

*April 2015 Final*

# **STATE REVIEW FRAMEWORK**

## **Georgia**

### **Clean Water Act, Clean Air Act, and Resource Conservation and Recovery Act Implementation in Federal Fiscal Year 2013**

**U.S. Environmental Protection Agency  
Region 4, Atlanta**

**Final Report  
April 16, 2015**

## Executive Summary

### Introduction

EPA Region 4 enforcement staff conducted a State Review Framework (SRF) enforcement program oversight review of the Georgia Environmental Protection Division (EPD).

EPA bases SRF findings on data and file review metrics, and conversations with program management and staff. EPA will track recommended actions from the review in the SRF Tracker and publish reports and recommendations on EPA's ECHO web site.

### Areas of Strong Performance

- CAA enforcement actions bring sources back into compliance, and HPVs are addressed in a timely and appropriate manner.
- CWA inspection reports were well written, complete and documented accurate compliance determinations.
- RCRA met the national goals for inspection coverage, and documented accurate compliance determinations.
- CWA, RCRA, and CAA maintained documentation of penalties collected.

### Priority Issues to Address<sup>1</sup>

The following are the top-priority issues affecting the state program's performance:

- EPD should implement procedures for penalty calculations to ensure appropriate documentation and recovery of gravity and economic benefit and/or the rationale for differences between initial and final penalties. This is a recurring issue from SRF Rounds 1 and 2. Following the SRF Round 3 File Review, Region 4 met with EPD's leadership to discuss steps needed to move forward on these issues. Region 4 will continue to work with EPD leadership to implement the penalty recommendations provided in this report.

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<sup>1</sup> EPA's "National Strategy for Improving Oversight of State Enforcement Performance" identifies the following as significant recurrent issues: "Widespread and persistent data inaccuracy and incompleteness, which make it hard to identify when serious problems exist or to track state actions; routine failure of states to identify and report significant noncompliance; routine failure of states to take timely or appropriate enforcement actions to return violating facilities to compliance, potentially allowing pollution to continue unabated; failure of states to take appropriate penalty actions, which results in ineffective deterrence for noncompliance and an unlevel playing field for companies that do comply; use of enforcement orders to circumvent standards or to extend permits without appropriate notice and comment; and failure to inspect and enforce in some regulated sectors."

## **Most Significant CWA-NPDES Program Issues**

- EPD needs to improve the accuracy of data reporting in ICIS. Discrepancies between files and Integrated Compliance Information System (ICIS) data were identified in 44% of the files reviewed. To address this issue, EPD should identify the causes of inaccurate ICIS reporting and implement procedures to address the issues. EPA will monitor EPD's efforts through oversight calls and periodic data reviews.
- EPD's enforcement responses are not timely and do not consistently indicate a return to compliance. To address this issue, EPD should implement procedures that ensure timely enforcement responses and ensure a return to compliance. EPA will monitor through existing oversight calls and other periodic data reviews.

## **Most Significant CAA Stationary Source Program Issues**

- EPD's penalty calculations do not adequately document the consideration of economic benefit. To address this issue, EPD should submit to EPA in writing a description of their efforts to ensure appropriate documentation of the consideration of economic benefit in penalty calculations. EPA will monitor improvements through review of final penalty worksheets for federally reportable violations.

## **Most Significant RCRA Subtitle C Program Issues**

- EPD needs to improve the quality of their RCRA inspection reports by including a description of each facility's hazardous management activities in the RCRA generator inspection reports. EPA will evaluate progress towards this goal in the first quarter of FY2016.
- EPD needs to improve the identification of RCRA Significant Non-compliers (SNCs) by designating SNC facilities in the national database, RCRAInfo. EPA will monitor the timeliness of EPD enforcement via bimonthly conference calls and RCRAInfo data analyses.

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## I. Background on the State Review Framework

The State Review Framework (SRF) is designed to ensure that EPA conducts nationally consistent oversight. It reviews the following local, state, and EPA compliance and enforcement programs:

- Clean Water Act National Pollutant Discharge Elimination System
- Clean Air Act Stationary Sources (Title V)
- Resource Conservation and Recovery Act Subtitle C

Reviews cover:

- **Data** — completeness, accuracy, and timeliness of data entry into national data systems
- **Inspections** — meeting inspection and coverage commitments, inspection report quality, and report timeliness
- **Violations** — identification of violations, determination of significant noncompliance (SNC) for the CWA and RCRA programs and high priority violations (HPV) for the CAA program, and accuracy of compliance determinations
- **Enforcement** — timeliness and appropriateness, returning facilities to compliance
- **Penalties** — calculation including gravity and economic benefit components, assessment, and collection

EPA conducts SRF reviews in three phases:

- Analyzing information from the national data systems in the form of data metrics
- Reviewing facility files and compiling file metrics
- Development of findings and recommendations

EPA builds consultation into the SRF to ensure that EPA and the state understand the causes of issues and agree, to the degree possible, on actions needed to address them. SRF reports capture the agreements developed during the review process in order to facilitate program improvements. EPA also uses the information in the reports to develop a better understanding of enforcement and compliance nationwide, and to identify issues that require a national response.

Reports provide factual information. They do not include determinations of overall program adequacy, nor are they used to compare or rank state programs.

Each state's programs are reviewed once during each SRF cycle. The first round of SRF reviews began in FY 2004, and the second round began in FY 2009. The third round of reviews began in FY 2013 and will continue through 2017.

## II. SRF Review Process

**Review period:** FY 2013

**Key dates:** April 23, 2014: letter sent to the State kicking off the Round 3 review

Week of June 9-13, 2014: on-site file reviews for CAA and RCRA

Week of June 16-20, 2014: on-site file review for CWA

**State and EPA key contacts for review:**

	Georgia EPD	EPA Region 4
SRF Coordinator	Mary Walker EPD Assistant Director	Kelly Sisario, OEA SRF Coordinator
CAA	Michael Odom, Air Toxics Unit Manager, Stationary Source Compliance Program	Mark Fite, OEA Technical Authority Kevin Taylor, Air and EPCRA Enforcement Branch
CWA	Lewis Hays, Program Manager, Watershed Compliance Program Watershed Protection Branch	Ronald Mikulak, OEA Technical Authority Ken Kwan, Clean Water Enforcement Branch
RCRA	Amy Potter, Hazardous Waste Program Manager	Shannon Maher, OEA Technical Authority Hector Danois & Brooke York, RCRA and OPA Enforcement and Compliance Branch

### III. SRF Findings

Findings represent EPA's conclusions regarding state performance and are based on observations made during the data and/or file reviews and may also be informed by:

- Annual data metric reviews conducted since the state's last SRF review
- Follow-up conversations with state agency personnel
- Review of previous SRF reports, Memoranda of Agreement, or other data sources
- Additional information collected to determine an issue's severity and root causes

There are three categories of findings:

**Meets or Exceeds Expectations:** The SRF was established to define a base level or floor for enforcement program performance. This rating describes a situation where the base level is met and no performance deficiency is identified, or a state performs above national program expectations.

**Area for State Attention:** An activity, process, or policy that one or more SRF metrics show as a minor problem. Where appropriate, the state should correct the issue without additional EPA oversight. EPA may make recommendations to improve performance, but it will not monitor these recommendations for completion between SRF reviews. These areas are not highlighted as significant in the executive summary.

**Area for State Improvement:** An activity, process, or policy that one or more SRF metrics show as a significant problem that the agency is required to address. Recommendations should address root causes. These recommendations must have well-defined timelines and milestones for completion, and EPA will monitor them for completion between SRF reviews in the SRF Tracker.

Whenever a metric indicates a major performance issue, EPA will write up a finding of Area for State Improvement, regardless of other metric values pertaining to a particular element.

The relevant SRF metrics are listed within each finding. The following information is provided for each metric:

- **Metric ID Number and Description:** The metric's SRF identification number and a description of what the metric measures.
- **Natl Goal:** The national goal, if applicable, of the metric, or the CMS commitment that the state has made.
- **Natl Avg:** The national average across all states, territories, and the District of Columbia.
- **State N:** For metrics expressed as percentages, the numerator.
- **State D:** The denominator.
- **State % or #:** The percentage, or if the metric is expressed as a whole number, the count.

## Clean Air Act Findings

CAA Element 1 — Data																																																						
<b>Finding 1-1</b>	<b>Meets or Exceeds Expectations</b>																																																					
<b>Summary</b>	Minimum Data Requirements (MDRs) are entered timely and accurately into AFS, and violations are timely and accurately recorded in AFS.																																																					
<b>Explanation</b>	<p>Metric 2b indicated that 32 of the 35 files reviewed (91.4%) documented all MDRs being reported accurately into AFS.</p> <p>Metrics 3a2, 3b1 and 3b3 indicated that GEPD entered MDR data for HPVs, compliance monitoring activities, and enforcement actions into AFS within the specified timeframe. Metric 3b2 (74.6%) indicates that the majority of stack tests are entered in AFS within 120 days. GEPD’s metric essentially equals the national average, and EPA noted that most late entries were less than 30 days late.</p> <p>Metrics 7b1 and 7b3 indicated that GEPD reports violations associated with notices of violation (NOVs) and HPVs accurately and timely into AFS, significantly exceeding the national averages. Supplemental file reviews confirmed that GEPD was accurately reporting violations in AFS.</p>																																																					
<b>Relevant metrics</b>	<table border="1"> <thead> <tr> <th>Metric ID Number and Description</th> <th>Natl Goal</th> <th>Natl Avg</th> <th>State N</th> <th>State D</th> <th>State % or #</th> </tr> </thead> <tbody> <tr> <td>2b Accurate MDR data in AFS</td> <td>100%</td> <td></td> <td>32</td> <td>35</td> <td>91.4%</td> </tr> <tr> <td>3a2 Untimely entry of HPV determinations</td> <td>0</td> <td></td> <td></td> <td></td> <td>1</td> </tr> <tr> <td>3b1 Timely reporting of compliance monitoring MDRs</td> <td>100%</td> <td>80.9%</td> <td>793</td> <td>865</td> <td>91.7%</td> </tr> <tr> <td>3b2 Timely reporting of stack test dates and results</td> <td>100%</td> <td>75.4%</td> <td>746</td> <td>1000</td> <td>74.6%</td> </tr> <tr> <td>3b3 Timely reporting of enforcement MDRs</td> <td>100%</td> <td>68.7%</td> <td>86</td> <td>94</td> <td>91.5%</td> </tr> <tr> <td>7b1 Violations reported per informal actions</td> <td>100%</td> <td>59.5%</td> <td>44</td> <td>53</td> <td>83.0%</td> </tr> <tr> <td>7b3 Violations reported per HPV identified</td> <td>100%</td> <td>57.5%</td> <td>8</td> <td>9</td> <td>88.9%</td> </tr> </tbody> </table>						Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #	2b Accurate MDR data in AFS	100%		32	35	91.4%	3a2 Untimely entry of HPV determinations	0				1	3b1 Timely reporting of compliance monitoring MDRs	100%	80.9%	793	865	91.7%	3b2 Timely reporting of stack test dates and results	100%	75.4%	746	1000	74.6%	3b3 Timely reporting of enforcement MDRs	100%	68.7%	86	94	91.5%	7b1 Violations reported per informal actions	100%	59.5%	44	53	83.0%	7b3 Violations reported per HPV identified	100%	57.5%	8	9	88.9%
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<b>CAA Element 2 — Inspections</b>						
<b>Finding 2-1</b>	<b>Meets or Exceeds Expectations</b>					
<b>Summary</b>	GEPD met the negotiated frequency for inspection of sources, reviewed Title V Annual Compliance Certifications, and included all required elements in their Full Compliance Evaluations (FCEs) and Compliance Monitoring Reports (CMRs).					
<b>Explanation</b>	Metrics 5a and 5b indicated that GEPD provided adequate inspection coverage for the major and SM-80 sources during FY13 by ensuring that each major source was inspected at least every 2 years, and each SM-80 source was inspected at least every 5 years. In addition, Metric 5e documented that GEPD reviewed Title V annual compliance certifications submitted by major sources. Finally, Metrics 6a and 6b confirmed that all elements of an FCE and CMR required by the <a href="#">Clean Air Act Stationary Source Compliance Monitoring Strategy</a> (CMS Guidance) were addressed in all facility files reviewed.					
<b>Relevant metrics</b>	<b>Metric ID Number and Description</b>	<b>Natl Goal</b>	<b>Natl Avg</b>	<b>State N</b>	<b>State D</b>	<b>State % or #</b>
	5a FCE coverage: majors and mega-sites	100%	88.5%	244	244	100%
	5b FCE coverage: SM-80s	100%	93.3%	200	200	100%
	5e Review of Title V annual compliance certifications	100%	81.3%	371	385	96.4%
	6a Documentation of FCE elements	100%		28	28	100%
	6b Compliance monitoring reports reviewed that provide sufficient documentation to determine facility compliance	100%		28	28	100%
<b>State response</b>						
<b>Recommendation</b>						

<b>CAA Element 3 — Violations</b>																														
<b>Finding 3-1</b>	<b>Meets or Exceeds Expectations</b>																													
<b>Summary</b>	GEPD made accurate compliance determinations for both HPV and non-HPV violations.																													
<b>Explanation</b>	<p>Metric 7a indicated that GEPD made accurate compliance determinations in 36 of 37 files reviewed (97.3%).</p> <p>Metric 8a indicated that the HPV discovery rate for majors (2.4%) was below the national average of 4.0%. This is a “review indicator” metric, and upon further evaluation of the 37 sources with violations, file reviewers concluded that GEPD is accurately identifying HPVs.</p> <p>Metric 8c confirmed that GEPD’s HPV determinations were accurate in all 21 files reviewed (100%).</p>																													
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<b>CAA Element 4 — Enforcement</b>																														
<b>Finding 4-1</b>	<b>Meets or Exceeds Expectations</b>																													
<b>Summary</b>	Enforcement actions bring sources back into compliance within a specified timeframe, and HPVs are addressed in a timely and appropriate manner.																													
<b>Explanation</b>	<p>Metric 9a indicated that all formal enforcement actions reviewed brought sources back into compliance through corrective actions in the order, or compliance was achieved prior to issuance of the order.</p> <p>Metric 10a indicated that all 14 HPVs (100%) addressed in FY13 were addressed within 270 days, which exceeds the national average of 67.5%.</p> <p>Metric 10b indicated that appropriate enforcement action was taken to address all 10 HPVs (100%) evaluated during the file review.</p>																													
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<b>CAA Element 5 — Penalties</b>																								
<b>Finding 5-1</b>	<b>Meets or Exceeds Expectations</b>																							
<b>Summary</b>	GEPD documented the collection of penalties and in most instances, any differences between initial and final penalty assessments.																							
<b>Explanation</b>	<p>Metric 12a indicated that 17 of 19 penalty calculations reviewed (89.5%) documented differences between the initial and the final penalty assessed. For two sources, a District office destroyed penalty worksheets, so reviewers were unable to determine if adjustments were made to the penalty. EPA recommends that GEPD advise their District offices that this practice is inconsistent with national policy.</p> <p>Metric 12b confirmed that documentation of all penalty payments made by sources was included in the file.</p>																							
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12a Documentation on difference between initial and final penalty	100%		17	19	89.5%																			
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<b>Recommendation</b>																								

CAA Element 5 — Penalties																		
Finding 5-2	Area for State Improvement																	
<b>Summary</b>	Initial penalty calculations do not adequately document the consideration of economic benefit using the BEN model or other method to produce results consistent with national policy and guidance.																	
<b>Explanation</b>	<p>Metric 11a indicates that only 2 out of 19 files (10.5%) provided adequate documentation of the State’s consideration of economic benefit. Whereas GEPD’s penalty calculation worksheets include a line item for economic benefit, most worksheets (15 of 19) indicate that economic benefit is NA, negligible, or insignificant, without providing any further rationale. The state should provide an explanation as to why economic benefit is not likely. For example, for a violation involving a late permit application, the state might indicate that “no significant economic benefit was gained, since the permit application was submitted within 60 days.”</p> <p>Although economic benefit was not assessed in any of the penalties reviewed, GEPD’s Air Penalty Policy does contemplate the use of a simplified formula (“rule of thumb” method) or EPA’s BEN model to calculate it.</p> <p>EPA’s expectation that state and local enforcement agencies document the consideration and assessment of economic benefit is outlined in the 1993 Steve Herman memo entitled <a href="#">“Oversight of State and Local Penalty Assessments: Revisions to the Policy Framework from State/EPA Enforcement Agreements.”</a></p>																	
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11a Penalty calculations include gravity and economic benefit	100%		2	19	10.5%													
<b>State response</b>	Georgia follows written enforcement procedures that include a penalty rationale that clearly considers gravity and economic benefit where it can be easily determined. Our Memorandum of Agreement (MOU) with Region IV indicates in Section VI(A)(8) that penalty calculations and/or penalty rationale will be maintained, and, accordingly, Georgia maintains a penalty rationale for all executed Orders. EPD acknowledges that the documentation in the files may not completely reflect the process followed. We believe the improvements proposed by EPD following the Round 3 process are consistent with the requirement of the																	

	<p>MOU, and will yield an agency-wide approach that clearly documents the consistent application of our methods, and reasons for any adjustment, as well as the final penalty.</p>
<b>Recommendation</b>	<p>Within 3 months of issuance of the final SRF report, GEPD should submit to EPA in writing a description of their efforts to ensure appropriate documentation of the consideration of economic benefit in penalty calculations. For verification purposes, EPA will review final penalty worksheets for federally reportable violations following issuance of the final SRF report. If within 12 months of issuance of the final SRF report appropriate penalty documentation is being observed, this recommendation will be considered completed.</p>

## Clean Water Act Findings

CWA Element 1 — Data						
<b>Finding 1-1</b>	<b>Meets or Exceeds Expectations</b>					
<b>Summary</b>	The State exceeded National Goals for the entry of key data metrics for major facilities.					
<b>Explanation</b>	The State exceeded National Goals for the entry of key Data Metrics (1b1 and 1b2) for major facilities. Issues with Data Metrics 7a1 (related to Single Event Violations), and 10a1 (related to timely actions as appropriate at major facilities) are, however, discussed in Elements 3 and 4.					
<b>Relevant metrics</b>	<b>Metric ID Number and Description</b>	<b>Natl Goal</b>	<b>Natl Avg</b>	<b>State N</b>	<b>State D</b>	<b>State % or #</b>
	1b1 Permit limit rate for major facilities	≥95%	98.3%	189	189	100%
	1b2 DMR entry rate for major facilities	≥95%	97.9%	3545	3634	97.6%
<b>State Response</b>						
<b>Recommendation</b>						

<b>CWA Element 1 — Data</b>																		
<b>Finding 1-2</b>	<b>Area for State Improvement</b>																	
<b>Summary</b>	The accuracy of data between files reviewed and data reflected in the national data system needs improvement.																	
<b>Explanation</b>	<p>Of the files reviewed, discrepancies for major facilities that occurred between the Detailed Facility Reports (DFRs) in EPA’s Enforcement and Compliance History Online (ECHO) and the State’s files were related to: Discharge Monitoring Reports (DMRs), penalties, enforcement actions, facility addresses, and violations.</p> <p>For Data Metrics 1g1 (Number of Enforcement Actions with Penalties) and 1g2 (Total Penalties Assessed), the State’s verified frozen FY 13 data shows 0 and \$0, respectively. This is apparently a data issue where data was entered incorrectly that also occurred in FYs 11 and 12.</p> <p>Additionally, there are discrepancies between the FY 13 frozen data the State verified as shown in the Data Metrics Analysis and the FY 13 106 Work Plan end-of year accomplishments as shown in Finding 2-1 of this Report, particularly for Metrics 5a1, 5b1, and 5b2.</p> <p>Data accuracy was an Area for State Attention during Round 2. Steps taken by the State in response to the Round 2 finding have not fully addressed the issue, so data accuracy remains an issue and is now identified as an Area for State Improvement.</p>																	
<b>Relevant metrics</b>	<table border="1"> <thead> <tr> <th><b>Metric ID Number and Description</b></th> <th><b>Natl Goal</b></th> <th><b>Natl Avg</b></th> <th><b>State N</b></th> <th><b>State D</b></th> <th><b>State % or #</b></th> </tr> </thead> <tbody> <tr> <td>2b Files reviewed where data are accurately reflected in the national data system</td> <td>100%</td> <td></td> <td>18</td> <td>32</td> <td>56%</td> </tr> </tbody> </table>						<b>Metric ID Number and Description</b>	<b>Natl Goal</b>	<b>Natl Avg</b>	<b>State N</b>	<b>State D</b>	<b>State % or #</b>	2b Files reviewed where data are accurately reflected in the national data system	100%		18	32	56%
<b>Metric ID Number and Description</b>	<b>Natl Goal</b>	<b>Natl Avg</b>	<b>State N</b>	<b>State D</b>	<b>State % or #</b>													
2b Files reviewed where data are accurately reflected in the national data system	100%		18	32	56%													
<b>State Response</b>	<p>EPD identified multiple technical and procedural issues that led to inaccurate reporting of data to ICIS. Corrective actions and procedures are being developed and implemented to improve EPD's data integrity going forward. These measures range from proper identification and entry of required data to resolving data communications issues between the State and ICIS. Actions already in place allowed for correction of many errors similar to those cited in the report during the FFY14 data verification process. More frequent verification of ICIS/ECHO data as part of our revised Quality Management Plan will ensure early identification and improved accuracy.</p>																	



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**Recommendation**

EPD should take the appropriate steps to ensure that data and information are reported accurately. Within 6 months of the effective date of this Report, should implement procedures (including staffing and management oversight) to ensure the accurate reporting of data into ICIS, to ensure the timely participation in the annual data verification process, and to ensure that data inaccuracies have been corrected. EPA will monitor this effort through oversight calls and other periodic data reviews. If within one year of the effective date of this Report these reviews indicate there is sufficient improvement in data accuracy, this recommendation will be considered complete.

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<b>CWA Element 2 — Inspections</b>						
<b>Finding 2-1</b>	<b>Meets or Exceeds Expectations</b>					
<b>Summary</b>	The State met or exceeded all but one of their FY13 Compliance Monitoring Strategy (CMS) Plan and CWA §106 Workplan inspection commitments. The only exception was for Pretreatment compliance inspections and audits in which the State missed their inspection commitment by 1 (96%).					
<b>Explanation</b>	<p>Element 2 includes metrics that measure planned inspections completed (Metrics 4a1 – 4a10) and inspection coverages (Metrics 5a1, 5b1, and 5b2). The National Goal for this Element is for 100% of state specific CMS Plan commitments to be met.</p> <p>Under Metrics 4a and 5, the State met or exceeded the FY 13 inspection commitments for all Metrics, except as noted below. The State did not meet their FY 13 inspection commitment related to 4a1 (Pretreatment compliance inspections and audits) by 1.</p>					
<b>Relevant metrics</b>	<b>Metric ID Number and Description</b>	<b>Natl Goal</b>	<b>Natl Avg</b>	<b>State N</b>	<b>State D</b>	<b>State % or #</b>
	4a1 Pretreatment compliance inspections and audits	100% of CMS		26	27	96%
	4a2 SIU inspections for SIUs discharging to non-authorized POTWs	100% of CMS		58	58	100%
	4a4 Major CSO inspections	100% of CMS		3	2	150%
	4a5 SSO inspections	100% of CMS		NA	NA	NA
	4a7 Phase I & II MS4 audits or inspections	100% of CMS		15	15	100%
	4a8 Industrial stormwater inspections	100% of CMS		50	50	100%
	4a9 Phase I & II SW construction inspections	100% of CMS		1006	500	201%
	4a10 Medium and large NPDES CAFO inspections	100% of CMS		63	1042	630%
	5a1 Inspection coverage of NPDES majors	100% of CMS		129	99	130%
	5b1 Inspection coverage of NPDES non-majors with individual permits	100% of CMS		111	36	308%
	5b2 Inspection coverage of NPDES non-majors with general permits	100% of CMS		31	0	NA
<b>State Response</b>						
<b>Recommendation</b>						

<b>CWA Element 2 — Inspections</b>						
<b>Finding 2-2</b>	<b>Meets or Exceeds Expectations</b>					
<b>Summary</b>	Most of the State’s inspection reports were well written, complete and provided sufficient documentation to determine compliance.					
<b>Explanation</b>	Most of the State’s inspection reports were well written; complete; and included field observations, where appropriate (File Metric 6a).					
<b>Relevant metrics</b>	<b>Metric ID Number and Description</b>	<b>Natl Goal</b>	<b>Natl Avg</b>	<b>State N</b>	<b>State D</b>	<b>State % or #</b>
	6a Inspection reports complete and sufficient to determine compliance at the facility	100%		20	23	87%
<b>State Response</b>						
<b>Recommendation</b>						

<b>CWA Element 2 — Inspections</b>						
<b>Finding 2-3</b>	<b>Area for State Attention</b>					
<b>Summary</b>	Many of the State’s inspection reports were not consistently completed in a timely manner.					
<b>Explanation</b>	<p>File Metric 6b addresses inspection reports completed within prescribed timeframes. For this analysis, since the State’s NPDES Enforcement Management System (EMS) did not specify timeliness goals, EPA’s EMS was used as a guide for reviewing the State’s timeliness for the completion of non-sampling reports (within 30 days) and sampling reports (within 45 days). As noted below, 70% of the reports reviewed were completed in a timely manner pursuant to EPA’s EMS, while the National Goal is 100%. The average number of days to complete an inspection report was 35 days. Two inspection reports were outliers in terms of timeliness which significantly affected the State’s average.</p> <p>The degree to which the State’s inspection reports were timely was an issue that was raised during Round 2 as an area needing State attention. Steps taken by the State in response to Round 2 have not fully addressed this issue, however, the majority of the State’s inspection reports were completed in a timely manner and it does not appear to be a systemic issue. Since the State’s level of performance has not changed significantly from Round 2, this Element remains an Area for State Attention.</p>					
<b>Relevant metrics</b>	<b>Metric ID Number and Description</b>	<b>Natl Goal</b>	<b>Natl Avg</b>	<b>State N</b>	<b>State D</b>	<b>State % or #</b>
	6b Inspection reports completed within prescribed timeframe	100%		16	23	70%
<b>State Response</b>						
<b>Recommendation</b>						

CWA Element 3 — Violations																														
<b>Finding 3-1</b>	<b>Area for State Attention</b>																													
<b>Summary</b>	The State identifies and reports Single Event Violations (SEVs) at major facilities in a timely manner as SNC or non-SNC; however, the State did not consistently enter SEV codes into ICIS.																													
<b>Explanation</b>	The file review supports the State’s efforts in identifying (File Metric 8b1) and reporting (File Metric 8c) SEVs at major facilities. Additionally, it was noted during the file review that the State identified 2 other SEVs for non-major facilities. However, with regard to major facilities, the State is not consistent in identifying and coding SEVs into ICIS when they are related to SSOs. Per the <i>SEV Entry Guide for ICIS</i> (October 15, 2008), unauthorized wastewater bypasses or discharges, by definition are SEVs. These can be one-time events or long-term violations and are required to be entered into ICIS. In previous years, the State had coded significantly more major SEVs under Data Metric 7a1 than in FY 13 (i.e., FY 11 had 20 SEVs; FY 12 had 17 SEVs; and FY 13 had 2 SEVs). Therefore, this issue is now identified as an Area for State Attention. The State should develop criteria for more consistently identifying SSOs as SEVs and implement processes to ensure this information is entered into ICIS.																													
<b>Relevant metrics</b>	<table border="1"> <thead> <tr> <th>Metric ID Number and Description</th> <th>Natl Goal</th> <th>Natl Avg</th> <th>State N</th> <th>State D</th> <th>State % or #</th> </tr> </thead> <tbody> <tr> <td>7a1 Number of major facilities with single event violations</td> <td></td> <td></td> <td></td> <td></td> <td>2</td> </tr> <tr> <td>8b1 Single-event violations accurately identified as SNC or non-SNC</td> <td>100%</td> <td></td> <td>1</td> <td>1</td> <td>100%</td> </tr> <tr> <td>8c Percentage of SEVs identified as SNC reported timely at major facilities</td> <td>100%</td> <td></td> <td>0</td> <td>0</td> <td>100%</td> </tr> </tbody> </table>						Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #	7a1 Number of major facilities with single event violations					2	8b1 Single-event violations accurately identified as SNC or non-SNC	100%		1	1	100%	8c Percentage of SEVs identified as SNC reported timely at major facilities	100%		0	0	100%
Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #																									
7a1 Number of major facilities with single event violations					2																									
8b1 Single-event violations accurately identified as SNC or non-SNC	100%		1	1	100%																									
8c Percentage of SEVs identified as SNC reported timely at major facilities	100%		0	0	100%																									
<b>State Response</b>																														
<b>Recommendation</b>																														

<b>CWA Element 3 — Violations</b>						
<b>Finding 3-2</b>	<b>Meets or Exceeds Expectations</b>					
<b>Summary</b>	The State’s Inspection Reports documented accurate compliance determinations.					
<b>Explanation</b>	Most of the State’s inspection reports were well written; complete; included field observations, and compliance status that accurately documented compliance determinations. The State has developed a thorough and comprehensive inspection checklist that is used for documenting inspection field observations and making compliance determinations.					
<b>Relevant metrics</b>	<b>Metric ID Number and Description</b>	<b>Natl Goal</b>	<b>Natl Avg</b>	<b>State N</b>	<b>State D</b>	<b>State % or #</b>
	7e Inspection reports reviewed that led to an accurate compliance determination	100%		21	22	96%
<b>State Response</b>						
<b>Recommendation</b>						

**CWA Element 4 — Enforcement**

<b>Finding 4-1</b>	<b>Area for State Improvement</b>																													
<b>Summary</b>	Several of the State’s Enforcement Responses (ERs) were not timely or appropriate. Additionally, the State’s ERs did not consistently achieve a Return to Compliance (RTC).																													
<b>Explanation</b>	<p>ERs did not consistently reflect a RTC (File Metric 9a); 18 of 27 files reviewed (67%) reflected ERs that returned or will return a facility to compliance. Of the remaining 33% of the files reviewed, in 3 cases the State had taken formal action by issuing an Expedited Enforcement Compliance Order (EECO) for a penalty only without addressing the violation in a more comprehensive manner, and noncompliance appears to continue. In 6 other cases, the State issued numerous informal actions (i.e., Notices of Deficiency or Noncompliance Documentation Letters and/or Notices of Violation) and noncompliance appears to continue.</p> <p>Data Metric 10a1 documents that 2 of the State’s 6 major facilities in SNC had timely ERs.</p> <p>Additionally, the State did not consistently address violations in an appropriate manner (File Metric 10b). Twenty-one of the twenty-seven files reviewed (78%) were found to include an ER that was appropriate. Of the remaining 22% of the files reviewed, ERs were not appropriate because numerous informal and/or formal enforcement actions were taken and noncompliance appears to continue with no further escalation of an ER to achieve compliance.</p>																													
<b>Relevant metrics</b>	<table border="1"> <thead> <tr> <th>Metric ID Number and Description</th> <th>Natl Goal</th> <th>Natl Avg</th> <th>State N</th> <th>State D</th> <th>State % or #</th> </tr> </thead> <tbody> <tr> <td>9a Percentage of enforcement responses that return or will return source in violation to compliance</td> <td>100%</td> <td></td> <td>18</td> <td>27</td> <td>67%</td> </tr> <tr> <td>10a1 Major facilities with timely action as appropriate</td> <td></td> <td>3.6%</td> <td>2</td> <td>6</td> <td>33.3%</td> </tr> <tr> <td>10b Enforcement responses reviewed that address violations in an appropriate manner</td> <td>100%</td> <td></td> <td>21</td> <td>27</td> <td>78%</td> </tr> </tbody> </table>						Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #	9a Percentage of enforcement responses that return or will return source in violation to compliance	100%		18	27	67%	10a1 Major facilities with timely action as appropriate		3.6%	2	6	33.3%	10b Enforcement responses reviewed that address violations in an appropriate manner	100%		21	27	78%
Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #																									
9a Percentage of enforcement responses that return or will return source in violation to compliance	100%		18	27	67%																									
10a1 Major facilities with timely action as appropriate		3.6%	2	6	33.3%																									
10b Enforcement responses reviewed that address violations in an appropriate manner	100%		21	27	78%																									
<b>State Response</b>	Issuance of multiple EECOs to the same facility or multiple informal actions to the same facility does not necessarily indicate a failure to return to compliance. EECOs and informal actions are only issued by EPD when a facility has already returned to compliance. The facilities to which EPD issued informal actions did achieve a return to compliance for the specific violations cited.																													

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	<p>EPD addresses compliance by comprehensively evaluating a facility with regard to its history, corrective actions in progress and its response to current violations. For example, spills cited in EECOs had been corrected in a timely manner, were generally not severe, and did not repeat at the same locations. Most of the spills cited in the zero-tolerance area would not have warranted formal action in other areas of the state. Georgia's performance measure of 33.3% for Metric 10a1 far exceeds the national average of 3.6%.</p>
<b>Recommendation</b>	<p>Within 6 months of the effective date of this Report, EPD should implement procedures to ensure that ERs are timely and appropriate and will achieve a RTC. EPA will monitor the State's efforts through existing oversight calls and other periodic data reviews. If within one year of the effective date of this Report these reviews indicate that the State has timely/appropriate enforcement responses that achieve a RTC; the recommendation will be considered completed.</p>

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<b>CWA Element 5 — Penalties</b>	
<b>Finding 5-1</b>	<b>Area for State Improvement</b>
<b>Summary</b>	The State does not maintain initial or final penalty calculations, so the adequacy of economic benefit penalty calculations and penalty documentation could not be evaluated.
<b>Explanation</b>	<p>None of the nine files (0%) reviewed documented the consideration of gravity or EB, included penalty calculation worksheets, or initial/final penalty calculations. While the State’s May 2008 Enforcement Management Strategy (EMS) does include a Penalty Assessment Guidance document which outlines the criteria for determining civil penalties for violations, this document does not address the consideration of EB in penalty calculations. The State’s files do not include documentation to support the rationale for how penalty determinations, including the consideration of gravity and EB, were reached by the State.</p> <p>In support of considering EB in penalty calculations, EPA guidance (<i>Oversight of State and Local Penalty Assessments: Revisions to the Policy Framework from State/EPA Enforcement Agreements</i>; 1993) notes that to remove economic incentives for noncompliance and establish a firm foundation for deterrence, EPA, the States, and local agencies shall endeavor, through their civil penalty assessment practices, to recoup at least the economic benefit the violator gained through noncompliance. This guidance also notes that states should document any adjustments to the initial penalty including a justification for any differences between the initial and final assessed penalty.</p> <p>Additionally, in underscoring the importance of complete penalty calculation records, the NPDES Memorandum of Agreement (MOA) between Georgia and EPA - Region 4 indicates that in accordance with 40 CFR §123.24(b)(3), EPD shall retain certain records related to numerous enforcement procedures and that such records would include penalty calculations and/or their rationale.</p> <p>This is a continuing issue from Rounds 1 and 2 of the SRF. The State has indicated its intention to develop consistent methods for penalty calculations. While this is an effort in the direction to resolve the issue, it does not fulfill requirements of national EPA policy. This element will remain an Area for State Improvement in SRF Round 3 until the SRF recommendation below is fully implemented.</p>

Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
	11a Penalty calculations reviewed that consider and include gravity and economic benefit	100%		0	9	0%
12a Documentation of the difference between initial and final penalty and rationale	100%		0	9	0%	

  

<b>State Response</b>	<p>Georgia follows written enforcement procedures that include a penalty rationale that clearly considers gravity and economic benefit where it can be easily determined. Our Memorandum of Agreement (MOU) with Region IV indicates in Section VI(A)(8) that penalty calculations and/or penalty rationale will be maintained, and, accordingly, Georgia maintains a penalty rationale for all executed Orders. EPD acknowledges that the documentation in the files may not completely reflect the process followed. We believe the improvements proposed by EPD following the Round 3 process are consistent with the requirement of the MOU, and will yield an agency-wide approach that clearly documents the consistent application of our methods, and reasons for any adjustment, as well as the final penalty.</p>
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<b>Recommendation</b>	<p>Within six months of the final date of this report EPD should develop and implement procedures to confirm the State’s (1) appropriate documentation of both gravity and economic benefit in penalty calculations, and (2) appropriate documentation of the rationale for any difference between the initial and final penalty. This documentation should be made available for review by EPA.</p> <p>For verification purposes, for one year following the implementation of the procedures, EPA shall review all initial and final GEPD orders and penalty calculations, including the calculations for the economic benefit of noncompliance. If at the end of the time period the appropriate improvement is observed, this recommendation will be considered complete.</p>
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<b>CWA Element 5 — Penalties</b>						
<b>Finding 5-2</b>	<b>Meets or Exceeds Expectations</b>					
<b>Summary</b>	The State documents the collection of penalties assessed.					
<b>Explanation</b>	The State effectively documents the collection of penalties assessed (File Metric 12b).					
<b>Relevant metrics</b>	<b>Metric ID Number and Description</b>	<b>Natl Goal</b>	<b>Natl Avg</b>	<b>State N</b>	<b>State D</b>	<b>State % or #</b>
	12b Penalties collected	100%		9	9	100%
<b>State Response</b>						
<b>Recommendation</b>						

## Resource Conservation and Recovery Act Findings

RCRA Element 1 — Data						
<b>Finding 1-1</b>	<b>Area for State Attention</b>					
<b>Summary</b>	The majority of Georgia’s RCRA Minimum Data Requirements for compliance monitoring and enforcement activities were complete in RCRAInfo.					
<b>Explanation</b>	<p>During the SRF file review, information in the facility files was checked for accuracy with the information in the national database, RCRAInfo. The data was found to be accurate in 22 of the 24 files (91.7%). There were two files with missing inspection information in RCRAInfo.</p> <p>In reviewing the SRF data metrics, the LQG five-year inspection coverage indicted that the state had inspected 289 facilities during that time period. Current RCRAInfo data shows that actually 310 LQGs were inspected. The data discrepancy could be attributed to data entry after the FY2013 data was frozen. During FY2013, GEPD experienced significant staff turnover, as well as an office relocation, which produced a disruption of data entry. Historical data does not indicate that there is an issue with late data entry, so this is considered an Area for State Attention where Georgia can address the concern without any further oversight by EPA.</p>					
<b>Relevant metrics</b>	<b>Metric ID Number and Description</b>	<b>Natl Goal</b>	<b>Natl Avg</b>	<b>State N</b>	<b>State D</b>	<b>State % or #</b>
	2b Complete and accurate entry of mandatory data			22	24	91.7%
	5c Five-year inspection coverage for LQGs	100%	66.6%	289	336	86%
	5c Five-year inspection coverage of LQGs Corrected (from RCRAInfo)	100%	66.6%	310	336	92%
<b>State Response</b>						
<b>Recommendation</b>						

<b>RCRA Element 2 — Inspections</b>						
<b>Finding 2-1</b>	<b>Meets or Exceeds Expectations</b>					
<b>Summary</b>	Georgia met national goals for TSD and LQG inspections.					
<b>Explanation</b>	<p>Element 2 measures three types of required inspection coverage that are outlined in the EPA RCRA Compliance Monitoring Strategy: (1) 100% coverage of operating Treatment Storage Disposal (TSD) facilities over a two-year period, (2) 20% coverage of Large Quantity Generators (LQGs) every year, and (3) 100% coverage of LQGs every five years.</p> <p>The FY2013 data metrics indicate that both the two-year TSD inspection coverage and the one-year LQG inspection coverage requirements have been met. For the five-year LQG inspection coverage, the data metric indicated that only 86% of the universe had been inspected (289 of 336 LQGs) from FY2008-FY2013. A review of the data in RCRAInfo indicates that actually 310 LQGs had been inspected over that period, which equates to 92% inspection coverage. The data discrepancy could be attributed to data entry after the FY2013 data was frozen. The 92% LQG inspection coverage is near enough to the national goal of 100% coverage to allow for fluctuation of LQG status over the five-year period.</p>					
<b>Relevant metrics</b>	<b>Metric ID Number and Description</b>	<b>Natl Goal</b>	<b>Natl Avg</b>	<b>State N</b>	<b>State D</b>	<b>State % or #</b>
	5a Two-year inspection coverage of operating TSDFs	100%	87.6%	20	20	100%
	5b Annual inspection coverage of LQGs	20%	21%	83	336	24.7%
	5c Five-year inspection coverage of LQGs	100%	66.6%	289	336	86%
	5c Five-year inspection coverage of LQGs Corrected	100%	66.6%	310	336	92%
<b>State Response</b>						
<b>Recommendation</b>						

<b>RCRA Element 2 — Inspections</b>																								
<b>Finding 2-2</b>	<b>Area for State Improvement</b>																							
<b>Summary</b>	Several RCRA inspection reports were missing basic information regarding facility hazardous waste management activities.																							
<b>Explanation</b>	<p>During the SRF file review, 23 inspection reports were evaluated for completeness and sufficiency to determine compliance with the RCRA requirements. It was found that 47.8% (11 of 23) of the inspection reports met this standard. There were 12 RCRA generator inspection reports that were missing basic information describing the management of hazardous waste at the facility. The Georgia RCRA generator inspection reports are typically checklists that do not provide observations and conditions at the time of the inspection.</p> <p>Georgia does not have a formal inspection report completion timeline established in any standard operating procedures or policy. A goal of 30 days is the target timeline for report completion. Twenty of the 23 inspection reports were reviewed. There were three inspections that were not included in this total because the reports were not dated. It was found that ten inspection reports met the 30-day timeline (50%, or 10 of 20), with the average time for report completion at 38 days.</p> <p>The completeness, sufficiency, and timeliness of the RCRA inspection reports is considered an Area for State Improvement.</p>																							
<b>Relevant metrics</b>	<table border="1"> <thead> <tr> <th><b>Metric ID Number and Description</b></th> <th><b>Natl Goal</b></th> <th><b>Natl Avg</b></th> <th><b>State N</b></th> <th><b>State D</b></th> <th><b>State % or #</b></th> </tr> </thead> <tbody> <tr> <td>6a Inspection reports complete and sufficient to determine compliance</td> <td>100%</td> <td></td> <td>11</td> <td>23</td> <td>47.8%</td> </tr> <tr> <td>6b Timeliness of inspection report completion</td> <td>100%</td> <td></td> <td>10</td> <td>20</td> <td>50%</td> </tr> </tbody> </table>						<b>Metric ID Number and Description</b>	<b>Natl Goal</b>	<b>Natl Avg</b>	<b>State N</b>	<b>State D</b>	<b>State % or #</b>	6a Inspection reports complete and sufficient to determine compliance	100%		11	23	47.8%	6b Timeliness of inspection report completion	100%		10	20	50%
<b>Metric ID Number and Description</b>	<b>Natl Goal</b>	<b>Natl Avg</b>	<b>State N</b>	<b>State D</b>	<b>State % or #</b>																			
6a Inspection reports complete and sufficient to determine compliance	100%		11	23	47.8%																			
6b Timeliness of inspection report completion	100%		10	20	50%																			
<b>State Response</b>	GEPD is reviewing/revising standard operating procedures (SOPs) to expand the RCRA Generator report to include mandatory sections that discuss the hazardous management activities and findings at inspected facilities. The procedures will include a goal for completion of the inspection reports within 30 days. EPD is already implementing these changes.																							
<b>Recommendation</b>	It is recommended that GEPD implement procedures to address the identified RCRA inspection report issues within six months of the date of the final SRF report. EPA is available to assist in the development of																							

these procedures. One year after the final report, EPA will review a sample of inspection reports to assess the completeness, sufficiency, and timeliness of the reports. If by June 30, 2016, appropriate improvement is observed, this recommendation will be considered complete.

**RCRA Element 3 — Violations**

**Finding 3-1**      **Meets or Exceeds Expectations**

**Summary**      Georgia makes accurate and timely compliance determinations.

**Explanation**

File Review Metric 7a assesses whether accurate compliance determinations were made based on a file review of inspection reports and other compliance monitoring activity (i.e., record reviews). The file review indicated that 95.8% of the facilities (23 of 24) had accurate compliance determinations.

Data Metric 8b evaluates the timeliness of SNC determinations. In FY2013, GEPD did timely entry of 85.7% of the SNC facilities (6 of 7). One SNC determination was delayed to a prolonged multi-facility investigation. Overall, GEPD demonstrates a sound practice of timely SNC entry into RCRAInfo.

Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
	7a Accurate compliance determinations	100%		23	24	95.8%
8b Timeliness of SNC determinations	100%	77.8%	6	7	85.7%	

**State Response**

**Recommendation**

RCRA Element 3 — Violations																								
Finding 3-2		Area for State Improvement																						
<b>Summary</b>		The state did not designate several SNCs in the national database according to the RCRA ERP.																						
<b>Explanation</b>		<p>In the file review there were 5 of 14 facilities (35.7% of the files) where SNC violations existed but the facility had not been designated as a SNC in RCRAInfo as required by the RCRA ERP.</p> <p>The <i>EPA Hazardous Waste ERP</i> standard is that facilities that are Secondary Violators (non-SNCs) should be addressed in 240 days or elevated to SNC status. Data metric 2a listed ten facilities as long-standing RCRA secondary violators. Upon review, the following factors were identified:</p> <ul style="list-style-type: none"> <li>• Five facilities were addressed by informal enforcement, but the violations had not been closed out in RCRAInfo so the violations appeared as longstanding;</li> <li>• Two facilities are EPA-lead enforcement;</li> <li>• One facility had returned to compliance after the data was frozen;</li> <li>• Two secondary violators should have been elevated to SNC status (these are included in the five facilities identified in paragraph one of this finding).</li> </ul> <p>Timely and accurate SNC identification is essential so that significant compliance problems are addressed in a prompt manner, and that correct data is available to the public concerning problem facilities in their community.</p>																						
<b>Relevant metrics</b>		<table border="1"> <thead> <tr> <th>Metric ID Number and Description</th> <th>Natl Goal</th> <th>Natl Avg</th> <th>State N</th> <th>State D</th> <th>State % or #</th> </tr> </thead> <tbody> <tr> <td>8c Appropriate SNC determinations</td> <td>100%</td> <td></td> <td>9</td> <td>14</td> <td>64.3%</td> </tr> <tr> <td>2a Long-standing secondary violators</td> <td></td> <td></td> <td>10</td> <td></td> <td>10</td> </tr> </tbody> </table>					Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #	8c Appropriate SNC determinations	100%		9	14	64.3%	2a Long-standing secondary violators			10		10
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2a Long-standing secondary violators			10		10																			
<b>State Response</b>																								
<b>Recommendation</b>		It is recommended that GEPD correct any data errors and develop a mechanism to ensure appropriate violation determinations are reflected in RCRAInfo. EPA will monitor progress via bimonthly conference calls and RCRAInfo data analyses. EPA will close this recommendation after observing four consecutive quarters of performance that meets national goals.																						



<b>RCRA Element 4 — Enforcement</b>	
<b>Finding 4-1</b>	<b>Area for State Attention</b>
<b>Summary</b>	<p>In the majority of the cases reviewed, the state had taken appropriate enforcement to address violations and return the facility to compliance. Any trend in untimely enforcement appears to be related to GEPD’s reorganization in FY2013.</p>
<b>Explanation</b>	<p>In the SRF review, 22 files were reviewed to determine if the state had taken the appropriate enforcement response at violating facilities, and if enforcement had returned the facilities to compliance.</p> <p>In evaluating the enforcement responses taken, 81.8% (18 of 22) cases were addressed with the appropriate enforcement response. Of the remaining four cases, there were three facilities that are RCRA post-closure/corrective action facilities that are not currently operating TSDs. There were permit violations at these facilities associated with the clean-up activities from historical contamination. There are extenuating circumstances at these facilities including bankruptcy, foreign owners, or limited financial solvency. The fourth facility was a SNC-caliber facility where the state addressed the violations through an informal action rather than an appropriate formal enforcement action.</p> <p>Of the 22 cases evaluated, 19 of the facilities (86.4%) returned to compliance as a result of enforcement. The three cases where compliance has not been reached are the three RCRA post-closure/corrective action facilities mentioned above. The proper enforcement response and return to compliance was achieved at the majority of the other facilities reviewed, which is considered a good representation of the program.</p> <p>The enforcement of the RCRA post closure/corrective action permits is considered an Area for State Attention, and GEPD is encouraged to utilize enforcement tools, where appropriate, to compel clean-up of RCRA facilities.</p> <p>The data metric that measures the timeliness of formal enforcement showed that one of two enforcement actions (50%) met the ERP in FY2013. The national goal is 80%. In discussions with GEPD, the state explained that there was both a major reorganization and a Department relocation in that fiscal year. This was reason for the slow enforcement response as well as the low number of enforcement actions that fiscal year (a drop from 15 enforcement actions in FY2012, where 100% were</p>

	<p>timely). By midyear FY2014, GEPD had already issued 12 enforcement actions with 91.7% (11 of 12) meeting the ERP goal for timeliness. The untimely enforcement in FY2013 seems to be an intermittent issue related to events during that period, and is not an ongoing issue of concern.</p>					
<p><b>Relevant metrics</b></p>	<p><b>Metric ID Number and Description</b></p>	<p><b>Natl Goal</b></p>	<p><b>Natl Avg</b></p>	<p><b>State N</b></p>	<p><b>State D</b></p>	<p><b>State % or #</b></p>
	<p>9a Enforcement that returns violators to compliance</p>	<p><b>100%</b></p>		<p><b>19</b></p>	<p><b>22</b></p>	<p><b>86.4%</b></p>
	<p>10a Timely enforcement taken to address SNC</p>	<p><b>80%</b></p>	<p><b>77.3%</b></p>	<p><b>1</b></p>	<p><b>2</b></p>	<p><b>50%</b></p>
	<p>10b Appropriate enforcement taken to address violations</p>	<p><b>100%</b></p>		<p><b>18</b></p>	<p><b>22</b></p>	<p><b>81.8%</b></p>
<p><b>State Response</b></p>						
<p><b>Recommendation</b></p>						

RCRA Element 5 — Penalties																								
Finding 5-1		Area for State Improvement																						
<b>Summary</b>		The GEPD RCRA program does not maintain any initial or final penalty calculation, so the adequacy of economic benefit calculations and penalty documentation could not be evaluated.																						
<b>Explanation</b>		<p>One of the objectives of the SRF is to ensure equitable treatment of violators through national policy and guidance, including systematic methods of penalty calculations. Without the availability of state penalty calculations, EPA is unable to assess the quality of the state’s overall enforcement program. As provided in the 1993 EPA “<i>Oversight of State and Local Penalty Assessments: Revisions to the Policy Framework for State/EPA Enforcement Agreements</i>” it is EPA policy not to settle for less than the amount of the economic benefit of noncompliance and a gravity portion of the penalty. Because GEPD does not retain any penalty calculations from RCRA enforcement actions, EPA was unable to make these determinations in any of the ten enforcement cases.</p> <p>This is a continuing issue from Rounds 1 and 2 of the SRF. GEPD has indicated its intention to develop consistent methods for penalty calculations. While this is an effort in the direction to resolve the issue, it does not fulfill requirements of national EPA policy. This element will remain an Area for State Improvement in SRF Round 3 until the SRF recommendation below is fully implemented.</p>																						
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<b>State Response</b>		Georgia follows written enforcement procedures that include a penalty rationale that clearly considers gravity and economic benefit where it can be easily determined. Our Memorandum of Agreement (MOU) with Region IV indicates in Section VI(A)(8) that penalty calculations and/or penalty rationale will be maintained, and, accordingly, Georgia maintains a penalty rationale for all executed Orders. EPD acknowledges that the documentation in the files may not completely reflect the process																						

	<p>followed. We believe the improvements proposed by EPD following the Round 3 process are consistent with the requirement of the MOU, and will yield an agency-wide approach that clearly documents the consistent application of our methods, and reasons for any adjustment, as well as the final penalty.</p>												
<b>Recommendation</b>	<p>Within six months of the final date of this report GEPD should develop and implement procedures to confirm the state’s (1) appropriate documentation of both gravity and economic benefit in penalty calculations, and (2) appropriate documentation of the rationale for any difference between the initial and final penalty. This documentation should be made available for review by EPA.</p> <p>For verification purposes, for one year following the implementation of the procedures, EPA shall review all initial and final GEPD orders and penalty calculations, including the calculations for the economic benefit of noncompliance. If at the end of the time period the appropriate improvement is observed, this recommendation will be considered complete.</p>												
<b>RCRA Element 5 — Penalties</b>													
<b>Finding 5-2</b>	<b>Meets or Exceeds Expectations</b>												
<b>Summary</b>	There was documentation in the files that all final assessed penalties were collected.												
<b>Explanation</b>	Metric 12b provides the percentage of enforcement files reviewed that document the collection of a penalty. In 100% of the files reviewed, there was memorandum verifying that GEPD had collected penalties assessed in the ten final enforcement actions reviewed.												
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