or 77.3%, of the files reviewed had some type of data inconsistencies when compared to the corresponding OTIS detailed facility reports. A total of 10 out of 22 files reviewed, or 45.5%, had compliance status inconsistencies when compared to the corresponding OTIS detailed facility reports.
	State Response	
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	EPA Region I staff met with RIDEM staff on October 6, 2009 to discuss the data accuracy issue. During this meeting, EPA provided AFS training to RIDEM staff pertaining to the proper way of making compliance status code changes to AFS to ensure that AFS accurately reflects the correct compliance status for the universe of sources found in Rhode Island. This meeting between EPA and RIDEM is expected to resolve the data accuracy issue, and therefore, the October 6, 2009 meeting addressed this recommendation.

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

2.2	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input checked="" type="checkbox"/> Area for State Improvement (Recommendation Required)
	Finding	RIDEM enters Consent Agreements into AFS; however, the associated penalties are not included in national enforcement reports.
	Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement,, provide recommended	As part of its enforcement response, RIDEM uses a tool known as a Notice of Violation and Administrative Penalty (NOVAP). The Region uses the term NOVAP as well because RIDEM NOVs include features not found in EPA NOVs or the NOVs used in many other states. Each NOVAP advises the respondent of the alleged facts surrounding the case, the statutes and regulations that are the basis of the alleged violations, requirements to meet compliance, and includes an administrative penalty. The requirements to meet compliance are set forth in the order portion of the NOVAP. The assessed penalty is developed in accordance with the administrative penalty regulations, and the NOVAP includes worksheets providing information on

action.)	<p>how the penalty was determined. The maximum penalty for violations is derived from the legislative statute providing RIDEM with the authority to assess and collect a penalty for civil (non-criminal) violations of laws or regulations.</p> <p>Consent Agreements are issued to a violating facility, after an NOVAP has been issued, if the violating facility requests a hearing and the proposed penalty found in the NOVAP is revised based on settlement negotiations (this occurs in most instances). If no such hearing is requested by a facility after an NOVAP has been issued, the penalty found in the NOVAP becomes the final penalty figure. In the past, entering the proposed penalty from an NOVAP and the final penalty from a subsequent Consent Agreement, for the same violation, resulted in AFS reporting that two penalties were assessed (the proposed penalty from the NOVAP and the final penalty from the Consent Agreement). Several years ago, Region 1 identified this data issue and developed a special code for RIDEM Consent Agreements (AFS code 00). The intent was to insure that penalties would not be double counted in AFS for NOVAPs (AFS code X1) and Consent Agreements (AFS code 56) resulting from the same violation.</p> <p>Region 1 and EPA’s Office of Enforcement and Compliance Assurance’s examination of data shows that RIDEM is reporting “00” actions with penalties and has done so 14 times from FY05 to the present. The examination also revealed that by using the AFS code “00” for Consent Agreements the action is not being mapped to any national action in AFS, and therefore, none of this enforcement work is being reflected in the national enforcement reports.</p>
Metric(s) and Quantitative Value	A total of 14 out of 14 Consent Agreements coded as “00” in AFS from 2005 to the present, or 100%, have not been properly mapped to a national action, and therefore, are not reflected in national enforcement reports.
State Response	
Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	<p>On October 6, 2009, EPA and RIDEM staff met to discuss this issue. It was mutually agreed to by both EPA and RIDEM that starting in federal fiscal year 2010, RIDEM would discontinue its use of the AFS code “00” for Consent Agreements and begin using the AFS code “X1” for NOVAPs and the AFS code “56” for Consent Agreements. To avoid the issue regarding the double counting of penalties, RIDEM stated that it would not initially enter into AFS a proposed penalty figure from NOVAPs issued. Instead, the RIDEM would only enter penalty data in AFS for Consent Agreements issued and for NOVAPs that became the final enforcement action (when it is determined by RIDEM that no hearing was requested and the proposed penalty figure in the NOVAP becomes the final penalty amount assessed). This October 6, 2009 meeting addressed the recommendation.</p>

[CAA] Element 3 - Timeliness of Data Entry - Degree to which the Minimum Data Requirements are timely.

<p>3.1</p>	<p>Is this finding a(n) (select one):</p>	<p> <input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input checked="" type="checkbox"/> Area for State Improvement (Recommendation Required) </p>
	<p>Finding</p> <p>Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)</p> <p>Metric(s) and Quantitative Value</p> <p>State Response</p> <p>Action(s) (Include any uncompleted actions from Round 1 that address this issue.)</p>	<p>RIDEM is below the national average for having HPV data entered into AFS in a timely manner.</p> <p>The RIDEM provides EPA with High Priority Violator (HPV) forms so that EPA can enter the HPV data into AFS. The data metrics indicate that RIDEM is below the national average for having HPV data entered into AFS in a timely manner (within 60 days of identification of an HPV). The national average was 24.8% and the RIDEM average was 8.3%.</p> <p>In many cases, HPVs are not identified until EPA and the RIDEM meet face-to-face to discuss RIDEM enforcement actions taken since the last face-to-face meeting. Due to limited resources at both EPA and RIDEM over the past few years, EPA has reduced the number of HPV face-to-face meetings with the RIDEM from quarterly to semiannually.</p> <p>A discussion with the RIDEM concerning this issue has resulted in RIDEM committing to submitting HPV forms to the EPA liaison by email on an ongoing basis. In addition, for the past several years, RIDEM has been sending the EPA liaison copies of all enforcement actions it issues. These enforcement actions will be reviewed by EPA and discussed with RIDEM on an ongoing, monthly basis in order to discuss potential HPVs (especially where there may be uncertainty) so that HPVs identified are entered into AFS in a timely manner.</p> <p>The percent of HPVs where HPV data was entered into AFS in a timely manner was 8.3%. The Clean Air Act (CAA) data metrics indicates that HPV data was entered into AFS in a timely manner for 1 out of 12 identified HPVs.</p> <p>This same issue was highlighted in the last RIDEM State Review Framework (SRF) report completed in 2005. Since the completion of the last SRF review, RIDEM has been sending EPA HPV forms in a timelier manner when they are certain that documented violations meet the HPV criteria. However, there are circumstances when it is unclear whether documented violations meet the HPV criteria and the decision as to whether these violations meet the HPV criteria is not made until the face-to-face meetings between EPA and RIDEM occur. To expedite the identification of HPVs where there is uncertainty as to whether documented violations meet the HPV criteria, RIDEM and EPA both commit to more frequent (monthly)</p>

		phone discussions to discuss potential HPVs. EPA and RIDEM had their first monthly discussion of potential HPVs on October 6, 2009 and identified two additional HPVs. RIDEM will be submitting HPV forms for these two, newly identified HPVs shortly. EPA will continue to contact RIDEM on a monthly basis to discuss potential HPVs. By December 31, 2009, EPA will verify the number of calls that took place between EPA and RIDEM to discuss potential HPVs for the first quarter of 2010 and determine the number of newly identified HPVs found during this timeframe as a result of this procedure.

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

4.1	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input checked="" type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement (Recommendation Required)
	Finding	In federal fiscal year 2007, RIDEM did not complete all of its Air Program commitments because of reductions in the number of air inspectors.
	Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	<p>The findings for compliance commitments regarding inspections can be found in Element #5, and the findings for enforcement commitments can be found in Element #s 9, 10, 11 and 12.</p> <p>In its PPA workplan for federal fiscal year 2007, RIDEM committed to observing 30 stack tests and 27 relative accuracy test audits (RATAs) and cylinder gas audits (CGAs). For federal fiscal year 2007, RIDEM conducted 17 such activities. Because of budget constraints, the RIDEM's Office of Air Resources was down one CAA inspector position in 2007. In addition, two air inspectors left the RIDEM in the middle of federal fiscal year 2008, leaving the RIDEM with three vacant air inspector positions. During the first quarter of federal fiscal year 2009, RIDEM reassigned one of its permit writers, temporarily, to air inspection duties. In addition, during the second quarter of federal fiscal year 2009, the RIDEM filled one of its vacant air inspector positions. Due to the lack of air inspectors in 2007 and 2008, the RIDEM began to disinvest in its stack testing program in 2007 and completely disinvested from this program in 2008. Now that the inspector shortage has been alleviated somewhat, EPA will discuss with RIDEM whether it plans to reinvest in the stack test program, which entails reviewing test protocols and final test reports and observing stack tests, RATAs and CGAs.</p> <p>Due to the resource issues RIDEM's Office of Air Resources (OAR) was experiencing in 2007 and 2008, EPA reluctantly went along with RIDEM's</p>

		decision to disinvest from its stack testing program. Now that OAR has acquired new staff to conduct air inspections, EPA will have further discussions with RIDEM to determine whether they have plans to re-invest in the stack test program. (Note: In a meeting with RIDEM on October 6, 2009, EPA learned that there is a possibility that RIDEM could lose as many as 66 employees due to layoffs/state budget issues. Therefore, EPA has decided to wait and see how OAR is affected by any upcoming layoffs before discussing the issue of stack test reinvestment.)
	Metric(s) and Quantitative Value	A total of 17 activities under the stack test program occurred out of a total of 57 such activities committed to in the 2007 RIDEM PPA workplan, or 29.8%.
	State's Response	
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	

[CAA] Element 5 – Inspection Coverage - Degree to which state completed the universe of planned inspections/compliance evaluations (addressing core requirements and federal, state and State priorities).		
5.1	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input checked="" type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement (Recommendation Required)
	Finding	The RIDEM did not meet its commitments pertaining to full compliance evaluations (FCEs) at Title V major sources.
	Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	<p>According to the preliminary data analysis, the RIDEM conducted 75.6% of the required FCEs at Title V major sources within the required two year CMS cycle, ending in 2007. Prolonged budget constraints resulting in air inspector resource shortages in the air program, going back to the last RIDEM SRF review, are the root cause why the RIDEM has not been capable of meeting its Title V major source inspection commitments.</p> <p>It should be noted that RIDEM surpassed its commitment to conduct FCEs at 20% of its synthetic minor 80% (SM80) sources in federal fiscal year 2007. In 2007, the first year of a new five year CMS cycle for SM80s, RIDEM inspected 49.3% of its SM80 facilities.</p> <p>When asked by EPA why RIDEM did not trade-off some of its SM80 inspections for Title V major source inspections in order to meet both their Title V major and SM80 inspection commitments, the RIDEM stated</p>

	<p>that one of its air inspectors didn't have the proper training and/or knowledge to conduct a thorough Title V major source inspection and was assigned to conduct only SM80 inspections. (This air inspector has since left RIDEM.)</p> <p>The air inspector resource shortage has been an important area of concern for both EPA and RIDEM for many years; however, in federal fiscal year 2009, RIDEM was able to hire one full-time CAA inspector and re-assign, temporarily, one of its permit writers, who was a former air inspector, as a full-time air inspector. It is anticipated that the actions taken by RIDEM in this area will resolve most, if not all, of the inspection coverage issues.</p> <p>RIDEM has already taken the necessary steps to ensure that they have the air inspector resources needed to meet their CMS inspection commitments.</p> <p>(Note: In a meeting with RIDEM on October 6, 2009, EPA learned that there is a possibility that RIDEM could lose as many as 66 employees due to layoffs/state budget issues. This could have an impact on RIDEM CAA inspector resources for federal fiscal year 2010 and beyond.)</p>
Metric(s) and Quantitative Value	From the preliminary data analysis, RIDEM inspected 31 of 41 Title V major sources within the required CMS two year cycle, or 75.6%. In addition, 33 of 67 SM80 facilities, or 49.3% of the SM80s were inspected within the first year of the five year CMS cycle for SM80 sources.
State Response	
Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	

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

6.1	Is this finding a(n) (select one):	<input checked="" type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement (Recommendation Required)
	Finding	RIDEM's air inspection reports or compliance monitoring reports (CMRs) were comprehensive and properly documented observations noted during the inspections. The RIDEM should be commended for developing and using a Title V FCE checklist.

<p>Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)</p>	<p>Of the 22 files reviewed by EPA, 17 of the files indicated that FCEs were done in federal fiscal year 2007 (one FCE was actually done in 2006, but because enforcement action was taken by RIDEM in 2007, EPA included a review for this 2006 FCE). Inspection reports were found in the files for each of the 17 FCEs conducted. The inspection reports or compliance monitoring reports (CMRs) were found to be comprehensive and properly documented observations noted during the inspections. EPA’s review revealed that RIDEM inspectors were making accurate compliance determinations.</p> <p>In regards to completing inspection reports in a timely manner, it should be noted that EPA’s Region I Air Technical Unit has a general policy that inspection reports should be completed within 30 days of completion of an FCE or PCE (partial compliance inspection). Of the 17 inspection reports completed by the RIDEM and reviewed by EPA as part of this SRF, 15 out of the 17 reports were completed within a month, with the majority (13) completed within two weeks. One of the 17 reports was completed within 38 days of the FCE, and one report was not completed until nine months after the FCE was conducted. (This is considered an anomaly, and the inspector responsible for completing this inspection report has since retired from the RIDEM.)</p> <p>The RIDEM should be commended for taking the initiative to develop and continue to use a Title V FCE checklist. This checklist is used during all Title V FCEs. The checklist lists each condition of a Title V permit, the method used to determine compliance and the compliance status of each condition. There is also space on the checklist for an inspector to provide additional comments. This feature ensures that compliance determinations are made for each regulated emission unit included within a Title V permit.</p> <p>RIDEM also created an FCE tally sheet to make it easier for inspectors to determine when an FCE is complete so they can provide this data to the AFS data entry person in a timely and complete manner for entry into the AFS database. RIDEM informed EPA that this tally sheet is currently not used by seasoned inspectors since they have used the sheet so often they now know when an FCE is considered complete without the need for the tally sheet; however, it is a tool that will continue to be used for new air inspectors.</p>
<p>Metric(s) and Quantitative Value</p>	<p>A total of 17 out of the 22 files reviewed included FCEs and inspection reports, or 77.3% of the files reviewed. A total of 15 out of the 17 inspection reports, or 88.2%, were completed within a month of the applicable FCE. A total of 1 out of the 17 inspection reports, or 5.9%, were completed with six weeks of the FCE and 1 out of 17, or 5.9%, were completed 9 months after completion of the FCE.</p>

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

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

7.1	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input checked="" type="checkbox"/> Area for State Improvement (Recommendation Required)
	Finding	Some violations were not properly entered into AFS.
	Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	<p>The preliminary data analysis indicates that RIDEM observed one stack test in 2007 (at Covalence Specialty Adhesives) that resulted in a failed stack test where the compliance status code is inaccurately reflected. In the OTIS detailed facility report for Covalence, under the heading “Compliance Monitoring History (5 years),” OTIS reports that a failed stack test was observed by RIDEM on July 26, 2007. EPA reviewed the AFS worksheet completed and provided to the RIDEM AFS data entry person. The sheet indicates that there was an NSPS violation due to the failed stack test. The AFS worksheet indicates that the violation was entered into AFS with Action #010. The OTIS detailed facility report, under the heading “Three Year Compliance Status by Quarter” indicates that Covalence was in compliance for the NSPS and SIP air programs consistently from at least the April to June 2006 calendar quarter to at least the January to March 2009 calendar quarter. Therefore, there is either some logic problem in translating data from the AFS database to the OTIS database, or RIDEM inadvertently forgot to go into the NSPS air program in AFS and revise the compliance status code from “in compliance” to “in violation.” In any event, the more important issue here now is that RIDEM has totally disinvested in its stack test program as discussed in Element # 4.</p> <p>The RIDEM made accurate compliance determinations based on inspections, stack test observations, and various report reviews (e.g., Title V annual compliance certifications, final stack test reports, CEM reports, semiannual monitoring and deviation reports, etc.).</p>

	Metric(s) and Quantitative Value	A total of 1 out of 1, or 100%, of failed stack tests were showing an inconsistent compliance status in the preliminary data analysis. As already reported in Element #2, a total of 10 out of 22 files reviewed, or 45.5% of the files had compliance status inconsistencies when compared to the corresponding OTIS detailed facility reports.
	State Response	
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	See Element #2 for recommendation regarding data accuracy, especially as it relates to compliance status.

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

8.1	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input checked="" type="checkbox"/> Area for State Improvement (Recommendation Required)
	Finding	HPVs are not always entered in AFS in a timely manner.
	Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	Based on EPA's review of 8 case files pertaining to HPVs, EPA determined that RIDEM is very capable of making accurate compliance determinations; however, in some circumstances, RIDEM has been uncertain whether specific violations meet the HPV criteria and those decisions have been decided jointly with EPA during semiannual face-to-face meetings between EPA and RIDEM. Waiting for the face-to-face semiannual meetings has caused some delay in identifying HPVS in AFS in a timely manner.
	Metric(s) and Quantitative Value	
	State Response	
	Action(s) (Include any uncompleted actions from Round 1 that	See Element #3 for recommendations regarding timeliness of data entry regarding HPVs.

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

9.1	Is this finding a(n) (select one):	<input checked="" type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement (Recommendation Required)
	Finding	RIDEM always seeks injunctive relief, where necessary, in its informal and formal enforcement actions, includes clear and concise descriptions of the injunctive relief necessary, and a timeframe for achieving compliance, so that facilities with violations return to compliance expeditiously.
	Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	<p>The RIDEM issued informal enforcement actions in all cases where violations were found. These informal enforcement actions (e.g., Letters of Noncompliance (LNCs), Notices of Alleged Violation (NOAVs), and Notices of Intent to Enforce (NOIEs) serve as early warning notices to violating facilities so that such facilities can return to compliance as expeditiously as possible. These informal actions provide violating facilities with a description of the violations and the corrective actions necessary for a violating facility to return to compliance. For easily rectified violations, such as the submittal of late reports and the submittal of permit applications for equipment installed and operated without obtaining a permit, these informal actions also provide a timeframe, usually thirty (30) days, for a violating facility to submit the required reports or permit applications to RIDEM. As such, in many cases, a facility is returned to compliance before the RIDEM takes formal enforcement. If facilities cannot return to compliance expeditiously, the formal enforcement actions issued to such facilities do require that corrective action be taken to return facilities to compliance.</p> <p>RIDEM should be commended for always seeking injunctive relief, where necessary, in its informal and formal enforcement actions and for including clear and concise descriptions of the injunctive relief necessary, and a timeframe for achieving compliance, so that a violating facility returns to compliance expeditiously.</p>
	Metric(s) and Quantitative Value	A total of 13 out of the 22 files reviewed (59%) involved the issuance of informal enforcement actions (either Letters of Noncompliance or Notices of Alleged Violations). A total of 9 out of the 22 files reviewed (40.9%) involved the issuance of formal enforcement actions with the assessment of penalties (1 out of the 9 formal enforcement actions occurred at a non-HPV facility). Please note that not all enforcement actions reviewed occurred in federal fiscal year 2007, but because these actions were associated with activities that did take place in federal fiscal year 2007, EPA believed it was

	<p>necessary to review these enforcement actions as well. These actions included the following: for Covalence Specialty Adhesives LLC, both the informal enforcement action (NOAV) which was issued on 10/9/07 and the formal enforcement action (Notice of Violation and Administrative Penalty (NOVAP)) which was issued on 6/2/08; for American Power Conversion, the LNC which was issued on 9/20/06; for Original Bradford Soap Works, the NOVAP issued on 9/2/06 and penalty paid on 10/4/06; and for Raytheon Company the NOAV issued on 8/8/06.</p> <p>Although Original Bradford Soap Works was addressed in federal fiscal year 2006, the enforcement file was reviewed because the file selection tool indicated that it was an active HPV in federal fiscal year 2007 (most likely because the penalty wasn't paid until 10/4/07 – four days into federal fiscal year 2007).</p> <p>In 100% of the applicable files reviewed, the RIDEM required the necessary injunctive relief to return a facility to compliance within a specified timeframe to ensure a violating facility returned to compliance expeditiously.</p>
State Response	
Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	

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

10.1	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input checked="" type="checkbox"/> Area for State Improvement (Recommendation Required)
	Finding	RIDEM did not consistently meet the timeliness guidelines set forth in EPA's "Timely and Appropriate" guidance document.
	Explanation. (If Area for State Attention, describe why action not required, if Area for	The RIDEM was found to always take appropriate enforcement once violations were identified; however, for the review period, the RIDEM did not consistently meet the timeliness guidelines set forth in EPA's "Timely and Appropriate" guidance document. In 4 out of the 8 enforcement files reviewed for HPVs (note that Covalence Specialty Adhesives LLC is classified as a true minor source and was not identified as an HPV so the "Timely and Appropriate" requirements do not apply in this case), the

<p>Improvement, provide recommended action.)</p>	<p>RIDEM did not address the violations within 270 days of the violation discovery date (Day Zero). Specifically, RIDEM did not address the violations occurring at American Power Conversion, Cranston Water Pollution Control Facility, Kenyon Industries, and Raytheon Company until approximately 329, 335, 570, and 463 days after Day Zero, respectively.</p> <p>In addition, the violations occurring at Riverpoint Laceworks were not addressed until approximately 335 days after Day Zero; however, in this case, the RIDEM had referred the case to EPA for alleged NSPS Subpart Dc violations that the RIDEM did not have the authority to enforce. EPA returned the case-lead back to RIDEM once it determined that it couldn't, with any certainty, prove that the facility had commenced construction after the effective date of NSPS Subpart Dc.</p> <p>In discussing this issue with the RIDEM, they informed EPA that they are currently looking for ways to streamline the formal enforcement process. For instance, for violations pertaining to the failure to submit a timely Title V annual compliance certification, the RIDEM is considering if they can draft a canned boilerplate NOVAP that can be issued without the Legal Office's review and sign-off. EPA was told that this may also carry over to other types of violations that occur often and are resolved easily (e.g., failure to apply for and obtain a permit for small boilers or generators).</p>
<p>Metric(s) and Quantitative Value</p>	<p>A total of 4 out of the 8 enforcement case files reviewed for HPVs, or 50%, indicated that the RIDEM had not addressed the HPV violations within the appropriate time frame of 270 days, as required by EPA's "Timely and Appropriate" guidance.</p> <p>A total of 1 out of 8 enforcement case files reviewed, or 12.5%, indicated that the RIDEM had not addressed the HPV violations within 270 days; however, the RIDEM most likely would have met the 270 day time frame if the case had not been referred to EPA in order to pursue potential NSPS Subpart Dc violations.</p> <p>A total of 3 out of the 8 enforcement case files, or 37.5%, were addressed within the required 270 day time frame.</p>
<p>State Response</p>	
<p>Action(s) (Include any uncompleted actions from Round 1 that address this issue.)</p>	<p>EPA recommends that the RIDEM offices that are involved in addressing Air Program HPVs (the Office of Air Resources, the Office of Compliance and Inspection, and the Legal Office) meet jointly on a regular basis to discuss and prioritize Air Program HPV cases to ensure that any issues are identified early on in the process and resolved quickly in order that the addressing enforcement actions get issued within the appropriate time frame. RIDEM should report on these meetings to EPA during semi-annual visits. This procedure will begin in the first quarter of FY 2010 (October 1, 2009 – December 31, 2009.)</p> <p>In the last SRF review, EPA made a recommendation that RIDEM give its</p>

	highest priority to HPVs to ensure that formal enforcement is taken within the required 270 day time frame.
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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	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement (Recommendation Required)
	Finding	RIDEM calculates economic benefit and gravity correctly.
	Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	<p>The file review of 9 enforcement case files where the assessment of penalties was appropriate indicated that the RIDEM is calculating and collecting penalties for both economic benefit and gravity, when appropriate, and is using their penalty matrix worksheet consistently to ensure that they are assessing appropriate penalties.</p> <p>Where a specific case did not have an economic benefit component, there was no information in the file indicating RIDEM's rationale for not seeking economic benefit (for instance there was nothing in the file that indicated that there was no economic benefit associated with the given violations) or that the economic benefit was insignificant – less than \$5,000).</p> <p>In discussing with RIDEM the need to provide a rationale for not seeking economic benefit in the file for a particular case, the RIDEM informed EPA that beginning in January of 2009, the RIDEM instituted a procedure whereby all future enforcement case files would include a memo to the file when economic benefit was not being sought that included RIDEM's rationale for not seeking such a penalty.</p> <p>The issue raised in the "Findings" section above regarding economic benefit has already been resolved to EPA's satisfaction so this is no longer an area of concern.</p>
	Metric(s) and Quantitative Value	A total of 9 out of 9 enforcement case files reviewed, where the violations documented warranted the assessment of a penalty, or 100%, indicated that RIDEM was assessing and collecting appropriate penalties.
	State Response	
	Action(s) (Include any uncompleted actions from Round 1 that address this	

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

12.1	Is this finding a(n) (select one):	<input checked="" type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement (Recommendation Required)
	Finding	RIDEM is seeking and collecting appropriate penalties and their enforcement case files thoroughly document their rationale for reducing a penalty. In addition, all the appropriate enforcement case files reviewed included copies of penalty checks indicating that all penalties had been paid in full.
	Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	<p>Of the 9 enforcement case files reviewed where a penalty was assessed, 2 of the facilities settled with no reduction in penalty and 6 facilities negotiated a penalty reduction. In addition, one facility went into receivership and ultimately went out of business without paying a penalty or negotiating a reduced penalty. (The RIDEM is utilizing a collection agency to collect the penalty from this facility).</p> <p>All 6 enforcement case files reviewed, for facilities where the final penalty was reduced, included penalty reduction memos describing the RIDEM's rationale for reducing its proposed penalty.</p> <p>For each of the 8 enforcement case files reviewed where a penalty was collected, a copy of the penalty check was included in the case file that indicated that the penalty had been paid in full.</p> <p>The data metrics indicate that RIDEM is seeking penalties 100% of the time in its formal enforcement actions against HPVs.</p>
	Metric(s) and Quantitative Value	Penalties have been collected from 8 out of the 9, or 88.9%, of facilities whose enforcement case files were reviewed. Penalties have not been collected, to date, from 1 out of the 9, or 11.1% of facilities whose enforcement case files were reviewed (due to receivership and ultimate closing of the facility).
	State's Response	
	Action(s) (Include any uncompleted actions from	

	Round 1 that address this issue.)	
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Clean Water Act

[CWA] Element 1 – Data Completeness		
Degree to which the Minimum Data Requirements are complete.		
1-1	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input checked="" type="checkbox"/> Area for State Improvement (Recommendation Required)
	Finding	Data system does not contain complete list of active permits. Three permits identified by RIDEM as major facilities (Bradford, Clariant, and Blount Seafood) are missing.
	Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	Three (3) active facilities are not listed in the active universe metric for major individual permits. A review of the data system indicates that these facilities are coded as having expired permits. One of these facilities (Bradford) may also be erroneously coded as a non-major facility. In addition, a number of non-major general permits are not entered into the system, largely as a result of data entry backlogs, according to RIDEM. The State should expeditiously review and update the status of these active major facilities. The state should also make an effort to address the non-major permit data backlog. Potential discrepancies between the data system and the state’s records regarding metrics 1c and 1d should be investigated.
	Metric(s) and Quantitative Value	1a – Active facility universe counts for all NPDES permit types. Value: Three of 25 active major facilities in data system missing. 1c and d – Non-major permit limits and DMR entry. Value: discrepancies exist between state and federal data systems
	State Response	
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	By January 31, 2010, RIDEM should complete its review of the permit status of the expired permits and update the data system, as appropriate.

[CWA] Element 1 – Data Completeness

Degree to which the Minimum Data Requirements are complete.

1-2	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input checked="" type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement (Recommendation Required)
	Finding	Data system does not contain complete lists of informal and formal actions
	Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	Thirteen (13) of 16 files reviewed demonstrated incomplete information in the data system. For these files, a limited number of inspections, formal and informal enforcement actions, and penalties were not entered in the data system. This is identified as an area of attention because since the review year, the state been entering informal actions and improving its tracking of formal actions. While entering penalty information into the data systems is not required, EPA believes that if penalty information is being entered, it should be accurate and up to date. Some, but not all assessed penalties were entered into the system during the review year. This is only an area of concern because the state was able to provide complete penalty information. Since the initial data retrieval, additional penalties have been entered.
	Metric(s) and Quantitative Value	1e – Informal enforcement actions. Value: During review year, state did not enter approx. 30 informal actions (26 inspection deficiency letters and 4 by OCI) into the data system as informal actions. 1g – Penalties. Value: \$31K of \$495,333 in penalties entered into data system.
	State Response	
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	

[CWA] Element 1 – Data Completeness

Degree to which the Minimum Data Requirements are complete.

1-3	Is this finding a(n) (select one):	<input checked="" type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement (Recommendation Required)
	Finding	The State issues letters following major facility inspections and tracks deficiencies noted in these letters.
	Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	The State practice of sending letters to the inspected major facilities summarizing its findings, identifying deficiencies, as appropriate, and establishing a schedule for the facility to respond and tracking the violations is a best practice that merits our recognition. Since the review began, EPA understands that the state is not only entering informal actions into the data system, but also tracking the violations observed.
	Metric(s) and Quantitative Value	1e – Informal enforcement actions. Value: 26 letters sent to major facilities following major facility inspections that outline deficiencies and track responses.
	State Response	
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	

[CWA] Element 1 – Data Completeness		
Degree to which the Minimum Data Requirements are complete.		
1-4	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input checked="" type="checkbox"/> Area for State Improvement (Recommendation Required)
	Finding	The data system does not contain complete lists of informal and formal actions.
	Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	NOVs and CAs should be entered into the data system as formal actions. Consent Agreements that resolve the NOVs can be linked to the initial violations. At the initial data pull, the data system did not include a number of formal enforcement actions taken by RIDEM. Of the 10 major facility files reviewed, 6 formal enforcement actions were either initiated or resolved during the review year (Woonsocket, Cranston (2 actions), Kenyon, Newport, East Greenwich [permit appeal]). Of these, only Newport and East Greenwich (to resolve a permit appeal) were in the data system. An additional CA issued by RIPDES to resolve a permit appeal by East Providence was also in the system. The State indicates that 2 other formal enforcement actions against majors (NBC and West Warwick) taken during the year were not in the data system. RIDEM subsequently updated the system to reflect revisions to tracked actions.
	Metric(s) and Quantitative Value	1f – Formal enforcement actions. Value: Data system does not include 6 of 9 (66%) formal actions taken by state.
	State Response	
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	By March 31, 2010, RIDEM should submit to EPA documentation that it has developed and implemented procedures to assure formal actions issued by OCI and RIPDES are accurately and expeditiously entered into the data systems.

[CWA] Element 2 – Data Accuracy - Degree to which data reported into the national system is accurately entered and maintained (example, correct codes used, dates are correct, etc.).		
2.1	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input checked="" type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement (Recommendation Required)
	Finding	Formal enforcement actions are not accurately linked to violations.

<p>Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)</p>	<p>None (0%) of 3 formal actions entered into the data system at the time of the initial data retrieval were accurately linked to violations. As noted in Element 1-3, above, according to the state, a total of 9 formal actions were actually taken during this period. Of the 10 major facility files reviewed, 6 formal enforcement actions were identified as either being initiated or resolved during the review year (Woonsocket, Cranston (2 actions), Kenyon, Newport, East Greenwich). Of these, only Newport and East Greenwich (a Consent Agreement (CA) issued to resolve a permit appeal) were in the data system at the time of the initial data retrieval. A CA issued by RIPDES to resolve a permit appeal by East Providence was also in the data system as a formal enforcement action. RIDEM, however, has traditionally has not considered CAs issued to resolve permit appeals to be enforcement actions as they are not issued in response to permit violations. The State indicates that 2 other formal enforcement actions taken against major facilities (NBC and West Warwick) during the review year were also not in the data system. RIDEM subsequently updated the data system to reflect some of these additional actions. This is an area of State attention because EPA understands that since the review began RIDEM has begun linking violations to enforcement actions.</p>
<p>Metric(s) and Quantitative Value</p>	<p>2a – Actions Linked to Violations. Value: none (0) of 3 (0%) of formal actions linked to violations.</p>
<p>State Response</p>	
<p>Action(s) (Include any uncompleted actions from Round 1 that address this issue.)</p>	

<p>[CWA] Element 3 - Timeliness of Data Entry</p>		
<p>Degree to which the Minimum Data Requirements are timely.</p>		
	<p>Is this finding a(n) (select one):</p>	<p><input type="checkbox"/> Good Practice <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement (Recommendation Required)</p>
	<p>Finding</p>	<p>Entry of Minimum Data Requirements is timely.</p>

Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	A review of the frozen data sets indicates timely responses for the information in the data systems. However, there are data completeness issues in Element 1 and timeliness of actions in Element 10. While a review of frozen data showed the State meeting the data metrics for Element 3, data that is incomplete is also not timely.
Metric(s) and Quantitative Value	
State Response	
Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	

[CWA] Element 4 - Completion of Commitments.	
Degree to which all enforcement/compliance commitments in relevant agreements (i.e., PPAs, PPGs, categorical grants, CMS plans, authorization agreements, etc.) are met and any products or projects are completed.	
Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement (Recommendation Required)
Finding	RIDEM met its CWA commitments in FY2007.
Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	No incomplete commitments were identified through this review.
Metric(s) and Quantitative Value	

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

[CWA] Element 5 – Inspection Coverage		
Degree to which state completed the universe of planned inspections/compliance evaluations (addressing core requirements and federal, state and State priorities).		
5.1	Is this finding a(n) (select one):	<input checked="" type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement (Recommendation Required)
	Finding	Each major facility is inspected at least once per year.
	Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	RIDEM's inspection of every major facility at least once per year exceeds the current federal Compliance Monitoring Strategy inspection target of once every second year. RIDEM reports that 100% of facilities are inspected every year. EPA considers this an exemplary performance that merits EPA's recognition. As noted in Element 6-2 below, not all of the inspections had been entered into the data system as of the official data retrieval.
	Metric(s) and Quantitative Value	5a -- Inspection coverage: individual majors. Value: 100% of majors inspected annually.
	State Response	
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	

[CWA] Element 5 – Inspection Coverage		
Degree to which state completed the universe of planned inspections/compliance evaluations (addressing core requirements and federal, state and State priorities).		
5.2	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input checked="" type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement (Recommendation Required)
	Finding	All inspections commitments were completed.
	Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	Original data pull showed 68% of major facilities inspected. RIDEM reports that 100% of facilities are inspected every year. RIDEM corrections to the data system increased the reported inspection rate to 86%. For the remaining 3 facilities, the 2007 inspections were conducted in October 2007 and therefore not reflected in the FY07 data retrieval. This is an area for State attention because EPA considers this a minor issue requiring no additional action on the part of the state. As noted in Element 6.2, below, however, not all completed inspections were entered into the data system. EPA will work with RIDEM to address potential confusion regarding coding under Elements 5b and 5c (non-major and other inspections). 100 % of the majors are inspected each year. This inspection rate considerably exceeds the national average (67%) and the current CMS requirement of 50%. I believe it is appropriately regarded as a good practice.
	Metric(s) and Quantitative Value	5a -- Inspection coverage: individual majors. Value: 100% of majors inspected.
	State Response	
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	

[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.		
6.1	Is this finding a(n) (select one):	<input checked="" type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement (Recommendation Required)
	Finding	RIDEM inspectors use inspection checklists during major facility inspections.

Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	RIDEM's practice of using inspection checklists helps assure and verify that complete and thorough inspections are conducted. EPA considers this a best practice that merits EPA's recognition.
Metric(s) and Quantitative Value	6 – Quality of Inspection and or Compliance Evaluation Reports. Value: of 16 reports reviewed, most or all included the use of inspection checklists.
State Response	
Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	

[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.		
6.2	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input checked="" type="checkbox"/> Area for State Improvement (Recommendation Required)
	Finding	Fifty percent of inspection reports were not completed in timely fashion and not all inspections were entered into the data system.
	Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	Of the 16 files reviewed, 4 inspections had not been entered into the data system. In addition, for 50% of the inspection reports reviewed there were significant delays in the time between when the inspections were conducted and the reports were signed. It was noted in the review that in many cases the inspection report was signed and dated on the same date that the letter to the inspected facility summarizing the inspection was signed. RIDEM should evaluate having inspectors complete and sign inspection reports when they are completed and within xx days of the inspection, at most. All the inspection reports were deemed substantially complete and sufficient to lead to compliance determinations.
	Metric(s) and Quantitative Value	6a – No. of inspection reports reviewed. Value: Of 16 reports reviewed, 25% (4 of 16) had not been entered into the data system. 6d – Percent of timely inspection reports. Value: 8 of 16 inspection reports (50%) had

		delays of 48 and 274 days between the inspection and the report date.
	State Response	
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	By January 31, 2010, the state should provide documentation that it has implemented procedures to assure that inspection reports are expeditiously completed and entered into the data system.

[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 (e.g., facility-reported information).

7.1	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input checked="" type="checkbox"/> Area for State Improvement (Recommendation Required)
	Finding	Single-event violations (SEVs) not accurately identified and coded into data system.
	Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	None (0) of 3 SEVs identified in the 10 major facility files reviewed were accurately identified as such in the data system. In addition, the one (1) SEV that is entered in the data system (Kenyon) appears to be incorrectly coded as an SEV. Of the 3 violations that should have been coded as SEVs, at least one (Newport) should have also identified the underlying pretreatment violations as SNC; for the other two (both in Cranston), 1 involved an SSO, and likely should have been coded as SNC and the other involved sludge handling, odor and plant O&M.
	Metric(s) and Quantitative Value	7a1 – Single-event violations at major facilities. Value: Zero (0) of 3 SEVs (0%) identified in the 10 files reviewed were accurately identified in the data system as SEVs.
	State Response	
	Action(s) (Include any uncompleted actions from Round 1 that address this	By June 30, 2010, RIDEM should submit to EPA documentation that it has developed a protocol to assure that significant non-DMR violations are identified and properly coded into the data system. EPA can assist, as necessary, in providing guidance and technical assistance.

	issue.)	
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[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 (e.g., facility-reported information).		
7.2	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input checked="" type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement (Recommendation Required)
	Finding	Relatively high number of facilities with permit and compliance order schedule violations.
	Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	Two (2) of 7 facilities (29%) were reported to have unresolved compliance schedule violations in the PDA. Corrections to OTIS since the initial data pull have reduced this to 1 of 7 (14%) – Tiverton High School. Eight (8) of 37 facilities (22%) were reported as having permit schedule violations in the PDA, including a number of facilities selected for file reviews (ExxonMobil, Cranston, South Kingstown, and Quonset Point). Corrections to OTIS since the initial data pull have changed this to 8 of 35 (23%). Twenty (20) of 22 (91%) were identified as having DMR violations in 6/16/09 data metrics report. (Metric did not generate results in initial data pull.) (Note: This value does not include expired permits described in Finding 1-1). The number of facilities with schedule and DMR violations demonstrates a high degree of data entry, but suggests that additional efforts to review non-SNC violations may be warranted. One facility (Tiverton High School) is on both schedule violation lists and has a number of DMR violations, though, as a non-major facility, it is not included on the DMR list. EPA does not consider this an area for improvement but believes that RIDEM should consider establishing procedures to assure that permit and compliance schedule violations and DMR violations are tracked and addressed in a timely manner.
	Metric(s) and Quantitative Value	7b – Facilities with unresolved compliance schedule violations. Value: 2 of 7 (29%) identified as having unresolved compliance violations at time of PDA. 7c -- Facilities with unresolved permit schedule violations. Value: 8 of 37 (22%) identified as having unresolved schedule violations in initial PDA. 7d – Major facilities with DMR violations. Value: 20 of 22 (91%) identified as having DMR violations in 6/16/09 data report.
	State Response	
	Action(s) (Include any uncompleted actions from	

	Round 1 that address this issue.)	
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[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	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input checked="" type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement (Recommendation Required)
	Finding	SNC rates are near or above the national average.
	Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	Six (6) of 22 permits (27%) were identified as SNC in the PDA. Since the initial data pull, updates by the state and correcting for the discrepancy regarding the number of major active permits in RI (discussed in Element 1-1) reduced this number to 5 of 25 (20%). Un-coded and miscoded SEVs, as discussed under Element 7-1, above, likely result in an actual count of 7 of 25 facilities or 28%. EPA considers this an area for attention because the percentage is near or only slightly above the national average (22%). EPA and RIDEM should work together to develop a strategy to reduce the SNC rates of active majors.
	Metric(s) and Quantitative Value	8a1 – Active majors in SNC Value: 6 to 8 of 25 depending on SNC status of un-coded SEVs. 8a2 – Percentage of majors in SNC. Value: 28% using adjusted values.
	State Response	
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	

[CWA] Element 9 - Enforcement Actions Promote Return to Compliance

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

	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement (Recommendation Required)
	Finding	RIDEM compliance actions return facilities to compliance.

	Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	Enforcement Actions included injunctive relief, as necessary.
	Metric(s) and Quantitative Value	
	State Response	
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	

[CWA] Element 10 – Timely and Appropriate Action		
Degree to which a state takes timely and appropriate enforcement actions in accordance with policy relating to specific media.		
10.1	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input checked="" type="checkbox"/> Area for State Improvement (Recommendation Required)
	Finding	Timeliness and tracking of enforcement actions remain an area for State improvement.
	Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	<p>According to the data system, 6 facilities in RI with SNC violations were responded to in a timely manner. Two of these facilities were selected for file reviews as part of this review (Cranston and Kenyon). Cranston was in SNC for DMR non-receipt and was reported to have returned to compliance within 2 quarters. Kenyon was in SNC for effluent violations. Kenyon received a timely SNC letter. The violation at Kenyon has been tracked forward as “resolve pending.” Resolution appears to be linked to the installation of an on-site sanitary wastewater treatment system that was included as a SEP under a concurrent formal enforcement action for other effluent violations.</p> <p>EPA’s review of 10 major facilities suggests 3 additional enforcement actions at major facilities were potential SNC violations (Woonsocket,</p>

		Newport, and Cranston). EPA’s review concludes that none of these actions were taken with 60 days of the end of the second quarter of violations. Woonsocket received an NOV for SNC violations beginning approximately two years prior. The NOV and subsequent CA did not require any injunctive relief and it is unclear whether any measures were required by RIDEM to correct the violations, or when they were taken. The violations at Newport should have been tracked as SNC as they involved pretreatment program violations that are SNC by definition. While the RIDEM’s enforcement action was not timely, mitigating factors could include the RIDEM’s unsuccessful effort to refer the case to EPA. At least one of the Cranston violations (for SSOs) could reasonably be considered to have been SNC. The formal enforcement action (an NOV), occurring almost two years after the violations, was not timely. RIDEM has made progress implementing programs that streamline the identification and generation of informal enforcement actions (e.g., missing DMR and report responses). However, consistent with EPA’s findings in its FY03 enforcement and compliance program review (March 2005), timeliness of formal responses to complex enforcement cases remains an issue.
	Metric(s) and Quantitative Value	10a – Major Facilities Without Timely Action. Value: All 6 major facilities in SNC reported as receiving timely action in the data system. However, three (3) enforcement actions taken in response to likely SNC violations identified in EPA’s file review were not timely.
	State Response	
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	RIDEM should continue to evaluate whether it has adequate technical and legal enforcement resources to ensure that SNC violations are addressed in a timely and appropriate manner. By March 31, 2010, RIDEM should submit to EPA a plan to track actions taken to bring facilities back into compliance.

[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	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input checked="" type="checkbox"/> Area for State Improvement (Recommendation Required)
	Finding	State rarely includes economic benefits into penalty calculations
	Explanation. (If Area for State Attention, describe why action not	One (1) of 6 (17%) penalty calculations evaluated as part of EPA’s file review (Lawton Valley) included penalties for economic benefit as well as gravity. Of the 5 penalty cases without economic benefit calculations, there was no discussion of RIDEM’s decision not to assess economic benefit.

	required, if Area for Improvement, provide recommended action.)action.)	
	Metric(s) and Quantitative Value	11a – Percent of penalty calculations that consider and include gravity and economic benefit. Value: 17% (1 of 6 penalty calculations reviewed).
	State Response	
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	By March 31, 2010, RIDEM should submit a plan to insure that economic benefit is included for all penalty calculations absent compelling justification. This issue was also raised in the FY03 review report.

[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.		
	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement (Recommendation Required)
	Finding	RIDEM documents its penalty action and collects assessed penalties.
	Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	Differences between the initial and final penalty are documented in memos contained in RIDEM's enforcement files.
	Metric(s) and Quantitative Value	
	State's Response	
	Action(s) (Include any	

	uncompleted actions from Round 1 that address this issue.)	
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Resource Conservation and Recovery Act

[RCRA] Element 1 – Data Completeness - Degree to which the Minimum Data Requirements are complete.		
1.1	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement (Recommendation Required)
	Finding	Both the file review metrics and the Preliminary Data Analysis (PDA) did not indicate any issue with minimum data requirements. Accuracy issues will be addressed in Element 2.
	Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	
	Metric(s) and Quantitative Value	
	State Response	
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	

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

2.1	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input checked="" type="checkbox"/> Area for State Improvement (Recommendation Required)
	<p>Finding</p> <p>Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)</p>	<p>Compliance determinations, actions taken, violations discovered and/or addressed are not in RCRAInfo and do not match the data in the files.</p> <p>Twenty-one (21) enforcement actions issued at a total of nineteen (19) facilities and all of the related inspection reports were reviewed. RIDEM conducted a total of thirty-two (32) inspections relating to these 19 enforcement actions. A total of 4 out of the 19 individual facility files reviewed in the RCRAINFO database reflected complete and accurate data when compared to the facility files.</p> <p>The primary issue here is that all of the 15 records in RCRAInfo which were not accurate had missing data. All of the facilities had compliance status for numerous evaluations listed as "undetermined" even after a determination of "in compliance" or "in violation" had been made and enforcement responses issued. In addition, seven files had missing or partially missing data on enforcement actions taken/inspections conducted or violations found.</p> <p>The problem is that too many facilities are identified in RCRAInfo as not having a determination of compliance status made. Additionally, actions taken, violations discovered and/or addressed are not in RCRAInfo and do not match the data in the files. The file data indicates that more facilities have had status determinations made and more facilities have violations addressed than is recorded in the system. The file review demonstrates that these RCRA facilities are in compliance, whereas the data metrics indicate that is not the case. This creates an impression that the RCRA enforcement program is not as vigorous as it is.</p> <p>At the time of the file review, RIDEM had a single database manager for the RCRAInfo system located in OC&I. The data entry process in OC&I went as follows: The inspector notified the database manager on the day he/she conducted an inspection and the database manager entered the information into RCRA Info. At this point the inspection target and date were entered and the result was listed as undetermined. The inspector would then complete a report and submit it to a manager for review, and the manager would confirm the violations that were observed and determine the type of enforcement response. An enforcement action would then be prepared and issued to the facility. Once the final action was issued, the case would be sent to the database manager who would enter the information in RCRA Info. At this time the database manager may have forgotten to return to the inspection screen and update the inspection status by inputting the</p>

		<p>violations that were identified during the inspection and confirmed by management. In addition the database manager may have misinterpreted violation types and categories when inputting data from actions.</p> <p>Currently, enforcement/compliance staff are entering the data into RCRAInfo after the departure from state service of the past database manager. More accurate representations of the case files in the database may be the result of having enforcement staff doing the data entry. This may also be true of data under the control of the OWM if that office gains data entry rights.</p>
	Metric(s) and Quantitative Value	Fifteen of nineteen enforcement files or 79%, of the files reviewed had inaccurate or incomplete data in RCRAInfo when compared to facility files.
	State Response	
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	By June 31, 2010, RIDEM should establish a SOP for data entry into RCRAInfo that includes protocols to assure all data is properly updated. This will help case team members and managers insure all entered data related to their enforcement case is accurate in the data system. EPA can provide additional data entry training to OC&I and OWM to help ensure data accuracy in this transition time.

[RCRA] Element 3 - Timeliness of Data Entry - Degree to which the Minimum Data Requirements are timely

		<input type="checkbox"/> Good Practice <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement (Recommendation Required)
3.1	Is this finding a(n) (select one):	
	Finding	Both the file review metrics and the Preliminary Data Analysis (PDA) did not indicate any issue with timeliness minimum data requirements entries.
	Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	
	Metric(s) and Quantitative	

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

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

4.1	Is this finding a(n) (select one):	<input checked="" type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement (Recommendation Required)
	Finding	RIDEM completed 137% (125 inspections versus 91 planned) of their planned RCRA enforcement commitments in FY2007
	Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	
	Metric(s) and Quantitative Value	In FY2007 RIDEM committed to conduct a total of ninety-one (91) inspections including twenty-five (25) large quantity generator (LQG) inspections, fifty (50) small quantity generator (SQG) inspections, two (2) TSD inspections, ten (10) transporter inspections and four (4) transfer facility inspections. RIDEM completed a total of 125 inspections. Twenty-six (26) LQG inspections were conducted including 20 CEIs, 1 CDI and 5 CSEs. Fifty-five (55) SQG inspections were conducted including 34 CEIs, 5 CDIs and 16 CSEs. Two TSD inspections were conducted. The remaining inspections (42) were conducted at various facilities outside the LQG/SQG/TSD universes.
	State's Response	
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	

[RCRA] Element 5 – Inspection Coverage - Degree to which state completed the universe of planned inspections/compliance evaluations (addressing core requirements and federal, state and State priorities).

5.1	Is this finding a(n) (select one):	<input checked="" type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement (Recommendation Required)
	Finding	RIDEM exceeded the national average of 70% of LQGs inspected in 5 years by inspecting 94%.
	Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	The File Review Analysis showed that RIDEM completed 137% (125 inspections versus 91 planned) of their planned RCRA enforcement commitments in FY2007. (See 4.1 above) The PDA showed that RIDEM met the national goal of inspecting 100% of their TSDFs. They exceeded the national goal of inspecting 20% of their LQGs by inspecting 30%.
	Metric(s) and Quantitative Value	In FY2007 RIDEM committed to conduct a total of ninety-one (91) inspections including twenty-five (25) large quantity generator (LQG) inspections, fifty (50) small quantity generator (SQG) inspections, two (2) TSD inspections, ten (10) transporter inspections and four (4) transfer facility inspections. RIDEM completed a total of 125 inspections. Twenty-six (26) LQG inspections were conducted including 20 CEIs, 1 CDI and 5 CSEs. Fifty-five (55) SQG inspections were conducted including 34 CEIs, 5 CDIs and 16 CSEs. Two TSD inspections were conducted. The remaining inspections (42) were conducted at various facilities outside the LQG/SQG/TSD universes.
	State Response	
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	

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

6.1	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input checked="" type="checkbox"/> Area for State Improvement (Recommendation Required)
	<p>Finding</p> <p>Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)</p>	<p>EPA found that OC&I inspection reports reviewed were not sufficiently detailed.</p> <p>The standard OC&I inspection report is the CEI checklist. In more recent times (~ 2006) some report case files included both the CEI checklist and a written report narrative describing the inspection in detail. The narrative report was originally developed as a tool for documenting findings from a complaint response inspection that did NOT involve a hazardous waste generator. Several inspectors began completing both a CEI checklist as well as the complaint response (narrative) report and submitting them together for a standard Compliance Evaluation Inspection Report. The checklists provided the regulatory citations being evaluated. The total package included photos, drawings, maps of the facility, supporting documents detailing information about the facility and violations observed. The written narrative was an excellent bridge between the checklist and the supporting documents in that it weaved the pieces of the inspection together. This type of report with sufficient narrative allowed readers not familiar with the facility to get a firm understanding of what was observed during the inspection and how compliance determinations were made. Sometime around the mid-point of FY2007, OC&I management decided that inspectors should not include the narrative portion of the reports as part of the whole inspection report. The decision was based upon the potential for an inspector to include contradictory statements in the two reports that might become a problem should a generator contest a case and the matter be raised during a hearing/trial. The requirement has always been in place that the inspectors complete the CEI and include comments regarding the violations observed in the appropriate section of the checklist report. This led to five reviewed inspection reports completed during the second half of FY2007 that did not have adequate facility descriptions, descriptions of RCRA and non-RCRA activities/areas and detailed descriptions supporting the regulatory citations. The existing checklist does have locations in the report that will allow the use of an expanded narrative that would fully satisfy the report requirements. Not all inspectors are taking advantage of this capability.</p> <p>OC&I inspectors do an excellent job in completing their inspection reports in a very timely manner. The average length of time to complete an inspection report for RCRA inspectors of RIDEM was five (5) days. However, this is somewhat misleading as most reports are completed within one day of the inspection. Of the 32 inspection reports reviewed,</p>

		25 were completed within one day of the inspection and three more were completed within three (3) days.
	Metric(s) and Quantitative Value	A total of twenty-five (25) inspection reports prepared by OC&I were reviewed. Five (5) of the twenty-five (25) or 20% of the reports were not sufficiently detailed.
	State Response	
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	OC&I should modify the existing CEI checklist report by adjusting the format to include and encourage additional written narrative. OC&I management should use additional oversight and written policy to assure the proper use of the report. This assessment and potential redesign of the report should happen by January 1, 2010. EPA can provide technical assistance in the effort.

[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.

6.2	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input checked="" type="checkbox"/> Area for State Improvement (Recommendation Required)
	Finding	EPA found that OWM inspection reports reviewed were not sufficiently detailed.
	Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	The TSD inspection reports have shown improvement from previous evaluations. However, the TSD inspection reports still lack the quality and quantity of narrative and supporting documentation that is needed to have thorough reports. Inspection reports should contain details documenting conditions and activities at the facility at the time of inspection. These details should include facility descriptions, descriptions of RCRA regulated activities and non-RCRA activities/areas. These descriptions are not a summation of the operating permit but a real-time status update from the day of the inspection. The narrative should be detailed enough to discern which portions of the facility were reviewed and which were not. Enough factual information regarding compliance

		<p>issues or potential issues should be documented to ensure that potential questions about the nature and extent of the issue are answerable. Supporting documentation should be gathered and integrated in the inspection report including photographs, maps, drawings, diagrams and copies of documents that are reviewed at the facility that relate to the observed compliance status.</p> <p>Although non-TSD facility inspections are not as complex as their TSD counterparts, these inspection reports need to include the same types of content. Non-TSD facility inspection reports prepared by OWM do not utilize any narrative descriptions. No facility, process, RCRA and non-RCRA area descriptions are included. Photos, drawings, maps and supporting documentation are missing.</p> <p>Examples from the file review include an instance in which the inspector alleged that releases from containers had occurred and hazardous wastes were spilled. There were photos of the potential violations. However, none of the documentation could show if the liquids had actually come from a specific container or from another source. The containers in question were not documented as far as what their labeling indicated, including their potential contents. The photos could not identify where on the containers the releases were emanating from. The company later proposed that one of the instances was from a container holding non-hazardous wastes. This could not be refuted since there was no documentation at the time of inspection. An additional example was when the checklist stated that containers were not labeled with appropriate dates; but, the report did not state how many, which ones, contents, locations, etc., information that would be needed to support the action.</p> <p>OWM inspectors do an excellent job in completing their inspection reports in a very timely manner. The average length of time to complete an inspection report for OWM inspectors was six (6) days. However, this is somewhat misleading as most reports are completed within one day of the inspection. Of the 7 inspection reports reviewed, 4 were completed within one day of the inspection and the longest period was one that was completed within twenty (20) days.</p>
	Metric(s) and Quantitative Value	A total of seven (7) inspection reports prepared by OWM were reviewed. Seven (7) of the seven (7) or 100% of the reports were not sufficiently detailed.
	State Response	<p>1. TSD Facilities</p> <p>In the initial 2003 Audit EPA asserted that the TSD documentation “was not sufficient to support complete and all-inclusive enforcement action” and provided the following recommendation/commitment:</p> <p><i>Provide additional inspection and enforcement training to OWM staff in order to assure proper TSD inspections and adequately detailed reporting is conducted.</i></p>

At the time, OWM stated that they can neither agree nor disagree with the statement since no information was provided to RIDEM either orally or in writing to indicate what the alleged deficiencies were. In fact, no aspects of the TSD inspections were ever discussed with OWM. However, as successful enforcement action was carried through, the initial conclusion that enforcement action could not be supported was obviously overreaching and EPA revised it as shown above.

In subsequent requests for information about what documentation was missing, OWM was told that that documentation was not available but that a complete explanation would be provided when EPA conducted the enforcement training it had recommended. OWM concurred that the training would be an excellent opportunity to learn about the deficiencies and discuss remedies. EPA never conducted the training, and never provided follow-up information. That the alleged deficiencies would reoccur, in the absence of OWM being told what they were, is an entirely reasonable expectation. The report should make note of this.

In the current 2007 audit, EPA is again asserting the documentation is not adequate. We think that EPA has made progress in this area in that some information was provided orally and some general information was in the report about what they believe is missing; however, the documentation is still not detailed enough to allow the Office to evaluate and address the issues completely. However, we do not agree that the permit documentation must include a detailed narrative description of RCRA operations at the facility. The OWM issues the permit and maintains a file that includes the facilities operating plan, contingency plan, waste analysis plan, sampling and monitoring plan, training plan and stamped engineering drawings. OWM does not believe it is necessary for the engineer who wrote the permit to regurgitate the conditions of the permit and all related information in the inspection report. We believe the purpose of the inspection report should be to document the compliance status of the facility. If it is necessary, to pursue an enforcement action, to include information about the permit, this information is provided in summary memos to the OCI.

The report also recommends a detailed narrative of non-RCRA activities/areas in the inspection report. The OWM is not convinced that documenting non-regulated activities is a wise use of resources if the purpose is to document compliance status. It is possible OWM does not understand the nature of EPA's proposed changes, which is all the more reason they should be documented. Furthermore, it is possible that EPA has guidance requiring some of these items and they should be done to make the reports consistent. If so these should be shared with OWM.

2. Non-TSD Facilities (72 hour transfer stations)

Unlike TSD facilities, these operations are subject to RIDEM Hazardous

Waste Management Regulations but the activities are by and large not regulated by the federal RCRA regulations. As we discussed during the review, these facilities were not on the original list and OWM believes that including 100% of these facilities in the audit was justified. The recommendation is that documentation procedures should mirror those required by EPA for TSD's. In considering the amount of time required by EPA to produce this documentation, OWM is not convinced that this is a wise use of resources for facilities that are extremely limited in scope. Given manpower limitations, OWM could not perform yearly inspections of all 6 transfer stations if the level of effort was comparable to the TSD's we inspect yearly. To reduce our frequency of inspection in favor of more documentation, OWM would need to be convinced that this documentation has significant value.

3. Inspection Reports Reviewed

The finding mentions 32 inspection reports reviewed. OWM does not believe that number is accurate based on files that were requested.

4. Suggested Training

As previously discussed, EPA did not carry through on its commitment to provide OWM with training regarding TSD documentation. In this report they recommend other Divisions of RIDEM, none of which are responsible for TSD permitting or inspection, provide training on how to perform TSD inspections. This is inappropriate and should be removed. EPA should not draw on the limited resources of OLS and OCI to perform a function that is clearly EPA's responsibility.

Regarding the proposed training by OLS, it is OWM's understanding that the issue of TSD inspection documentation was never discussed with RIDEM legal counsel by EPA. The suggestion that OLS should provide OWM with training to correct the deficiencies presupposes RIDEM's attorneys support the conclusions of the report and will on their own correct the specific deficiencies EPA has only broadly identified. Our discussions with legal counsel do not support this conclusion. Our legal counsel has concerns that the changes EPA suggested verbally during the audit may complicate enforcement actions.

Furthermore, OWM wants to reiterate that the problems EPA is alleging should be documented in writing so RIDEM can review them and decide how to address them. It is unreasonable to expect the problems will be fixed until EPA identifies them. It is worth mentioning that **all** the enforcement cases pursued by OWM/WFM program since its inception in 1995 have been successful. This does not mean that inspections cannot be improved, but it does provide a basis to question EPA's assertion that other offices be put in charge of training for these activities.

	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	OWM should redesign their inspection report format to be close to that of OC&I. All the necessary pieces of the report should be the same but with the OWM developed checklists. OWM inspector staff should receive technical assistance from within RIDEM to further evidence documentation skills. EPA will assist in providing this assistance if requested. Since this recommendation relies in part on OC&I development of a report format, the technical assistance and redesign of the OWM report format should be completed by June 2010.
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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 (e.g., facility-reported information).

7.1	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input checked="" type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement (Recommendation Required)
	Finding	Of the twenty-one enforcement responses reviewed, two appeared to be inappropriate and inaccurate. RIDEM does a very good job in determining the compliance status of inspected facilities in a timely manner.
	Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	<p>Of the twenty-one enforcement responses reviewed, two appeared to be inappropriate. In both cases, RIDEM inspectors requested during the inspection that facility personnel fix violations that were discovered. Those violations were then never cited by the inspectors in any enforcement response. In both cases the facility did not receive any notice of any violation. These facilities should have been identified as secondary violators and should have received an LNC. If the facilities had received LNCs, then future non-compliance at the facilities could have been addressed with escalating enforcement.</p> <p>This is an Area for State Attention since RIDEM made the correct determination 91% of the time in files that were reviewed. However, this is a serious issue that RIDEM should continue to monitor.</p> <p>The average length of time to make the status determination was fifty-one (51) days. RIDEM should be commended for quickly moving the enforcement response process along so corrective actions can occur earlier.</p>
	Metric(s) and Quantitative Value	<p>In reviewed case files, RIDEM, made a correct decision 91% of the time for compliance determinations based on inspection reports.</p> <p>100% of violation determinations in the files reviewed showed that they are reported in a timely manner to the national database (within 150 days). RIDEM averaged 51 days to make these determinations.</p>

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

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

8.1	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement (Recommendation Required)
	Finding	OC&I makes accurate determinations of significant non-compliance. They do so independently and quickly. There were six SNCs determined in the files review and each determination was accurate.
	Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	
	Metric(s) and Quantitative Value	A total of six (6) formal enforcement actions reviewed. All six (6) or 100% of the actions were appropriate and accurate.
	State Response	
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	

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

<p>9.1</p>	<p>Is this finding a(n) (select one):</p>	<p><input type="checkbox"/> Good Practice <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement (Recommendation Required)</p>
	<p>Finding</p>	<p>RIDEM issued enforcement actions in all cases included injunctive relief or other complying actions to return the facility to compliance.</p>
	<p>Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)</p>	<p>Of the twenty-one enforcement responses reviewed, RIDEM determined that six of the facilities were SNC's. All of the formal enforcement actions returned each of the facilities to compliance. In addition, RIDEM determined that ten were SV's. All ten of these SV's were returned to compliance. Their return to compliance was confirmed through facility certifications and re-inspection of the facilities.</p> <p>EPA reviewed ten case files that resulted in an SV determination. Of those cases, the average length of time to return an SV to compliance was 79 days. Of the six formal cases reviewed, EPA found that the average length of time to return these facilities to compliance was approximately 560 days. This issue of formal enforcement timeliness will be addressed below in Element 10.</p>
	<p>Metric(s) and Quantitative Value</p>	<p>EPA reviewed a total of sixteen (16) formal and informal enforcement actions. All sixteen (16) or 100% of the actions required corrective actions and included return to compliance schedules, if needed.</p>
	<p>State Response</p>	
	<p>Action(s) (Include any uncompleted actions from Round 1 that address this issue.)</p>	

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

<p>10.1</p>	<p>Is this finding a(n) (select one):</p>	<p> <input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input checked="" type="checkbox"/> Area for State Improvement (Recommendation Required) </p>
	<p>Finding</p>	<p>Formal enforcement actions did not have final enforcement actions issued within 360 days. 50% of initial formal actions did not occur within 240 days.</p>
	<p>Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)</p>	<p>Of the twenty-one enforcement responses reviewed, five of the responses determined that the facility was in compliance at the time of the inspection. Of the remaining sixteen SV and SNC determinations, thirteen of the initial actions were taken in a timely manner including all informal actions. Three initial formal actions (3 of 6) did not occur within 240 days. These three cases were all for the issuance of an initial formal enforcement action and took an average of 388 days to issue.</p> <p>Of the six formal enforcement actions reviewed, none were completed in a timely manner. The average length of time until a final order was issued was approximately 660 days.</p> <p>There were no issues identified with the issuance of informal actions. All secondary violator notifications and all secondary violator return to compliance occurred in a timely manner.</p>
	<p>Metric(s) and Quantitative Value</p>	<p>100% of formal enforcement actions reviewed (6 of 6), did not have final enforcement actions issued within 360 days. 50% of initial formal actions did not occur within 240 days.</p>
	<p>State Response</p>	
	<p>Action(s) (Include any uncompleted actions from Round 1 that address this issue.)</p>	<p>EPA recommends that the RIDEM offices that are involved in addressing RCRA Program SNCs (the Office of Waste Management, the Office of Compliance and Inspection, and the Legal Office) meet jointly on a regular basis to discuss and prioritize RCRA SNC cases to ensure that any issues are identified early on in the process and resolved quickly in order that the addressing enforcement actions get issued within the appropriate time frame. EPA will verify that these meetings have occurred by September 30, 2010.</p>

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

11.1	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement (Recommendation Required)
	Finding	100% of all cases in which penalties were justified, RIDEM produced penalty calculations that were consistent with national policy. EPA reviewed six enforcement case files where penalties were assessed and determined that RIDEM is calculating and collecting penalties for both economic benefit and gravity where appropriate.
	Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	
	Metric(s) and Quantitative Value	A total of six (6) formal enforcement actions were reviewed. In all six (6) or 100% of the actions, RIDEM calculated and collected penalties for both economic benefit and gravity where appropriate.
	State Response	
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	

[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.

<p>12.1</p>	<p>Is this finding a(n) (select one):</p>	<p><input checked="" type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement (Recommendation Required)</p>
	<p>Finding</p>	<p>RIDEM thoroughly documents all decisions associated with penalty assessment, reduction and collection</p>
	<p>Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)</p>	<p>RIDEM is seeking and collecting appropriate penalties and their enforcement case files thoroughly document their rationale for reducing a penalty. All enforcement case files reviewed document all changes in penalty from the initial to the final assessed penalty. OC&I kept notes of every negotiated change in penalty and the changes were reflected in new penalty calculation memos. Each enforcement case file contained transmittal letters and copies of checks documenting payment of negotiated penalties.</p>
	<p>Metric(s) and Quantitative Value</p>	<p>A total of six (6) formal actions reviewed. In all six (6) or 100% of the enforcement case files reviewed RIDEM documented all changes in penalty from the initial to the final assessed penalty.</p>
	<p>State's Response</p>	
	<p>Action(s) (Include any uncompleted actions from Round 1 that address this issue.)</p>	

APPENDIX A: STATUS OF RECOMMENDATIONS FROM PREVIOUS REVIEW

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

E#	Media	Title	Due Date	Status	Finding
E2	CAA	Verify inspection completeness	6/30/2006	Completed	Some inspection reports were too streamlined
E4	CAA	Improve timeliness of HPV identification	6/30/2006	Completed	HPV checklists not completed in a timely manner
E6	CAA	Timeliness in addressing HPV violations	6/30/2006	Completed	RIDEM needs to improve timeliness of HPV follow-up
E11	CAA	Data Accuracy	6/30/2006	Completed	AFS data entry is not always accurate
E2	RCRA	Improve TSD inspections	6/30/2006	Completed	Documentation of Violations was not always sufficient
E6	RCRA	Timeliness of RCRA case completion	6/30/2006	Completed	RCRA cases not completed within 360 days
E7	RCRA	BEN training	6/30/2005	Completed	RCRA cases may be undervaluing economic benefit
E11	RCRA	Improve data accuracy in RCRAInfo	12/31/2005	Completed	Data accuracy errors in RCRA Info
E1	CWA	Increase NPDES minor source inspections	6/30/2006	Completed	Very few NPDES minor source inspections
E2	CWA	Improve documentation of partial NPDES minor inspections	6/30/2006	Completed	Clarify documentation of partial inspections at minor sources
E6	CWA	Long delays in issuing complex CWA cases	6/30/2006	Completed	Long delays in issuing complex CWA cases
E7	CWA	No authority to require economic benefit information	9/30/2009	Long Term Resolution	Not calculating economic benefit in CWA cases
E8	CWA	Improve CWA penalty calculation and collection	6/30/2006	Completed	Penalties not at appropriate level

APPENDIX B: OFFICIAL DATA PULL

Clean Air Act

Metric	Metric Description	Measure Type	Metric Type	National Goal	National Average	Rhode Island Metric	Count	Universe	Not Counted
A01A1C	Title V Universe: AFS Operating Majors (Current)	Data Quality	Combined			41	NA	NA	NA
A01A2C	Title V Universe: AFS Operating Majors with Air Program Code = V (Current)	Data Quality	Combined			41	NA	NA	NA
A01B1C	Source Count: Synthetic Minors (Current)	Data Quality	Combined			80	NA	NA	NA
A01B2C	Source Count: NESHAP Minors (Current)	Data Quality	Combined			5	NA	NA	NA
A01B3C	Source Count: Active Minor facilities or otherwise FedRep, not including NESHAP Part 61 (Current)	Informational Only	Combined			38	NA	NA	NA
A01C1C	CAA Subprogram Designation: NSPS (Current)	Data Quality	Combined			31	NA	NA	NA
A01C2C	CAA Subprogram Designation: NESHAP (Current)	Data Quality	Combined			9	NA	NA	NA
A01C3C	CAA Subprogram Designation: MACT (Current)	Data Quality	Combined			29	NA	NA	NA
A01C4S	CAA Subprogram Designation: Percent NSPS facilities with FCEs conducted after 10/1/2005	Data Quality	State		72.7%	83.3%	10	12	2
A01C5S	CAA Subprogram Designation: Percent NESHAP facilities with FCEs conducted after 10/1/2005	Data Quality	State		31.2%	100.0%	3	3	0
A01C6S	CAA Subprogram Designation: Percent MACT facilities with FCEs conducted after 10/1/2005	Data Quality	State		89.4%	88.9%	16	18	2
A01D1S	Compliance Monitoring: Sources with FCEs (1 FY)	Data Quality	State			51	NA	NA	NA
A01D2S	Compliance Monitoring: Number of FCEs (1 FY)	Data Quality	State			54	NA	NA	NA
A01D3S	Compliance Monitoring: Number of PCEs (1 FY)	Informational Only	State			22	NA	NA	NA
A01E0S	Historical Non-Compliance Counts (1 FY)	Data Quality	State			18	NA	NA	NA
A01F1S	Informal Enforcement Actions: Number Issued (1 FY)	Data Quality	State			20	NA	NA	NA
A01F2S	Informal Enforcement Actions: Number of Sources (1 FY)	Data Quality	State			20	NA	NA	NA
A01G1S	HPV: Number of New Pathways (1 FY)	Data Quality	State			12	NA	NA	NA
A01G2S	HPV: Number of New Sources (1 FY)	Data Quality	State			10	NA	NA	NA
A01H1S	HPV Day Zero Pathway Discovery date: Percent DZs reported after 10/01/2005 with discovery	Data Quality	State	100%	45.3%	100.0%	12	12	0
A01H2S	HPV Day Zero Pathway Violating Pollutants: Percent DZs reported after 10/01/2005	Data Quality	State	100%	67.2%	100.0%	12	12	0
A01H3S	HPV Day Zero Pathway Violation Type Code(s): Percent DZs reported after 10/01/2005 with HPV Violation Type Code(s)	Data Quality	State	100%	57.4%	100.0%	12	12	0
A01I1S	Formal Action: Number Issued (1 FY)	Data Quality	State			11	NA	NA	NA
A01I2S	Formal Action: Number of Sources (1 FY)	Data Quality	State			11	NA	NA	NA
A01J0S	Assessed Penalties: Total Dollar Amount (1 FY)	Data Quality	State			\$296,083	NA	NA	NA
A01K0S	Major Sources Missing CMS Policy Applicability (Current)	Review Indicator	State			0	NA	NA	NA

A02A0S	Number of HPVs/Number of NC Sources (1 FY)	Data Quality	State	≥ 50%	71.1%	66.7%	6	9	3
A02B1S	Stack Test Results at Federally-Reportable Sources - % Without Pass/Fail Results (1 FY)	Goal	State	0%	5.8%	0.0%	0	12	12
A02B2S	Stack Test Results at Federally-Reportable Sources - Number of Failures (1 FY)	Data Quality	State			0	NA	NA	NA
A03A0S	Percent HPVs Entered ≤ 60 Days After Designation, Timely Entry (1 FY)	Goal	State	100%	24.8%	8.3%	1	12	11
A03B1S	Percent Compliance Monitoring related MDR actions reported ≤ 60 Days After Designation, Timely Entry (1 FY)	Goal	State	100%	52.6%	74.7%	112	150	38
A03B2S	Percent Enforcement related MDR actions reported ≤ 60 Days After Designation, Timely Entry (1 FY)	Goal	State	100%	67.3%	83.9%	26	31	5
A05A1S	CMS Major Full Compliance Evaluation (FCE) Coverage (2 FY CMS Cycle)	Goal	State	100%	90.5%	75.6%	31	41	10
A05A2S	CAA Major Full Compliance Evaluation (FCE) Coverage(most recent 2 FY)	Review Indicator	State	100%	84.4%	75.6%	34	45	11
A05B1S	CAA Synthetic Minor 80% Sources (SM-80) FCE Coverage (5 FY CMS Cycle)	Review Indicator	State	100%	48.4%	49.3%	33	67	34
A05B2S	CAA Synthetic Minor 80% Sources (SM-80) FCE Coverage (last full 5 FY)	Informational Only	State	100%	89.1%	91.2%	73	80	7
A05C0S	CAA Synthetic Minor FCE and reported PCE Coverage (last 5 FY)	Informational Only	State		80.0%	91.1%	82	90	8
A05D0S	CAA Minor FCE and Reported PCE Coverage (last 5 FY)	Informational Only	State		32.0%	7.4%	25	336	311
A05E0S	Number of Sources with Unknown Compliance Status (Current)	Review Indicator	State			15	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%	90.6%	97.6%	40	41	1
A07C1S	Percent facilities in noncompliance that have had an FCE, stack test, or enforcement (1 FY)	Review Indicator	State	> 1/2 National Avg	18.7%	16.7%	11	66	55
A07C2S	Percent facilities that have had a failed stack test and have noncompliance status (1 FY)	Review Indicator	State	> 1/2 National Avg	33.0%	0.0%	0	1	1
A08A0S	High Priority Violation Discovery Rate - Per Major Source (1 FY)	Review Indicator	State	> 1/2 National Avg	9.2%	12.2%	5	41	36
A08B0S	High Priority Violation Discovery Rate - Per Synthetic Minor Source (1 FY)	Review Indicator	State	> 1/2 National Avg	1.5%	3.8%	3	80	77
A08C0S	Percent Formal Actions With Prior HPV - Majors (1 FY)	Review Indicator	State	> 1/2 National Avg	72.8%	100.0%	3	3	0
A08D0S	Percent Informal Enforcement Actions Without Prior HPV - Majors (1 FY)	Review Indicator	State	< 1/2 National Avg	39.7%	28.6%	2	7	5
A08E0S	Percent Failed Stack Test Actions that received HPV listing - Majors and Synthetic Minors (2 FY)	Review Indicator	State	> 1/2 National Avg	42.4%	100.0%	1	1	0
A10A0S	Percent HPVs not meeting timeliness goals (2 FY)	Review Indicator	State		40.8%	44.4%	8	18	10
A12A0S	No Activity Indicator - Actions with Penalties (1 FY)	Review Indicator	State			11	NA	NA	NA
A12B0S	Percent Actions at HPVs With Penalty (1 FY)	Review Indicator	State	≥ 80%	81.6%	100.0%	7	7	0

Clean Water Act

Metric	Metric Description	Measure Type	Metric Type	National Goal	National Average	Rhode Island Metric	Count	Universe	Not Counted
P01A1C	Active facility universe: NPDES major individual permits (Current)	Data Quality	Combined			22	NA	NA	NA
P01A2C	Active facility universe: NPDES major general permits (Current)	Data Quality	Combined			0	NA	NA	NA
P01A3C	Active facility universe: NPDES non-major individual permits (Current)	Data Quality	Combined			67	NA	NA	NA
P01A4C	Active facility universe: NPDES non-major general permits (Current)	Data Quality	Combined			255	NA	NA	NA
P01B1C	Major individual permits: correctly coded limits (Current)	Goal	Combined	≥95%	67.40%	63.60%	14	22	8
C01B2C	Major individual permits: DMR entry rate based on DMRs expected (1 Qtr)	Goal	Combined	≥95%	89.60%	99.40%	158	159	1
C01B3C	Major individual permits: percent with permit limits and DMR data (1 FY)	Goal	Combined	≥95%	85.90%	100.00%	22	22	0
P01B4C	Major individual permits: manual RNC/SNC override rate (1 FY)	Data Quality	Combined			0.00%	0	6	6
P01C1C	Non-major individual permits: correctly coded limits (Current)	Informational Only	Combined			74.60%	50	67	17
C01C2C	Non-major individual permits: DMR entry rate based on DMRs expected (1 Qtr)	Informational Only	Combined			82.60%	185	224	39
C01C3C	Non-major individual permits: percent with permit limits and DMR data (1 FY)	Informational Only	Combined			59.70%	40	67	27
P01D1C	Violations at non-majors: noncompliance rate (1 FY)	Informational Only	Combined			59.70%	40	67	27
C01D2C	Violations at non-majors: noncompliance rate in the annual noncompliance report (ANCR)(1 FY)	Informational Only	Combined			56.90%	37	65	28
P01D3C	Violations at non-majors: DMR non-receipt (3 FY)	Informational Only	Combined			3	NA	NA	NA
P01E1S	Informal actions: number of major facilities (1 FY)	Data Quality	State			0	NA	NA	NA
P01E2S	Informal actions: number of actions at major facilities (1 FY)	Data Quality	State			0	NA	NA	NA
P01E3S	Informal actions: number of non-major facilities (1 FY)	Data Quality	State			20	NA	NA	NA
P01E4S	Informal actions: number of actions at non-major facilities (1 FY)	Data Quality	State			20	NA	NA	NA
P01F1S	Formal actions: number of major facilities (1 FY)	Data Quality	State			3	NA	NA	NA
P01F2S	Formal actions: number of actions at major facilities (1 FY)	Data Quality	State			3	NA	NA	NA
P01F3S	Formal actions: number of non-major facilities (1 FY)	Data Quality	State			2	NA	NA	NA
P01F4S	Formal actions: number of actions at non-major	Data Quality	State			2	NA	NA	NA

	facilities (1 FY)								
P01G1S	Penalties: total number of penalties (1 FY)	Data Quality	State			0	NA	NA	NA
P01G2S	Penalties: total penalties (1 FY)	Data Quality	State			\$0	NA	NA	NA
P01G3S	Penalties: total collected pursuant to civil judicial actions (3 FY)	Data Quality	State			\$0	NA	NA	NA
P01G4S	Penalties: total collected pursuant to administrative actions (3 FY)	Informational Only	State			\$31,000	NA	NA	NA
P01G5S	No activity indicator - total number of penalties (1 FY)	Data Quality	State			0	NA	NA	NA
P02A0S	Actions linked to violations: major facilities (1 FY)	Data Quality	State			0.00%	0	3	3
P05A0S	Inspection coverage: NPDES majors (1 FY)	Goal	State	100%	63.8%	68.20%	15	22	7
P05A0C	Inspection coverage: NPDES majors (1 FY)	Goal	Combined	100%	66.9%	72.70%	16	22	6
P05B1S	Inspection coverage: NPDES non-major individual permits (1 FY)	Goal	State			4.70%	3	64	61
P05B1C	Inspection coverage: NPDES non-major individual permits (1 FY)	Goal	Combined			4.70%	3	64	61
P05B2S	Inspection coverage: NPDES non-major general permits (1 FY)	Goal	State			2.80%	1	36	35
P05B2C	Inspection coverage: NPDES non-major general permits (1 FY)	Goal	Combined			2.80%	1	36	35
P05C0S	Inspection coverage: NPDES other (not 5a or 5b) (1 FY)	Informational Only	State			5.90%	13	222	209
P05C0C	Inspection coverage: NPDES other (not 5a or 5b) (1 FY)	Informational Only	Combined			6.80%	15	222	207
P07A1C	Single-event violations at majors (1 FY)	Review Indicator	Combined			0	NA	NA	NA
P07A2C	Single-event violations at non-majors (1 FY)	Informational Only	Combined			0	NA	NA	NA
P07B0C	Facilities with unresolved compliance schedule violations (at end of FY)	Data Quality	Combined			28.60%	2	7	5
P07C0C	Facilities with unresolved permit schedule violations (at end of FY)	Data Quality	Combined			21.60%	8	37	29
P07D0C	Major facilities with DMR violations (1 FY)	Data Quality	Combined			20	NA	NA	NA
P08A1C	Major facilities in SNC (1 FY)	Review Indicator	Combined			6	NA	NA	NA
P08A2C	SNC rate: percent majors in SNC (1 FY)	Goal	Combined		22.40%	27.30%	6	22	16
P10A0C	Major facilities without timely action (1 FY)	Goal	Combined	< 2%	11.70%	0.00%	0	22	22

Resource Conservation and Recovery Act

Metric	Metric Description	Metric Type	Agency	National Goal	National Average	Rhode Island Metric	Count	Universe	Not Counted
R01A1S	Number of operating TSDFs in RCRAInfo	Data Quality	State			2	NA	NA	NA
R01A2S	Number of active LQGs in RCRAInfo	Data Quality	State			90	NA	NA	NA
R01A3S	Number of active SQGs in RCRAInfo	Data Quality	State			2,604	NA	NA	NA
R01A4S	Number of all other active sites in RCRAInfo	Data Quality	State			179	NA	NA	NA
R01A5S	Number of LQGs per latest official biennial report	Data Quality	State			87	NA	NA	NA
R01B1S	Compliance monitoring: number of inspections (1 FY)	Data Quality	State			110	NA	NA	NA
R01B2S	Compliance monitoring: sites inspected (1 FY)	Data Quality	State			87	NA	NA	NA
R01C1S	Number of sites with violations determined at any time (1 FY)	Data Quality	State			67	NA	NA	NA
R01C2S	Number of sites with violations determined during the FY	Data Quality	State			44	NA	NA	NA
R01D1S	Informal action: number of sites (1 FY)	Data Quality	State			38	NA	NA	NA
R01D2S	Informal action: number of actions (1 FY)	Data Quality	State			39	NA	NA	NA
R01E1S	SNC: number of sites with new SNC (1 FY)	Data Quality	State			6	NA	NA	NA
R01E2S	SNC: Number of sites in SNC (1 FY)	Data Quality	State			16	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 assessed penalties (1 FY)	Data Quality	State			\$93,470	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			5	NA	NA	NA
R03A0S	Percent SNCs entered ≥ 60 days after designation (1 FY)	Review Indicator	State			100.0%	3	3	0
R05A0S	Inspection coverage for operating TSDFs (2 FYs)	Goal	State	100%	89.0%	100.0%	2	2	0
R05A0C	Inspection coverage for operating TSDFs (2 FYs)	Goal	Combined	100%	93.6%	100.0%	2	2	0
R05B0S	Inspection coverage for LQGs (1 FY)	Goal	State	20%	23.8%	28.7%	25	87	62
R05B0C	Inspection coverage for LQGs (1 FY)	Goal	Combined	20%	25.9%	31.0%	27	87	60
R05C0S	Inspection coverage for LQGs (5 FYs)	Goal	State	100%	64.7%	88.5%	77	87	10
R05C0C	Inspection coverage for LQGs (5 FYs)	Goal	Combined	100%	69.9%	89.7%	78	87	9
R05D0S	Inspection coverage for active SQGs (5 FYs)	Informational Only	State			7.8%	202	2604	2402
R05D0C	Inspection coverage for active SQGs (5 FYs)	Informational Only	Combined			8.3%	215	2604	2389
R05E1S	Inspections at active CESQGs (5 FYs)	Informational Only	State			9	NA	NA	NA

R05E1C	Inspections at active CESQGs (5 FYs)	Informational Only	Combined				11	NA	NA	NA
R05E2S	Inspections at active transporters (5 FYs)	Informational Only	State				28	NA	NA	NA
R05E2C	Inspections at active transporters (5 FYs)	Informational Only	Combined				28	NA	NA	NA
R05E3S	Inspections at non-notifiers (5 FYs)	Informational Only	State				0	NA	NA	NA
R05E3C	Inspections at non-notifiers (5 FYs)	Informational Only	Combined				0	NA	NA	NA
R05E4S	Inspections at active sites other than those listed in 5a-d and 5e1-5e3 (5 FYs)	Informational Only	State				4	NA	NA	NA
R05E4C	Inspections at active sites other than those listed in 5a-d and 5e1-5e3 (5 FYs)	Informational Only	Combined				4	NA	NA	NA
R07C0S	Violation identification rate at sites with inspections (1 FY)	Review Indicator	State				50.6%	44	87	43
R08A0S	SNC identification rate at sites with inspections (1 FY)	Review Indicator	State	1/2 National Avg	3.8%	6.9%	6	87	81	
R08A0C	SNC identification rate at sites with evaluations (1 FY)	Review Indicator	Combined	1/2 National Avg	4.2%	6.3%	6	95	89	
R08B0S	Percent of SNC determinations made within 150 days (1 FY)	Goal	State	100%	82.0%	100.0%	6	6	0	
R08C0S	Percent of formal actions taken that received a prior SNC listing (1 FY)	Review Indicator	State	1/2 National Avg	53.8%	77.8%	7	9	2	
R10A0S	Percent of enforcement actions/referrals taken within 360 days (1 FY)	Review Indicator	State	80%	24.2%	16.7%	1	6	5	
R10A0C	Percent of enforcement actions/referrals taken within 360 days (1 FY)	Review Indicator	Combined	80%	22.1%	16.7%	1	6	5	
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				\$93,470	NA	NA	NA
R12B0S	Percent of final formal actions with penalty (1 FY)	Review Indicator	State	1/2 National Avg	85.5%	100.0%	5	5	0	
R12B0C	Percent of final formal actions with penalty (1 FY)	Review Indicator	Combined	1/2 National Avg	83.3%	100.0%	8	8	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 initiating the on-site portion of the review. In addition, it gives the region focus during the file reviews and/or basis for requesting supplemental files based on potential concerns raised by the data metrics results.

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

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

APPENDIX D: PRELIMINARY DATA ANALYSIS CHARTS

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

The PDA Chart in this section of the SRF report only includes metrics where potential concerns are identified or potential areas of exemplary performance. However, the full PDA, which is available as a document separate from this report, contains every metric - positive, neutral or negative. Initial Findings indicate the observed results. Initial Findings are preliminary observations and are used as a basis for further investigation. Findings are developed only after evaluating them against the file review results where appropriate, and dialogue with the state 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

Metric	Metric Description	Measure Type	Metric Type	National Goal	National Average	Rhode Island Metric	Initial Findings (EPA Only)	Evaluation (EPA Only)
A01A1C	Title V Universe: AFS Operating Majors (Current)	Data Quality	Combined			41	Although Title V universe is a moving target, this count appears accurate. RI currently has approximately 41 Title V sources.	Appears Acceptable
A01A2C	Title V Universe: AFS Operating Majors with Air Program Code = V (Current)	Data Quality	Combined			41		Appears Acceptable
A01B1C	Source Count: Synthetic Minors (Current)	Data Quality	Combined			80	Although SM80 universe is a moving target, this count appears accurate. RI currently has approximately 85 SM80 sources.	Appears Acceptable
A01B2C	Source Count: NESHAP Minors (Current)	Data Quality	Combined			5		Appears Acceptable
A01B3C	Source Count: Active Minor facilities or otherwise FedRep, not including NESHAP Part 61 (Current)	Informational Only	Combined			38	In the past, RI has inspected other minor sources that are not included in this count. However, due to resource issues, RI is concentrating its inspection efforts (albeit limited) on	Appears Acceptable

							Title V and SM80 inspections.	
A01C1C	CAA Subprogram Designation: NSPS (Current)	Data Quality	Combined			31		Appears Acceptable
A01C2C	CAA Subprogram Designation: NESHAP (Current)	Data Quality	Combined			9		Appears Acceptable
A01C3C	CAA Subprogram Designation: MACT (Current)	Data Quality	Combined			29		Appears Acceptable
A01C4S	CAA Subprogram Designation: Percent NSPS facilities with FCEs conducted after 10/1/2005	Data Quality	State		72.7%	83.3%	Although RI did not conduct 100% of the NSPS inspections, the state is above the national average. However, the state has serious resource issues and is struggling to conduct inspections in all categories. Inspection counts in FY08 appear to be much worse.	Appears Acceptable / Potential Concern
A01C5S	CAA Subprogram Designation: Percent NESHAP facilities with FCEs conducted after 10/1/2005	Data Quality	State		31.2%	100.0%	RI should have conducted 3 FCEs at NESHAP sources, but did not conduct any. However, the state has serious resource issues and is struggling to conduct inspections in all categories. Inspection counts in FY08 appear to be much worse.	Appears Acceptable / Potential Concern
A01C6S	CAA Subprogram Designation: Percent MACT facilities with FCEs conducted after 10/1/2005	Data Quality	State		89.4%	88.9%	Although RI did not conduct 100% of the NSPS inspections, the state is above the national average. However, the state has serious resource issues and is struggling to conduct inspections in all categories. Inspection counts in FY08 appear to be much worse.	Appears Acceptable / Potential Concern
A01D1S	Compliance Monitoring: Sources with FCEs (1 FY)	Data Quality	State			51		Appears Acceptable
A01D2S	Compliance Monitoring: Number of FCEs (1 FY)	Data Quality	State			54		Appears Acceptable
A01D3S	Compliance Monitoring: Number of PCEs (1 FY)	Informational Only	State			22	Given resources issues, and lack of inspector experience, RI may need to consider conducting FCEs that combine on-site and off-site	Appears Acceptable

							PCEs.	
A01E0S	Historical Non-Compliance Counts (1 FY)	Data Quality	State			18		Appears Acceptable
A01F1S	Informal Enforcement Actions: Number Issued (1 FY)	Data Quality	State			20		Appears Acceptable
A01F2S	Informal Enforcement Actions: Number of Sources (1 FY)	Data Quality	State			20		Appears Acceptable
A01G1S	HPV: Number of New Pathways (1 FY)	Data Quality	State			12		Appears Acceptable
A01G2S	HPV: Number of New Sources (1 FY)	Data Quality	State			10		Appears Acceptable
A01H1S	HPV Day Zero Pathway Discovery date: Percent DZs reported after 10/01/2005 with discovery	Data Quality	State	100%	45.3%	100.0%		Appears Acceptable
A01H2S	HPV Day Zero Pathway Violating Pollutants: Percent DZs reported after 10/01/2005	Data Quality	State	100%	67.2%	100.0%		Appears Acceptable
A01H3S	HPV Day Zero Pathway Violation Type Code(s): Percent DZs reported after 10/01/2005 with HPV Violation Type Code(s)	Data Quality	State	100%	57.4%	100.0%		Appears Acceptable
A01I1S	Formal Action: Number Issued (1 FY)	Data Quality	State			11		Appears Acceptable
A01I2S	Formal Action: Number of Sources (1 FY)	Data Quality	State			11		Appears Acceptable
A01J0S	Assessed Penalties: Total Dollar Amount (1 FY)	Data Quality	State			\$296,083		Appears Acceptable
A01K0S	Major Sources Missing CMS Policy Applicability (Current)	Review Indicator	State			0		Appears Acceptable
A02A0S	Number of HPVs/Number of NC Sources (1 FY)	Data Quality	State	≥ 50%	71.1%	66.7%	All HPVs should have a compliance status of "in violation."	Minor Issue
A02B1S	Stack Test Results at Federally-Reportable Sources - % Without Pass/Fail Results (1 FY)	Goal	State	0%	5.8%	0.0%	Due to resource issues, RI has been unable to observe stack tests. It is likely that this resource problem will have a significant negative impact on the integrity of the program as well as environmental protection.	Potential Concern

A02B2S	Stack Test Results at Federally-Reportable Sources - Number of Failures (1 FY)	Data Quality	State			0	Due to resource issues, RI has been unable to observe stack tests. It is likely that this resource problem will have a significant negative impact on the integrity of the program as well as environmental protection.	Potential Concern
A03A0S	Percent HPVs Entered <= 60 Days After Designation, Timely Entry (1 FY)	Goal	State	100%	24.8%	8.3%	All HPVs should be entered within 60 days. Only one HPV was entered within 60 days. All others were entered at least 100 days (and in one case 400 days) after discovery. RI is well below national average.	Potential Concern
A03B1S	Percent Compliance Monitoring related MDR actions reported <= 60 Days After Designation, Timely Entry (1 FY)	Goal	State	100%	52.6%	74.7%	Although RI appears to be having difficulty entering actions into AFS in a timely way, it is above the national average regarding the entry of compliance monitoring actions.	Appears Acceptable / Potential Concern
A03B2S	Percent Enforcement related MDR actions reported <= 60 Days After Designation, Timely Entry (1 FY)	Goal	State	100%	67.3%	83.9%	Although RI appears to be having difficulty entering actions into AFS in a timely way, it is above the national average regarding the entry of enforcement actions.	Appears Acceptable / Potential Concern
A05A1S	CMS Major Full Compliance Evaluation (FCE) Coverage (2 FY CMS Cycle)	Goal	State	100%	90.5%	75.6%	RI only conducted FCEs at 75% of its major sources in the 2 year cycle, which is below the national average. Given the serious resource issues in the state, it is likely that this number will be even lower in FY08.	Potential Concern
A05A2S	CAA Major Full Compliance Evaluation (FCE) Coverage (most recent 2 FY)	Review Indicator	State	100%	84.4%	75.6%	RI only conducted FCEs at 75% of its required major sources in the 2 year cycle, which is below the national average. Given the serious resource issues in the state, it is likely that this number will be even lower in FY08.	Potential Concern
A05B1S	CAA Synthetic Minor 80% Sources (SM-80) FCE Coverage (5 FY CMS Cycle)	Review Indicator	State	20%-100%	48.4%	49.3%	Although state has conducted FCEs at the majority of SM80 sources in the 5 year CMS cycle, it is likely that the state will have difficulty meeting this commitment in the	Potential Concern

							future.	
A05B2S	CAA Synthetic Minor 80% Sources (SM-80) FCE Coverage (last full 5 FY)	Informational Only	State	20%-100%	89.1%	91.2%	Although state has conducted FCEs at the majority of SM80 sources in the 5 year CMS cycle, it is likely that the state will have difficulty meeting this commitment in the future.	Potential Concern
A05C0S	CAA Synthetic Minor FCE and reported PCE Coverage (last 5 FY)	Informational Only	State		80.0%	91.1%		Appears Acceptable
A05D0S	CAA Minor FCE and Reported PCE Coverage (last 5 FY)	Informational Only	State		32.0%	7.4%		Appears Acceptable
A05E0S	Number of Sources with Unknown Compliance Status (Current)	Review Indicator	State			15		Appears Acceptable
A05F0S	CAA Stationary Source Investigations (last 5 FY)	Informational Only	State			0	State has not conducted any Clean Air Act investigations in the past five years. Given the serious resource issues in the state, it appears that RI will have trouble meeting the CMS commitments in the future and will not be able to conduct in depth investigations.	Minor Issue
A05G0S	Review of Self-Certifications Completed (1 FY)	Goal	State	100%	90.6%	97.6%		Appears Acceptable
A07C1S	Percent facilities in noncompliance that have had an FCE, stack test, or enforcement (1 FY)	Review Indicator	State	> 1/2 National Avg	18.7%	16.7%		Appears Acceptable
A07C2S	Percent facilities that have had a failed stack test and have noncompliance status (1 FY)	Review Indicator	State	> 1/2 National Avg	33.0%	0.0%	Due to resource issues, RI has been unable to observe stack tests. It is likely that this resource problem will have a significant negative impact on the integrity of the program as well as environmental protection.	Potential Concern
A08A0S	High Priority Violation Discovery Rate - Per Major Source (1 FY)	Review Indicator	State	> 1/2 National Avg	9.2%	12.2%	RI seems to be identifying a reasonable percentage of HPVs given the size of its major source universe.	Appears Acceptable

A08B0S	High Priority Violation Discovery Rate - Per Synthetic Minor Source (1 FY)	Review Indicator	State	> 1/2 National Avg	1.5%	3.8%	RI seems to be identifying a reasonable percentage of HPVs given the size of its SM80 source universe.	Appears Acceptable
A08C0S	Percent Formal Actions With Prior HPV - Majors (1 FY)	Review Indicator	State	> 1/2 National Avg	72.8%	100.0%		Appears Acceptable
A08D0S	Percent Informal Enforcement Actions Without Prior HPV - Majors (1 FY)	Review Indicator	State	< 1/2 National Avg	39.7%	28.6%		Appears Acceptable
A08E0S	Percent Failed Stack Test Actions that received HPV listing - Majors and Synthetic Minors (2 FY)	Review Indicator	State	> 1/2 National Avg	42.4%	100.0%	Due to resource issues, RI has been unable to observe stack tests. It is likely that this resource problem will have a significant negative impact on the integrity of the program as well as environmental protection.	Potential Concern
A10A0S	Percent HPVs not meeting timeliness goals (2 FY)	Review Indicator	State		40.8%	44.4%	In general, RI seems to be taking more than 270 days to address HPVs.	Minor Issue
A12A0S	No Activity Indicator - Actions with Penalties (1 FY)	Review Indicator	State			11		Appears Acceptable
A12B0S	Percent Actions at HPVs With Penalty (1 FY)	Review Indicator	State	≥ 80%	81.6%	100.0%	RI collected penalties from all HPVs identified in FY07	Appears Acceptable

Clean Water Act

Metric	Metric Description	Measure Type	Metric Type	National Goal	National Average	Rhode Island Metric	Evaluation (EPA Only)	Initial Findings (EPA Only)
P01A1C	Active facility universe: NPDES major individual permits (Current)	Data Quality	Combined			22	MI	Corrected data accepted. This may be an artifact of OTIS SRF program as the missing facilities come up through the file selection tool. Need to investigate cause of discrepancy
P01A2C	Active facility universe: NPDES major general permits (Current)	Data Quality	Combined			0	AA	RI does not issue major general permits
P01A3C	Active facility universe: NPDES non-major individual permits (Current)	Data Quality	Combined			67	AA	
P01A4C	Active facility universe: NPDES non-major general permits (Current)	Data Quality	Combined			255	AA	State should address data entry backlog
P01B1C	Major individual permits: correctly coded limits (Current)	Goal	Combined	≥95%	67.40%	63.60%	N/A	Metric not functioning. Need to evaluate accuracy of multi-year reports for other 1b categories -- Only values for FY07 are reported.
C01B2C	Major individual permits: DMR entry rate based on DMRs expected (1 Qtr)	Goal	Combined	≥95%	89.60%	99.40%	AA	
C01B3C	Major individual permits: percent with permit limits and DMR data (1 FY)	Goal	Combined	≥95%	85.90%	100.00%	AA	RI performance exceeds national goal. Missing permittees to be addressed under 1a1.
P01B4C	Major individual permits: manual RNC/SNC override rate (1 FY)	Data Quality	Combined			0.00%	AA	
P01C1C	Non-major individual permits: correctly coded limits (Current)	Informational Only	Combined			74.60%	N/A	Metric not functioning. Need to evaluate accuracy of multi-year reports for other 1c categories (see 1b, above).
C01C2C	Non-major individual permits: DMR entry rate based on DMRs expected (1 Qtr)	Informational Only	Combined			82.60%	MI	Metric is informational-only and data are not required to be reported. OTIS reports 39 of 224 missing data. Potential State discrepancy with OTIS data should be discussed.

C01C3C	Non-major individual permits: percent with permit limits and DMR data (1 FY)	Informational Only	Combined			59.70%	MI	Metric is informational-only and data are not required to be reported. OTIS reports 27 of 67 missing DMR data. State discrepancy with OTIS data should be discussed.
P01D1C	Violations at non-majors: noncompliance rate (1 FY)	Informational Only	Combined			59.70%	MI	Informational only. Need to discuss reported state discrepancy
C01D2C	Violations at non-majors: noncompliance rate in the annual noncompliance report (ANCR)(1 FY)	Informational Only	Combined			56.90%	AA	See 1d1, above. Need to evaluate accuracy of multi-year reports
P01D3C	Violations at non-majors: DMR non-receipt (3 FY)	Informational Only	Combined			3	MI	Informational only. Need to discuss reported state discrepancy and status of these facilities
P01E1S	Informal actions: number of major facilities (1 FY)	Data Quality	State			0	MI	Discussions with State suggest approx. 30 informal actions (26 by O&M and 4 by OCI) not in OTIS database. My understanding is that this issue has been addressed through preliminary data review discussions.
P01E2S	Informal actions: number of actions at major facilities (1 FY)	Data Quality	State			0	AA	See 1e1
P01E3S	Informal actions: number of non-major facilities (1 FY)	Data Quality	State			20	AA	Many of these actions entered on same date (12/21/06)
P01E4S	Informal actions: number of actions at non-major facilities (1 FY)	Data Quality	State			20	AA	See above
P01F1S	Formal actions: number of major facilities (1 FY)	Data Quality	State			3	PC	Data entry concern. Need to confirm appropriate data entry systems are in place.
P01F2S	Formal actions: number of actions at major facilities (1 FY)	Data Quality	State			3	AA	See 1f1, above
P01F3S	Formal actions: number of non-major facilities (1 FY)	Data Quality	State			2	PC	Data entry concern. Need to discuss state reported discrepancy.
P01F4S	Formal actions: number of actions at non-major facilities (1 FY)	Data Quality	State			2	AA	See 1f3, above
P01G1S	Penalties: total number of penalties (1 FY)	Data Quality	State			0	PC	Data entry concern. Need to discuss state reported discrepancy.
P01G2S	Penalties: total penalties (1 FY)	Data Quality	State			\$0	AA	See 1g1, above
P01G3S	Penalties: total collected pursuant to civil judicial actions (3 FY)	Data Quality	State			\$0	AA	

P01G4S	Penalties: total collected pursuant to administrative actions (3 FY)	Informational Only	State			\$31,000	MI	Informational only. Corrections made to OTIS since official data pull. State corrected value accepted.
P01G5S	No activity indicator - total number of penalties (1 FY)	Data Quality	State			0	AA	See 1g4, above
P02A0S	Actions linked to violations: major facilities (1 FY)	Data Quality	State			0.00%	PC	Need to determine process to link violations
P05A0S	Inspection coverage: NPDES majors (1 FY)	Goal	State	100%	63.8%	68.20%	MI	Data entry concern. Some corrections made to OTIS since official data pull. 19 of 25 (corrected #) facilities show as inspected.
P05A0C	Inspection coverage: NPDES majors (1 FY)	Goal	Combined	100%	66.9%	72.70%	AA	
P05B1S	Inspection coverage: NPDES non-major individual permits (1 FY)	Goal	State			4.70%	MI	May be consistent with '07 PPA. Non-storm water (etc.) general permit inspections should be counted under 5b2, below. Also should discuss rate and resources needed to meet CMS 2009 non-major inspection rate of at least 20%.
P05B1C	Inspection coverage: NPDES non-major individual permits (1 FY)	Goal	Combined			4.70%	AA	See 5c0, below
P05B2S	Inspection coverage: NPDES non-major general permits (1 FY)	Goal	State			2.80%	MI	Data entry concern. Corrections made to OTIS since official data pull. Apparent spike in these inspections in '07 compared to other years should be discussed.
P05B2C	Inspection coverage: NPDES non-major general permits (1 FY)	Goal	Combined			2.80%	AA	
P05C0S	Inspection coverage: NPDES other (not 5a or 5b) (1 FY)	Informational Only	State			5.90%	AA	Informational only. Industrial and Construction SW inspections noted by State in 5b1c, above, should be reflected here. However, only 11 non-5a or 5b inspections are listed in OTIS.
P05C0C	Inspection coverage: NPDES other (not 5a or 5b) (1 FY)	Informational Only	Combined			6.80%	AA	
P07A1C	Single-event violations at majors (1 FY)	Review Indicator	Combined			0	MI	Corrections made to OTIS since official data pull.
P07A2C	Single-event violations at non-majors (1 FY)	Informational Only	Combined			0	AA	

P07B0C	Facilities with unresolved compliance schedule violations (at end of FY)	Data Quality	Combined			28.60%	MI	Data entry concern. Corrections made to OTIS since official data pull. Significant increase in # with unresolved violations in '08 should be discussed.
P07C0C	Facilities with unresolved permit schedule violations (at end of FY)	Data Quality	Combined			21.60%	MI	Data entry concern. Corrections made to OTIS since official data pull.
P07D0C	Major facilities with DMR violations (1 FY)	Data Quality	Combined			20	AA	
P08A1C	Major facilities in SNC (1 FY)	Review Indicator	Combined			6	MI	Data entry concern. Corrections made to OTIS since official data pull.
P08A2C	SNC rate: percent majors in SNC (1 FY)	Goal	Combined		22.40%	27.30%	AA	No national goal, but RI's performance, using the corrected SNC rate and universe, exceeds the national average.
P10A0C	Major facilities without timely action (1 FY)	Goal	Combined	< 2%	11.70%	0.00%	AA	

Evaluation Key:

AA -- Appears Acceptable

MI -- Minor Issue

PC -- Potential Concern

Resource Conservation and Recovery Act

RHODE ISLAND STATE REVIEW FRAMEWORK - RCRA DATA METRICS 2007

Metric	Metric Description	Metric Type	Agency	National Goal	National Average	Rhode Island Metric	Evaluation	Initial Findings
R01A1S	Number of operating TSDFs in RCRAInfo	Data Quality	State			2	appears acceptable	
R01A2S	Number of active LQGs in RCRAInfo	Data Quality	State			90	appears acceptable	
R01A3S	Number of active SQGs in RCRAInfo	Data Quality	State			2,604	appears acceptable	
R01A4S	Number of all other active sites in RCRAInfo	Data Quality	State			179	appears acceptable	
R01A5S	Number of LQGs per latest official biennial report	Data Quality	State			87	appears acceptable	
R01B1S	Compliance monitoring: number of inspections (1 FY)	Data Quality	State			110	minor issue	EPA accepts state change. State response shows issue that needs attention.
R01B2S	Compliance monitoring: sites inspected (1 FY)	Data Quality	State			87	appears acceptable	
R01C1S	Number of sites with violations determined at any time (1 FY)	Data Quality	State			67	minor issue	EPA accepts state change. See Metric R01B1S.
R01C2S	Number of sites with violations determined during the FY	Data Quality	State			44	minor issue	EPA accepts state change. See Metric R01B1S. State response indicates
R01D1S	Informal action: number of sites (1 FY)	Data Quality	State			38	potential concern	possible data quality problem. State response indicates
R01D2S	Informal action: number of actions (1 FY)	Data Quality	State			39	potential concern	possible data quality problem.
R01E1S	SNC: number of sites with new SNC (1 FY)	Data Quality	State			6	appears acceptable	
R01E2S	SNC: Number of sites in SNC (1 FY)	Data Quality	State			16	appears acceptable	
R01F1S	Formal action: number of sites (1 FY)	Data Quality	State			9	potential concern	Data indicates that the level of formal enforcement actions declined by more than 50% based on past performance.
R01F2S	Formal action: number taken (1 FY)	Data Quality	State			9	potential concern	Data indicates that the level of formal enforcement actions declined by more than 50% based on

R05E4C	Inspections at active sites other than those listed in 5a-d and 5e1-5e3 (5 FYs)	Informational Only	Combined			4	appears acceptable	
R07C0S	Violation identification rate at sites with inspections (1 FY)	Review Indicator	State			50.6%	appears acceptable	EPA accepts state change. See Metric R01B1S. Data indicates that the level of formal enforcement actions declined by more than 50% based on past performance. See Metric R01F1S.
R08A0S	SNC identification rate at sites with inspections (1 FY)	Review Indicator	State	1/2 National Avg	3.8%	6.9%	potential concern w/suppl. File selection	Data indicates that the level of formal enforcement actions declined by more than 50% based on past performance. See Metric R01F1S.
R08A0C	SNC identification rate at sites with evaluations (1 FY)	Review Indicator	Combined	1/2 National Avg	4.2%	6.3%	potential concern w/suppl. File selection	Data indicates that the level of formal enforcement actions declined by more than 50% based on past performance. See Metric R01F1S.
R08B0S	Percent of SNC determinations made within 150 days (1 FY)	Goal	State	100%	82.0%	100.0%	appears acceptable	
R08C0S	Percent of formal actions taken that received a prior SNC listing (1 FY)	Review Indicator	State	1/2 National Avg	53.8%	77.8%	appears acceptable	
R10A0S	Percent of enforcement actions/referrals taken within 360 days (1 FY)	Review Indicator	State	80%	24.2%	16.7%	potential concern w/suppl. File selection	Data indicates less than 20% of SNCs were addressed within the ERP timeframes. Data indicates less than 20% of SNCs were addressed within the ERP timeframes.
R10A0C	Percent of enforcement actions/referrals taken within 360 days (1 FY)	Review Indicator	Combined	80%	22.1%	16.7%	potential concern w/suppl. File selection	
R10B0S	No activity indicator - number of formal actions (1 FY)	Review Indicator	State			9	appears acceptable	
R12A0S	No activity indicator - penalties (1 FY)	Review Indicator	State			\$93,470	appears acceptable	
R12B0S	Percent of final formal actions with penalty (1 FY)	Review Indicator	State	1/2 National Avg	85.5%	100.0%	appears acceptable	
R12B0C	Percent of final formal actions with penalty (1 FY)	Review Indicator	Combined	1/2 National Avg	83.3%	100.0%	appears acceptable	

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

Clean Air Act

RIDEM did not provide written responses to the Preliminary Data Assessment for the Clean Air Act.

Clean Water Act

Metric	Metric Description	Measure Type	Metric Type	National Goal	National Average	Rhode Island Metric	State Correction	State Data Source	Discrepancy Explanation
P01A1C	Active facility universe: NPDES major individual permits (Current)	Data Quality	Combined			22	25		3 Major Industrials not included in count. Bradford, Clariant and Blount - ICIS data entry under review for coding errors.
P01A2C	Active facility universe: NPDES major general permits (Current)	Data Quality	Combined			0			Please provide clarification of definition of major General Permit?
P01A3C	Active facility universe: NPDES non-major individual permits (Current)	Data Quality	Combined			67			
P01A4C	Active facility universe: NPDES non-major general permits (Current)	Data Quality	Combined			255	282?		RI data entry backlog and clean -up of Construction GP and MSGP authorizations
P01B1C	Major individual permits: correctly coded limits (Current)	Goal	Combined	≥95%	67.40%	63.60%			Not sure what this means, please provide definition and Otis query
C01B2C	Major individual permits: DMR entry rate based on DMRs expected (1 Qtr)	Goal	Combined	≥95%	89.60%	99.40%			
C01B3C	Major individual permits: percent with permit limits and DMR data (1 FY)	Goal	Combined	≥95%	85.90%	100.00%			3 Major Industrials not included in count. Bradford, Clariant and Blount - ICIS data entry under review for coding errors.
P01B4C	Major individual permits: manual RNC/SNC override rate (1 FY)	Data Quality	Combined			0.00%	2		2 will be overridden because of late data entry of report received dates.
P01C1C	Non-major individual permits: correctly coded limits (Current)	Informational Only	Combined			74.60%			Not sure what this means; please provide definition and Otis query
C01C2C	Non-major individual permits: DMR entry rate based on DMRs expected (1 Qtr)	Informational Only	Combined			82.60%			Is the data entry date pulled? Please provide definition and Otis query
C01C3C	Non-major individual permits: percent with permit limits and DMR	Informational Only	Combined			59.70%	1		DMR non submit shows 1 facility with missing DMRs: RI

	data (1 FY)									Mall
P01D1C	Violations at non-majors: noncompliance rate (1 FY)	Informational Only	Combined			59.70%				
C01D2C	Violations at non-majors: noncompliance rate in the annual noncompliance report (ANCR)(1 FY)	Informational Only	Combined			56.90%				
P01D3C	Violations at non-majors: DMR non-receipt (3 FY)	Informational Only	Combined			3	4			4 in ICIS count.
P01E1S	Informal actions: number of major facilities (1 FY)	Data Quality	State			0	4			4 for OC&I (NBC, Cranston, W. Warwick, Woonsocket)
P01E2S	Informal actions: number of actions at major facilities (1 FY)	Data Quality	State			0	5			5 for OC&I (NBC, Cranston (2), W. Warwick, Woonsocket)
P01E3S	Informal actions: number of non-major facilities (1 FY)	Data Quality	State			20				
P01E4S	Informal actions: number of actions at non-major facilities (1 FY)	Data Quality	State			20				
P01F1S	Formal actions: number of major facilities (1 FY)	Data Quality	State			3	1			Newport
P01F2S	Formal actions: number of actions at major facilities (1 FY)	Data Quality	State			3	1			Newport
P01F3S	Formal actions: number of non-major facilities (1 FY)	Data Quality	State			2	2			Lawton Valley WTP, Blackstone Smithfield Corp
P01F4S	Formal actions: number of actions at non-major facilities (1 FY)	Data Quality	State			2	2			Lawton Valley WTP, Blackstone Smithfield Corp
P01G1S	Penalties: total number of penalties (1 FY)	Data Quality	State			0	3			Newport, Lawton Valley WTP, Blackstone Smithfield Corp
P01G2S	Penalties: total penalties (1 FY)	Data Quality	State			\$0	299,333			Newport (\$13,000), Lawton Valley (\$50,000), Blackstone Smithfield Corp (\$236,333)
P01G3S	Penalties: total collected pursuant to civil judicial actions (3 FY)	Data Quality	State			\$0				
P01G4S	Penalties: total collected pursuant to administrative actions (3 FY)	Informational Only	State			\$31,000	495,333			10/1/04-9/30/07 (\$495,333 total includes SEPs=\$165,111 annual average over period)
P01G5S	No activity indicator - total number of penalties (1 FY)	Data Quality	State			0	3			Newport, Lawton Valley WTP, Blackstone Smithfield Corp
P02A0S	Actions linked to violations: major facilities (1 FY)	Data Quality	State			0.00%	1			This is dependent upon the action list. Added SEV for Kenyon. Others are not violation dependent.
P05A0S	Inspection coverage: NPDES majors (1 FY)	Goal	State	100%	63.8%	68.20%	25	O&M logbook		100% majors inspected annually; ICIS coding to be

									corrected
P05A0C	Inspection coverage: NPDES majors (1 FY)	Goal	Combined	100%	66.9%	72.70%	25	O&M logbook	100% majors inspected annually; ICIS coding to be corrected
P05B1S	Inspection coverage: NPDES non-major individual permits (1 FY)	Goal	State			4.70%	10	PPA 07	Universe was 67, % was 15, non-stormwater GPs counted as minor facilities consistent with PPA definitions
P05B1C	Inspection coverage: NPDES non-major individual permits (1 FY)	Goal	Combined			4.70%	22	ICIS	6 industrial sw, 16 construction
P05B2S	Inspection coverage: NPDES non-major general permits (1 FY)	Goal	State			2.80%			ICIS coding incorrect, needs to be fixed, several inspections not entered (Greenwich Club, Stanley Fastening, RIRRC) - please forward definitions and query for OTIS pull
P05B2C	Inspection coverage: NPDES non-major general permits (1 FY)	Goal	Combined			2.80%			
P05C0S	Inspection coverage: NPDES other (not 5a or 5b) (1 FY)	Informational Only	State			5.90%			
P05C0C	Inspection coverage: NPDES other (not 5a or 5b) (1 FY)	Informational Only	Combined			6.80%			
P07A1C	Single-event violations at majors (1 FY)	Review Indicator	Combined			0	1		Added SEV to Kenyon for Formal Action 11/30/2006
P07A2C	Single-event violations at non-majors (1 FY)	Informational Only	Combined			0			
P07B0C	Facilities with unresolved compliance schedule violations (at end of FY)	Data Quality	Combined			28.60%	1		OTIS corrected
P07C0C	Facilities with unresolved permit schedule violations (at end of FY)	Data Quality	Combined			21.60%	7		OTIS corrected
P07D0C	Major facilities with DMR violations (1 FY)	Data Quality	Combined			20			
P08A1C	Major facilities in SNC (1 FY)	Review Indicator	Combined			6	4		Did not override facility after final RNC run. Corrected Smithfield and South Kingston. East Providence was incorrect DMR, corrected, ICIS to be updated.
P08A2C	SNC rate: percent majors in SNC (1 FY)	Goal	Combined		22.40%	27.30%			4/25 = 16%
P10A0C	Major facilities without timely action (1 FY)	Goal	Combined	< 2%	11.70%	0.00%			

Evaluation Key:
AA -- Appears Acceptable

MI -- Minor Issue
PC -- Potential Concern

Resource Conservation and Recovery Act

RIDEM did not provide written responses to the Preliminary Data Assessment for the Resource Conservation and Recovery Act.

APPENDIX F: FILE SELECTION

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

A File Selection Process

CLEAN AIR ACT (CAA)

EPA Region 1 used OTIS *State Review Framework- File Selection Tool* to select files for the RI SRF. For FY 2008, the file selection tool indicated there were a total of 83 sources in RI with some compliance or enforcement activity. Region 1 used the tool to select 22 actions to review, 11 compliance related actions and 11 enforcement related actions. The tool helped sort activities by universe, by violation, by HPV, by formal enforcement, and by stack test failure. Then, Region 1 selected files randomly (for example, every 5th file) from the various lists of sorted facilities. Specifically, Region 1:

- Sorted by universe and selected every 5th file
- Sorted by violation and selected every 5th file
- Sorted by HPV and selected 8 out of 10
- Sorted by formal enforcement and selected 7 out of 8
- Sorted by stack test failure and selected 1 out of 1
- De-selected every 5th FCE
- Added 2 informal enforcement actions (every 5th)

CLEAN WATER ACT (CWA)

First, EPA sorted the list into major and minor facilities and selected every third Major (9 facilities) and every 23rd minor (4 facilities). EPA then evaluated the resulting coverage based on the various enforcement categories tracked by the selection tool. Based on this evaluation, EPA selected the single facility with a reported Single Event Violation (a Major facility) and (since none of the randomly selected Minors had been inspected) 2 minor facilities that had been inspected -- the first on the list with a general permit and the first on the list with an individual permit. In total, 16 facilities were proposed for file reviews.

RESOURCE CONSERVATION AND RECOVERY ACT (RCRA)

The total number of facilities in RI with RCRA activities in FY2007 was 95. EPA randomly chose every ninth facility on the selection tool list. This produced 10 random facilities. EPA chose 2 additional LQGs, 2 SQGs and 1 "other" facility that had formal enforcement actions in order to assess questions from the PDA on Metrics R10AOS and R10AOC. EPA chose 1 additional LQG and 1 additional SQG with informal enforcement actions in order to assess questions from the PDA on Metrics R08AOS and R08AOC. Finally, EPA chose 2 transporter facility inspections in order to cover every type of facility covered by the original 95 facilities. This resulted in a total of 19 files for review.

B. File Selection Table

Clean Air Act

Facility Name	AFS #	Street	City	Zip	FCE	PCE	Violation	Stack Test Failure	Title V Deviation	HPV	Informal Action	Formal Action	Penalty	Universe	Select
ADMIRAL PACKAGING, INC. FKA UNION INDUST	4400700061	10 ADMIRAL STREET	PROVIDENCE	02904	yes	yes	no	no	no	yes	yes	no	no	MAJR	accepted representative
AMERICAN INSULATED WIRE CORP. - DARLINGTON	4400709044	95 GRAND AVE.	PAWTUCKET	02862	yes	no	no	no	no	no	no	no	no	SM80	accepted representative
AMERICAN POWER CONVERSION	4400902892	132 FAIRGROU NDS ROAD	WEST KINGSTON	02892	no	no	no	no	no	yes	no	yes	yes	FRMI	accepted representative
BLOCK ISLAND POWER	4400900016	100 OCEAN AVE GENERATI NG STATI	BLOCK ISLAND	02807	yes	no	yes	no	no	no	no	no	no	MAJR	accepted representative
BRADFORD DYEING	4400900012	450 BRADFORD STREET	WESTERLY	02891	yes	no	no	no	yes	no	no	no	no	MAJR	accepted representative
COVALENCE SPECIALTY ADHESIVES LLC	4400106015	51 BALLOU BOULEVA RD	BRISTOL	02809	no	no	no	yes	no	no	no	no	no	OMIN	accepted representative
COVENTRY ASPHALT, LLC	4400309008	75 AIRPORT ROAD	COVENTRY	02816	no	no	no	no	no	no	yes	yes	yes	SM80	accepted representative
CRANSTON WPCF AKA CRANSTON WWT,SSI	4400790008	140 PETTACONSETT AVE	CRANSTON	02810	yes	yes	no	no	no	yes	yes	yes	yes	MAJR	accepted representative
DIOCESE OF PROVIDENCE	4400709050	1 CATHEDRAL SQ	PROVIDENCE	02908	yes	no	no	no	no	no	no	no	no	SM80	accepted representative
EXXON MOBIL	4400700016	1001 WAMPANOAG TRAIL	EAST PROVIDENCE	02915	yes	no	no	no	no	no	no	no	no	MAJR	accepted representative
GRISWOLD TEXTILE PRINT	4400900597	WHITE ROCK	WESTERLY	02891	yes	no	no	no	no	no	no	no	no	SM80	accepted representative
INTERNAIONAL PACKAGING CORPORATION	4400700715	517 MINERAL SPRING AVENUE	PAWTUCKET	02860	yes	no	no	no	no	no	yes	no	no	SM80	accepted representative
KENYON INDUSTRIES	4400900010	36 SHERMAN AVENUE	SHANNONCK	02836	yes	no	yes	no	no	no	yes	yes	yes	MAJR	accepted representative
MURDOCK WEBBING	4400700509	27 FOUNDRY STREET	CENTRAL FALLS	02863	yes	no	no	no	no	yes	yes	yes	yes	SM80	accepted representative
ORIGINAL BRADFORD SOAP WORKS	4400700094	200 PROVIDENCE ST	WEST WARWICK	02893	yes	no	no	no	no	yes	no	no	no	MAJR	accepted representative
PORTOLA TECH	4400709001	85 FAIRMOUN	WOONSOCKET	02895	yes	no	no	no	no	yes	yes	no	no	MAJR	accepted represen

INTERNATIONAL		T ST.														tative
QUARTERMOON INC. AKA VANGARD SAILBOATS	4400500400	200 HIGHPOINT AVE.	PORTSMOUTH		yes	no	no	no	yes	no	yes	no	no	MA JR	accepted representative	
RAYTHEON COMPANY	4400500011	1847 WEST MAIN RD	PORTSMOUTH	02871	no	no	no	no	no	yes	no	yes	yes	FR MI	accepted representative	
RI HOSPITAL	4400700043	593 EDDY ST	PROVIDENCE	02902	no	yes	yes	no	no	no	no	no	no	MA JR	accepted representative	
RIVERPOINT LACE WORKS, INC	4400700056	825 MAIN STREET	WEST WARWICK	02893	no	no	no	no	no	yes	yes	yes	yes	SM 80	accepted representative	
SHAMROCK ASSOCIATES, LLC	4400911111	CHASE HILL ROAD	HOPKINTON	02804	yes	no	no	no	no	no	no	no	no	SM 80	accepted representative	
ST JOSEPHS HOSPITAL	4400700044	PEACE ST	PROVIDENCE	02907	yes	no	no	no	no	no	no	no	no	SM 80	accepted representative	

Clean Water Act

Facility Name	Program ID	Facility street	Facility city	zip	Permit Component	Inspection	Violation	Single Event Violation	SNC	Informal Action	Formal Action	Penalty	Universe	Select
BLOUNT SEAFOOD CORPORATION	RI0001121	383 WATER STREET	WARREN	02885		1	4	0	0	0	0	0	Major	Accepted Representative
DEBLOIS OIL COMPANY	RI0023418	2579 SOUTH COUNTY TRAIL	EAST GREENWICH	02818		0	2	0	0	0	0	0	Minor	Accepted Representative
EAST GREENWICH WWTF	RI0100030	1 CROMPTON AVENUE	EAST GREENWICH	02818	POT PRE	1	10	0	0	0	1	0	Major	Accepted representative
EXXONMOBIL OIL CORPORATION	RI0001333	1001 WAMPANOAG TRAIL	EAST PROVIDENCE	02915		2	5	0	0	0	0	0	Major	Accepted representative
KENYON INDUSTRIES, INC	RI0000191	36 SHERMAN AVENUE - POB 115	SHANNOCK	02875		1	21	1	1	0	0	0	Major	Accepted representative
LAWTON VALLEY WATER TREAT PLNT	RI0021784	2200 WEST MAIN ROAD	PORTSMOUTH	02871		0	9	0	0	0	0	0	Minor	Accepted representative
NEWPORT WPCF	RI0100293	250 J.T. O'CONNELL HIGHWAY	NEWPORT	02840	CSO POT PRE	1	25	0	0	0	1	13,000	Major	Accepted representative
ORIGINAL BRADFORD SOAP WORKS	RIR230211	200 PROVIDENCE STREET	WEST WARWICK	02893	SWI	0	3	0	3	0	0	0	Minor	Accepted representative

RIEDC/QUONSET WWTF	RI0100404	150 ZARBO AVENUE	NORTH KINGSTOWN	02852	POT PRE	1	11	0	0	0	0	0	Major	Accepted representative
ROYAL MILLS COMPLEX	RIR100555	125-186 PROVIDENCE ROAD	WEST WARWICK	02893	SWC	2	0	0	0	0	0	0	Minor	Accepted Representative
SCARBOROUGH WWTF	RI0100188	990 OCEAN ROAD	NARRAGANSETT	02882	POT	1	2	0	0	0	0	0	Major	Accepted Representative
SOUTH KINGSTOWN WWTF	RI0100374	275 WESTMORELAND STREET	NARRAGANSETT	02882	POT PRE	0	10	0	0	0	0	0	Major	Accepted Representative
THE TOWN DOCK, INC.	RI0021849	45 STATE ST	NARRAGANSETT	02882		1	1	0	0	0	0	0	Minor	Accepted Representative
TORAY PLASTICS (AMERICA), INC.	RIR230108	21 CRIPE STREET	NORTH KINGSTOWN	02852	SWI	0	2	0	2	0	0	0	Minor	accepted representative
VEOLIA WATER-CRANSTON WPCF	RI0100013	140 PETTACONSETT AVENUE	CRANSTON	02920	PRE POT	0	21	0	1	0	0	0	Major	Accepted Representative
WOONSOCKET WWTF	RI0100111	11 CUMBERLAND HILL ROAD	WOONSOCKET	02895	PRE POT	1	18	0	0	0	0	0	Major	Accepted Representative

Resource Conservation and Recovery Act

Facility Name	Program ID	Street	City	Zip	Inf. Action	Form Action	Universe	Selection Basis
ALS AUTO BODY	RIR000016303	3 BLAISDELL AVE	TIVERTON	02878	0	0	SQG	Accepted representative
CHEMART CO.	RID000791434	11 NEW ENGLAND WAY	LINCOLN	02865	0	0	LQG	Accepted representative
D'AGOSTINOS AUTO SALVAGE	RID987475449	1174 DOUGLAS AVE	NORTH PROVIDENCE	02904	0	1	SQG	Accepted supplemental
DAGOSTINOS AUTO SALES & SALVAGE	RI5000000265	75 ELLENFIELD ST	PROVIDENCE	02905	0	1	SQG	Accepted supplemental
INTERPLEX METALS RI CORP.	RID980913354	231 FERRIS AVENUE	EAST PROVIDENCE	02916	0	1	LQG	Accepted supplemental
K I K CUSTOM PRODUCTS, INC	RID055176283	35 MARTIN STREET	CUMBERLAND	02864	1	0	LQG	Accepted supplemental
N E ENVIRONMENTAL SERVICES INC	RIR000505321	20 INDUSTRIAL DR	CUMBERLAND	02864	1	1	OTH	Accepted supplemental
NEWPORT SHIPYARD	RID982765828	1 WASHINGTON ST.	NEWPORT	02840	0	0	SQG	Accepted representative
NISSAN OF EAST PROVIDENCE INC	RID987477528	845 TAUNTON AVE	EAST PROVIDENCE	02914	1	0	OTH	Accepted representative
NORTHLAND ENVIRONMENTAL INC.	RID040098352	275 ALLENS AVE	PROVIDENCE	02905	0	0	TSD	Accepted representative
PHOTO QUICK	RI5000009696	620 RESERVOIR AVE	CRANSTON	02910	0	0	OTH	Accepted representative
PORTOLA TECH INTERNATIONAL	RID052633526	85 FAIRMOUNT ST	WOONSOCKET	02895	0	1	LQG	Accepted supplemental
SAFETY-KLEEN SYSTEMS INC	RID084802842	167 MILL STREET	CRANSTON	02905	0	0	TSD	Accepted representative
STERICYCLE INC	RI5000010512	846 CUMBERLAND HILL RD	WOONSOCKET	02895	0	0	TRA	Accepted supplemental
TECHNIC INC.	RID001200252	1 SPECTACLE ST.	CRANSTON	02910	1	0	LQG	Accepted representative
WAL-MART STORE #2225	RI5000007849	1919 DIAMOND HILL RD	WOONSOCKET	02895	1	0	SQG	Accepted supplemental
WEEKS HILL AUTO LTD	RIR000506675	20 WEEKS HILL RD	COVENTRY	02827	1	0	SQG	Accepted representative
WESTEND COLLISION SERVICES & SALES INC	RIR000503482	555 CRANSTON ST	PROVIDENCE	02907	0	0	SQG	Accepted representative
WESTERN OIL INC	RIR000500025	1114 LONSDALE AVE	LINCOLN	02865	0	0	TRA	Accepted supplemental

APPENDIX G: FILE REVIEW ANALYSIS

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

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

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

Clean Air Act

CAA Metric #	CAA File Review Metric:	Metric Value	Initial Findings and Conclusions
Metric 2c	% of files reviewed where MDR data are accurately reflected in AFS.	22.7%	<p>A total of 5 out of the 22 files reviewed reflected consistent MDR data when compared to the AFS/OTIS databases. Many of the data inconsistencies were minor (e.g., SIC codes, street addresses, and zip codes); however, 10 out of the 22 files reviewed, or 45.5%, were found to have compliance status data that were not consistent with the data found in AFS/OTIS.</p> <p>The primary issue here is that some violations may be violations of more than one air program code (e.g., Title V, SIP and MACT), but once a compliance status code change is warranted, the compliance status code revision is made only to one of the applicable program codes and not to all applicable program codes, therefore, carrying forward an inaccurate compliance status code in AFS for one or more applicable air program codes.</p> <p>Another issue pertains to actions, such as stack testing, where the RIDEM revises a compliance status code to "unknown" pending the final test report results. This "unknown" compliance status is sometimes carried forward even after a determination of "in compliance" or "in violation" has been made. Again, the issue may be that some, but not all, of the applicable air program codes are revised accordingly.</p>
Metric 4a	% of planned evaluations (negotiated FCEs, PCEs, investigations) completed for the review year pursuant to a negotiated CMS plan.	75.6% -TV 49.3% - SM80	<p>The RIDEM committed to following a CMS plan without seeking to negotiate an alternative plan. From the preliminary data analysis, RIDEM inspected 31 of 41 Title V major sources within the required CMS two year cycle, or 75.6%. In addition, 33 of 67 SM80 facilities, or 49.3% of the SM80s, were inspected within the first year of the five year CMS cycle for SM80 sources.</p> <p>When asked by EPA why RIDEM did not trade-off some of its SM80 inspections for Title V major source inspections in order to meet both their Title V major and SM80 inspection commitments, the RIDEM stated that one of its air inspectors didn't have the proper training and/or knowledge to conduct a thorough Title V major source inspection and was assigned to conduct only SM80 inspections. (This air inspector</p>

CAA Metric #	CAA File Review Metric:	Metric Value	Initial Findings and Conclusions
			has since left RIDEM.)
Metric 4b	Delineate the air compliance and enforcement (c/e) commitments for the FY under review. This should include commitments in PPAs, PPGs, grant agreements, MOAs, or other relevant agreements. The C/E commitments should be delineated.	29.8% -Stack Test Program Activities Accomplished 50.0% -HPVs without timely formal enforcement action	<p>In its PPA workplan for federal fiscal year 2007, RIDEM committed to observing 30 stack tests and 27 relative accuracy test audits (RATAs) and/or cylinder gas audits (CGAs). For federal fiscal year 2007, RIDEM conducted 17 such activities (29.8%).</p> <p>Because of budget constraints, the RIDEM's Office of Air Resources was down one CAA inspector position in 2007. In addition, two air inspectors left the RIDEM in the middle of federal fiscal year 2008, leaving the RIDEM with three vacant air inspector positions. Due to the lack of air inspectors in 2007 and 2008, the RIDEM began to disinvest in its stack testing program in 2007 and completely disinvested from this program in 2008.</p> <p>The RIDEM was found to always take appropriate enforcement once violations were identified; however, for the review period, the RIDEM did not consistently meet the timeliness guidelines set forth in EPA's "Timely and Appropriate" guidance document. In 4 out of the 8 enforcement files reviewed for HPVs (note that Covalence Specialty Adhesives LLC is classified as a true minor source and was not identified as an HPV so the Timely and Appropriate" requirements do not apply in this case), the RIDEM did not address the violations within 270 days of the violation discovery date (Day Zero). Specifically, RIDEM did not address the violations occurring at American Power Conversion, Cranston Water Pollution Control Facility, Kenyon Industries, and Raytheon Company until approximately 329, 335, 570, and 463 days after Day Zero, respectively.</p> <p>In addition, the violations occurring at Riverpoint Laceworks were not addressed until approximately 335 days after Day Zero; however, in this case, the RIDEM had referred the case to EPA for alleged NSPS Subpart Dc violations that the RIDEM did not have the authority to enforce. EPA returned the case-lead back to RIDEM once it determined that it couldn't, with any certainty, prove that the facility had commenced construction after the effective date of NSPS Subpart Dc. RIDEM most likely would have met the 270 time frame if the case had not been referred to EPA in order to pursue potential NSPS Subpart Dc violations.</p>
Metric 6a	# of files reviewed with FCEs.	77.3%	A total of 17 out of the 22 files reviewed included FCEs and inspection reports, or 77.3% of the files reviewed. A total of 15 out of the 17 inspection reports, or 88.2%, were completed within a month of the applicable FCE. A total of 1 out of the 17 inspection reports, or 5.9%, were completed with six weeks of the FCE and 1 out of 17, or 5.9%, were completed 9 months after completion of the FCE.
Metric 6b	% of FCEs that meet the definition of an FCE per the CMS policy.	100%	The RIDEM should be commended for taking the initiative to develop and continue to use a Title V FCE checklist. This checklist is used during all Title V FCEs. The checklist lists each condition of a Title V permit, the method used to determine compliance and the compliance status of each condition. There is also space on the checklist for an inspector to provide additional comments. This feature ensures that compliance determinations are made for each regulated emission unit included within a Title V permit. This checklist is a supplement to a compliance monitoring report (CMR).

CAA Metric #	CAA File Review Metric:	Metric Value	Initial Findings and Conclusions
Metric 6c	% of CMRs or facility files reviewed that provide sufficient documentation to determine compliance at the facility.	100%	As mentioned above, in conducting Title V FCEs, the RIDEM air inspectors completed a Title V inspection checklist to ensure that compliance determinations were made for all Title V permit conditions. In addition, all 17 reports reviewed (Title V or SM80) included sufficient information/documentation to determine compliance.
Metric 7a	% of CMRs or facility files reviewed that led to accurate compliance determinations.	100%	The inspection reports or compliance monitoring reports (CMRs) were found to be comprehensive and properly documented observations noted during the inspections. EPA's review revealed that RIDEM inspectors were consistently making accurate compliance determinations.
Metric 7b	% of non-HPVs reviewed where the compliance determination was timely reported to AFS.	50%	A total of 14 out of the 22 files reviewed were for non-HPVs. A total of 7 out of the 14 non-HPV files reviewed included inconsistent compliance status information when compared to the AFS/OTIS databases.
Metric 8h	% of violations in files reviewed that were accurately determined to be HPV.	100%	Based on EPA's review of 8 case files pertaining to HPVs, EPA determined that RIDEM is capable of making accurate compliance determinations; however, in some circumstances, RIDEM has been uncertain whether specific violations meet the HPV criteria, and those decisions have been decided jointly with EPA during semiannual face-to-face meetings between EPA and RIDEM. Waiting for the face-to-face semiannual meetings has caused some delay in identifying HPVs in AFS in a timely manner.
Metric 9a	# of formal and informal enforcement responses reviewed.	22	A total of 13 out of the 22 files reviewed involved the issuance of informal enforcement actions (either Letters of Noncompliance or Notices of Alleged Violations). A total of 9 out of the 22 files reviewed involved the issuance of formal enforcement actions with the assessment of penalties (1 out of the 9 formal enforcement actions occurred at a non-HPV facility). Please note that not all enforcement actions reviewed occurred in federal fiscal year 2007, but because these actions were associated with activities that did take place in federal fiscal year 2007, EPA believed it was necessary to review these enforcement actions as well.
Metric 9b	% of formal enforcement responses that have returned or will return a source to physical compliance.	100%	In all of the applicable files reviewed, the RIDEM required the necessary injunctive relief to return a facility to compliance within a specified timeframe to ensure a violating facility returned to compliance expeditiously.
Metric 10e	% of HPVs reviewed that are addressed in a timely manner.	37.5%	A total of 3 out of the 8 enforcement case files reviewed for HPVs indicated that the RIDEM had addressed the HPV violations within the appropriate time frame of 270 days, as required by EPA's "Timely and Appropriate" guidance. (Note: An additional HPV most likely would have been addressed within 270 days if the case had not been temporarily referred to EPA to make an applicability determination regarding NSPS Subpart Dc for which the RIDEM did not have enforcement authority. EPA could not prove that the facility was subject to NSPS Subpart Dc and referred the case back to the RIDEM.)
Metric 10f	% of enforcement responses reviewed at HPVs that are appropriate. The number of appropriately addressed HPVs over the number of HPVs addressed during the review year.	100%	Formal enforcement was taken against all 8 HPVs for which enforcement files were reviewed. Penalties have been collected from 7 out of the 8 facilities. (RIDEM is pursuing payment from the remaining HPV through the use of a collection agency since the company went into receivership and ultimately shutdown.)

CAA Metric #	CAA File Review Metric:	Metric Value	Initial Findings and Conclusions
Metric 11a	% of reviewed penalty calculations that consider and include where appropriate gravity and economic benefit.	100%	<p>EPA reviewed 9 enforcement case files where penalties were assessed and determined that RIDEM is calculating and collecting penalties for both economic benefit and gravity, when appropriate, and is using their penalty matrix worksheet consistently to ensure that they are assessing appropriate penalties.</p> <p>Where a specific case did not have an economic benefit component, there was no information in the file indicating RIDEM's rationale for not seeking economic benefit, (For instance there was nothing in the file that indicated that there was no economic benefit associated with the given violation(s) or that the economic benefit was insignificant – less than \$5,000). In these instances, the EPA file reviewer determined that there was little or no economic benefit from the violations.</p> <p>In discussing with RIDEM the need to provide a rationale for not seeking economic benefit in the file for a particular case, the RIDEM informed EPA that beginning in January of 2009, the RIDEM instituted a procedure whereby all future enforcement case files would include a memo to the file when economic benefit was not being sought that included RIDEM's rationale for not seeking such a penalty.</p>
Metric 12a	% of penalties reviewed that document the difference and rationale between the initial and final assessed penalty.	100%	<p>Of the 9 enforcement case files reviewed where a penalty was assessed, 2 of the facilities settled with no reduction in penalty and 6 facilities negotiated a penalty reduction. In addition, one facility went into receivership and ultimately went out of business without paying a penalty or negotiating a reduced penalty. (The RIDEM is utilizing a collection agency to collect the penalty from this facility).</p> <p>All 6 enforcement case files reviewed, for facilities where the final penalty was reduced, included penalty reduction memos describing the RIDEM's rationale for reducing its proposed penalty.</p>
Metric 12b	% of files that document collection of penalty.	100%	<p>For each of the 8 enforcement case files reviewed where a penalty was collected, a copy of the penalty check was included in the case file that indicated that the penalty had been paid in full.</p> <p>The data metrics indicate that RIDEM is seeking penalties 100% of the time in its formal enforcement actions against HPVs.</p>

Clean Water Act

SRF CWA File Review Metric Analysis

Name of State:		Review Period:	
CWA Metric #	CWA File Review Metric:	Metric Value	Initial Findings and Conclusions
Metric 2b	% of files reviewed where data is accurately reflected in the national data system.	19%	Three (3) of 16 files reviewed were accurately reflected in the national data system (data system). There are a limited no. of inspections, formal and informal enforcement actions not entered in the data system. These include inspection deficiency follow-up letters (informal actions); NOVs, either not entered at all, or entered erroneously as informal instead of formal actions (despite the terminology, RI NOVs are formal actions); failure to identify SEVs and SNC actions. Since initiating the review, the State tells us it has begun entering inspection deficiency letters as informal actions, and NOVs should be correctly entered as formal actions in the future.
Metric 4a	% of planned inspections completed. Summarize using the Inspection Commitment Summary Table in the CWA PLG.	NA	
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. The types of commitments to include would be for inspections, pretreatment reviews, DMR entry, compliance data entry, follow-up on SRF recommendations, etc. Summarize using the Metric 4b Summary Form.	100%	All inspections agreed to in the PPA were performed. However, DEM noted significant disparities in the number of non-major inspections it has conducted compared to what is in the data system. In addition, there may be confusion regarding the definitions of inspections coded under metric 5b1, 5b2, and 5c that should be resolved for data entry past and future.
Metric 6a	# of inspection reports reviewed.	16	In the 16 files selected for the file review, 16 inspection reports were found in the files and reviewed as part of the SRF review (for 3 entities documentation for 2 inspections were found and for 3 entities there was no documentation of any inspections being conducted). In addition, the file reviews identified 4 inspections that had not been entered into the national data system.
Metric 6b	% of inspection reports reviewed that are complete.	94%	Fifteen (15) of 16 of reviewed inspection reports were judged complete. Five (5) of the inspection reports reviewed were either entered incorrectly or not entered into data system. Most of the Inspection reports did not contain detailed facility descriptions; describe the specific areas evaluated or describe the current permit status. A template that describes the facility components and documentation of the specific areas evaluated during the inspection would be a positive addition to the reports.
Metric 6c	% of inspection reports reviewed that provide sufficient documentation to lead to an accurate compliance determination.	100%	Sixteen (16) of the 16 inspection reports reviewed provided sufficient information to lead to a compliance determination. The State should be complimented for its practice of sending out letters that describe observed deficiencies and requiring a corrective action or response following almost all inspections.
Metric 6d	% of inspection reports reviewed that are timely.	50%	Eight (8) of the 16 inspection reports reviewed had completion delays between 48 and 274 days. Many of the delays seem attributable to a procedure where the inspection report is not signed and dated until an associated deficiency letter (informal enforcement action) is signed. Signing and dating the inspection reports when they are completed would likely resolve many of these delays.
Metric 7e	% of inspection reports or facility files reviewed that led to accurate compliance determinations.	100%	Sixteen (16) of 16 inspection reports reviewed led to a compliance determination.
Metric 8b	% of single event violation(s) that are accurately identified as SNC or Non-SNC.	0%	None (0) of 3 SEVs identified in the 16 files reviewed were accurately identified in the data system as SEVs. In addition, the one (1) SEV that is entered in the data system (Kenyon) appears to be incorrectly coded as an SEV. Of the 3 violations that arguably should have been coded as SEVs, at least one (Newport) should have identified the pretreatment violations as SNC; for the other two (both in Cranston), 1 involved an SSO, and likely should have been coded as SNC, and the other involved sludge handling, odor and plant O&M.
Metric 8c	% of single event violation(s) identified as SNC that are reported timely.	0%	The SEV that did constitute SNC (Newport) and the SEV that likely should have been SNC (Cranston SSO) were not recorded as SEV or SNC in the national data system. Thus reporting was not timely.

Metric 9a	# of enforcement responses reviewed	24	See attached file (9a Enforcement Actions.doc)
Metric 9b	% of enforcement responses that have returned or will return a source in SNC to compliance.	100%	This includes SNCs not coded into the data system as SNC, such as Newport (tracking SNC for non-DMR receipt complicated by DEM's use of a separate tracking system).
Metric 9c	% of enforcement responses that have returned or will returned a source with non-SNC violations to compliance.	94%	A follow-up inspection report identified ongoing lab SOP issues following this issue being raised in an initial inspection deficiency ltr (East Greenwich).
Metric 10b	% of enforcement responses reviewed that address SNC that are taken in a taken in a timely manner.	66%	According to the data system, 6 facilities in RI with SNC violations were responded to in a timely manner. Two of these facilities were selected for file reviews as part of this audit (Cranston and Kenyon). Cranston was in SNC for DMR non-receipt and was reported to have returned to compliance within 2 quarters. Kenyon was in SNC for effluent violations. Kenyon received a timely SNC letter. The violation at Kenyon has been tracked forward as "resolve pending." Resolution appears to be linked to the installation of an on-site sanitary wastewater treatment system that was included as a SEP under a concurrent formal enforcement action for other effluent violations. EPA's review of 10 major facilities suggests 3 additional enforcement actions at major facilities were potential SNC violations (Woonsocket, Newport, and Cranston). EPA's review of these 3 concludes that none of these actions were taken with 60 days of the end of the second quarter of violations.
Metric 10c	% of enforcement responses reviewed that address SNC that are appropriate to the violations.	89%	6 facilities with SNC violations were identified in the data system at the SRF kick-off. According to DEM, the correct figure should be 4 facilities in SNC, and it has updated the data system, which indicates 5 facilities in SNC as of 7/23/09. EPA's review of 16 facility files suggests 3 additional facilities in SNC actions not identified in the data system. These include Lawton Valley (minor), Torey Plastics (minor), and Newport. Cranston, included for DMR NR, is also potentially in SNC for an SSO. Of these, the SNC response for Kenyon may not be considered appropriate. The response included a timely SNC ltr and the violation was resolved through an SEP negotiated into an ongoing action addressing other violations. This response appears to be inconsistent with State and federal SEP policies.
Metric 10d	% of enforcement responses reviewed that appropriately address non-SNC violations.	100%	Twenty (20) of 20 actions taken in response to non-SNC violations were determined appropriate.
Metric 10e	% enforcement responses for non-SNC violations where a response was taken in a timely manner.	45%	Nine (9) of 20 enforcement responses were taken in a timely manner. Of these, 8 were deficiency letters sent in response to inspections and one was in response to a pretreatment issue. Formal actions all took longer than 60 days.
Metric 11a	% of penalty calculations that consider and include where appropriate gravity and economic benefit.	17%	RI included economic benefit in 1 of 6 penalty calculations reviewed.
Metric 12a	% of penalties reviewed that document the difference and rationale between the initial and final assessed penalty.	100%	The difference between the initial and final assessed penalty was documented in 6 of 6 enforcement actions reviewed.
Metric 12b	% of enforcement actions with penalties that document collection of penalty.	100%	Six (6) of 6 enforcement actions document the collection of assessed penalties.

Resource Conservation and Recovery Act

RCRA Metric #	RCRA File Review Metric Description:	Metric Value	Initial Findings
Metric 2c	% of files reviewed where mandatory data are accurately reflected in the national data system.	21%	<p>Twenty-one (21) enforcement actions issued at a total of nineteen (19) facilities and all of the related inspection reports were reviewed. RIDEM conducted a total of thirty-two (32) inspections relating to these 19 enforcement actions. A total of 4 out of the 19 individual facility files reviewed in the RCRAINFO database reflected complete and accurate data when compared to the facility files.</p> <p>The primary issue here is that all of the 15 records in RCRAInfo which were not accurate had missing data. All of the facilities had compliance status for numerous evaluations listed as "undetermined" even after a determination of "in compliance" or "in violation" had been made. In addition, seven files had missing or partially missing data on enforcement actions taken/inspections conducted.</p>
Metric 4a	Planned inspections completed	137%	<p>In FY2007 RIDEM committed to conduct a total of ninety-one (91) inspections including twenty-five (25) large quantity generator (LQG) inspections, fifty (50) small quantity generator (SQG) inspections, two (2) TSD inspections, ten (10) transporter inspections and four (4) transfer facility inspections. RIDEM completed a total of 125 inspections. Twenty-six LQG inspections were conducted including 20 CEIs, 1 CDI and 5 CSEs. Fifty-five (55) SQG inspections were conducted including 34 CEIs, 5 CDIs and 16 CSEs. Two TSD inspections were conducted.</p>
Metric 4b	Planned commitments completed	N/A	<p>Planned commitments for the RCRA enforcement program includes only the inspection requirements. Appropriate enforcement responses should be undertaken by the Program. Enforcement action timeliness and appropriateness is discussed below.</p>

Metric 6a	# of inspection reports reviewed.	32	Twenty-one (21) enforcement actions issued at a total of nineteen (19) facilities and all of the related inspection reports were reviewed. RIDEM conducted a total of thirty-two (32) inspections relating to these 19 enforcement actions. All were reviewed. The files reviewed reflected the full range of types of RCRA facilities and the full range of enforcement responses.
Metric 6b	% of inspection reports reviewed that are complete and provide sufficient documentation to determine compliance at the facility.	63%	EPA found that 37% (12 of 32) inspection reports reviewed were not sufficiently detailed. Reports with completeness issues were developed by both the Office of Compliance and Inspection (OC&I) and the Office of Waste Management (OWM) almost equally. The fundamental issues with each office are different. OC&I reports in the past, consisted of both checklists and a written report narrative describing the inspection in detail. The total package included photos, drawings, maps of the facility, supporting documents detailing information about the facility and violations observed. The written narrative was an excellent bridge between the checklist and the supporting documents in that it weaved the pieces of the inspection together. This type of report allowed readers not familiar with the facility to get a firm understanding of what was observed during the inspection and how compliance determinations were made. Sometime around the mid-point of FY2007, OC&I management decided that inspectors should not include the narrative portion of the reports as part of the whole inspection report.
			This led to five reviewed inspection reports completed during the second half of FY2007 that did not have adequate facility descriptions, descriptions of RCRA and non-RCRA activities/areas or detailed descriptions supporting the regulatory citations. OWM reports that were reviewed had varying issues. The TSD inspection reports have shown improvement from previous evaluations. However, the TSD reports still lack the quality and quantity of narrative that is needed to more thoroughly document facility descriptions, descriptions of RCRA and non-RCRA activities/areas and detailed descriptions supporting the regulatory noncompliance issues. Non-TSD reports prepared by OWM do not utilize any narrative descriptions. No facility, process, RCRA and non-RCRA area descriptions are included. Photos,

			drawings, maps and supporting documentation are missing.
Metric 6c	Inspections reports completed within a determined time frame.	100%	RCRA inspectors from both offices do an excellent job in completing their inspection reports in a very timely manner. The average length of time to complete an inspection report for RCRA inspectors of RIDEM was five (5) days. However, this is somewhat misleading as most reports are completed within one day of the inspection. Of the 32 inspection reports reviewed, 25 were completed within one day of the inspection and three more were completed within three (3) days.
Metric 7a	% of accurate compliance determinations based on inspection reports.	91%	Of the twenty-one enforcement responses reviewed, two appeared to be inappropriate. In both cases, RIDEM inspectors requested during the inspection that facility personnel fix violations that were discovered. Those violations were then never cited by the inspectors in any enforcement response. In both cases the facility did not receive any notice of any violation. These facilities should have been identified as secondary violators and should have received an LNC. If the facilities had received LNCs, then future non-compliance at the facilities could have been addressed with escalating enforcement.
Metric 7b	% of violation determinations in the files reviewed that are reported timely to the national database (within 150 days).	100%	RIDEM does an excellent job in determining the compliance status of inspected facilities in a timely manner. The average length of time to make the status determination was fifty-one (51) days.

Metric 8h	% of violations in files reviewed that were accurately determined to be SNC.	100%	OC&I makes accurate determinations of significant non-compliers. They do so independently and quickly. There were six SNC determined in the files reviewed and each determination was accurate.
Metric 9a	# of enforcement responses reviewed.	21	
Metric 9b	% of enforcement responses that have returned or will return a source in SNC to compliance.	100%	Of the twenty-one enforcement responses reviewed, RIDEM determined that six of the facilities were SNC's. All of the enforcement actions returned or will return each of the facilities to compliance.
Metric 9c	% of enforcement responses that have returned or will return Secondary Violators (SV's) to compliance.	100%	Of the twenty-one enforcement responses reviewed, ten were determined to be SV's. All ten of these SV's returned to compliance. Their return to compliance was confirmed through facility certification and re-inspection of the facilities.
Metric 10c	% of enforcement responses reviewed that are taken in a timely manner.	67%	Of the twenty-one enforcement responses reviewed, five of the responses determined that the facility was in compliance at the time of the inspection. Of the remaining sixteen SV and SNC determinations, thirteen of the initial actions were taken in a timely manner. The three cases that were not timely were all for the issuance of a formal enforcement action. These three cases took an average of 388 days to issue. Of the six final formal enforcement actions, none were completed in a timely manner. The average length of time until a final order was issued was approximately 660 days. All secondary violator notifications and all secondary violator return to compliance occurred in a timely manner.
Metric 10d	% of enforcement responses reviewed that are appropriate to the violations.	100%	RIDEM staff does a very good job at identifying the appropriate enforcement responses. Aside from the two cases noted above in 7a where there were no non-compliances cited, all of the enforcement actions taken were appropriate to the violations noted.
Metric 11a	% of reviewed penalty calculations that consider and include where appropriate gravity and economic benefit.	100%	EPA reviewed six enforcement case files where penalties were assessed and determined that RIDEM is calculating and collecting penalties for both economic benefit and gravity where appropriate.

Metric 12a	% of penalties reviewed that document the difference and rationale between the initial and final assessed penalty.	100%	All enforcement case files reviewed document all changes in penalty from the initial to the final assessed penalty. OC&I kept notes of every negotiated change in penalty, and the changes were reflected in new penalty calculation memos.
Metric 12b	% of files that document collection of penalty.	100%	Each enforcement case file contained transmittal letters and copies of checks documenting payment of negotiated penalties.

APPENDIX G: CORRESPONDENCE

Kick-off letter to RIDEM September 26, 2008



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region 1
1 Congress Street, Suite 1100
BOSTON, MA 02114-2023**

Mr. Terrence Gray, Assistant Director for Air, Waste and Compliance
Rhode Island Department of Environmental Management
235 Promenade Street
Providence, RI 02908-5767

Dear Mr. Gray:

Through this letter, EPA Region 1 New England is initiating a review of the Rhode Island Department of Environmental Management (RIDEM) RCRA Subtitle C Enforcement, Clean Water Act NPDES Enforcement, and Clean Air Act Stationary Source Enforcement Programs. We will review inspection and enforcement activity from Federal Fiscal Year 2007.

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

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

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

- ▶ examination of inspection and enforcement activity from Federal Fiscal Year 2007 and any available more

- recent information on current operations,
- ▶ discussions between Region 1 New England and RIDEM program managers and staff,
- ▶ review of selected RIDEM inspection and enforcement files and policies,
- ▶ examination of data in EPA and RIDEM data systems, and
- ▶ review of RIDEM's follow-up to the recommendations made by Region 1 after SRF/1.

Region 1 New England and RIDEM 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, innovative approaches to achieving compliance, documenting and reporting outputs, outcomes and indicators, or supplemental environmental projects. We welcome RIDEM suggesting other compliance programs for EPA review.

We expect to complete the RIDEM review, including the final report, by May 31, 2009.

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

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

- Rich Piligian, RCRA
- Dave Turin, NPDES
- Tom McCusker, Clean Air Act

In October, I hope to meet with your senior managers to go over the review expectations, procedures, and schedule. Our review team will participate in this meeting and we hope that RIDEM managers and staff involved in the review can join us.

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

Attachment A, with this letter, transmits the Official Data Set (ODS) that will be used in the review, the files that have been selected for review, and our focus areas for the upcoming on-site file review that will be conducted from mid-October to mid-December. Please respond by October 6, 2008 with an indication that you agree with the ODS or with a spreadsheet indicating any discrepancies. Please send your response by e-mail to Mark Mahoney (Mahoney.mark@epa.gov). If you do not respond by this date, we will proceed with our preliminary data analysis under the assumption that the ODS is correct.

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

All information and materials 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 RIDEM, EPA will release the information in response to any request that is properly submitted.

We look forward to working with you on this project.

Sincerely,

Susan Studlien, Director
Office of Environmental Stewardship

Attachment A: Official Data Set

cc: By E-mail
Robert Varney, Regional Administrator
Ira Leighton, Deputy Regional Administrator
Region 1 New England Office Directors and Deputies
Lisa Lund, Director, Office of Compliance, OECA
Mark Mahoney, Region 1 New England

ATTACHMENT A

The Official Data Set (ODS) was pulled from the Online Tracking Information System (OTIS) Web site using the September 2008 refresh. We also will send an electronic version in Excel format by email. States can access these reports online with additional links and information on the OTIS site. (Note that the data may slightly change after each monthly data refresh.)

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

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

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

Please respond by October 6, 2008 with an indication that you agree with the ODS or with a spreadsheet indicating any discrepancies. Please send your response by e-mail to Mark Mahoney (Mahoney.mark@epa.gov). If you do not respond by this date, we will proceed with our preliminary data analysis under the assumption that the ODS is correct.