

STATE REVIEW FRAMEWORK

Washington

Clean Water Act, Clean Air Act, and Resource Conservation and Recovery Act Implementation in Federal Fiscal Year 2015

**U.S. Environmental Protection Agency
Region 10, Seattle**

**Final Report
December 1, 2017**

Executive Summary

Introduction

EPA Region 10 enforcement staff conducted a State Review Framework (SRF) enforcement program oversight review of the Washington Department of Ecology (ECY), Washington Department of Health (DOH), Northwest Clean Air Agency (NWCAA), Olympic Regional Clean Air Agency (ORCAA), and Benton Clean Air Agency (BCAA) The local air agencies are partly funded by ECY with limited to no oversight.

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

- For all programs that were reviewed, penalty-related documentation was very good. National goals were met for almost all penalty-related metrics.
- For RCRA, Ecology exceeded national averages regarding inspection coverage for generators and meets the national goal of 100% for TSD inspections.
- Ecology met or exceeded all of its CWA inspection goals.
- Northwest Clean Air Agency met or exceeded expectations in every element of the review.

Priority Issues to Address

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

- CWA: Significant data errors were found related to major facilities in significant noncompliance (SNC). EPA recommends ECY develop and deliver to EPA a plan to screen major facilities for SNC (or utilize EPA's ICIS database) and ensure that ECY takes proper formal enforcement actions in a timely manner for those that continue in SNC.
- CAA: ECY and DOH's work at the Hanford site needs improvement across every element of the review. Among the recommendations provided by EPA is that EPA, ECY and DOH should develop an interagency working group tasked with conducting a comprehensive review and assessment of inspection policies and practices. ECY and DOH should also collaborate with EPA Region 10's Office of Compliance and Enforcement (OCE) to appropriately address and resolve the current HPV consistent with national HPV policy and guidance.
- RCRA: Inspection reports often lack sufficient documentation to support the findings. EPA recommends separating the inspection narrative from the Notice to Comply (treating them as separate documents rather than one) to ensure consistency between the documents and ensure evidence is accurately and completely documented.

Most Significant CWA-NPDES Program Issues¹

- Significant data errors were found related to major facilities in significant noncompliance (SNC).
- There was only one formal enforcement action taken against the 35 major facilities that should have received formal enforcement in the SRF review period.
- Not all inspection reports were completed in a timely manner.

Most Significant CAA Stationary Source Program Issues

- ECY and DOH's work at the Hanford site needs improvement in every element of the review.
- All Ecology offices in the review had data problems including files with inaccurate data and/or missing documents.
- Benton Clean Air Agency's compliance documentation was incomplete or it lacked sufficient detail to reliably determine the compliance status of a source.

Most Significant RCRA Subtitle C Program Issues

- Inspection reports often lack sufficient documentation to support the findings.
- The reviewers found multiple reports where violations were missed or incorrectly cited resulting in the state failing to make accurate SNC determinations. It is the State's practice to make a SNC determination only after they have determined they will pursue formal enforcement rather than first making a SNC determination and then deciding the appropriate enforcement response based on that determination.
- Multiple data errors were found. Since the type of data error varied from case file to case file it appears this is a quality control issue versus a lack of understanding the data requirements.

¹ 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."

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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 violators (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 every five years. The first round of SRF reviews began in FY 2004. The third round of reviews began in FY 2013 and will continue through FY 2017.

II. SRF Review Process

Review period: FFY2015 data and activities were the focus of this review.

Note: The CAA review for ECY included statewide data metrics and file reviews from the Industrial Office, the Eastern Regional Office and Hanford. Due to the unique nature of the Hanford site, its findings are detailed in a separate chapter for both ECY and DOH.

Key dates:

- Kick off letter sent to State on July 01, 2016
- Data Metric Analyses and File Selection Lists sent to State and LAAs
 - CWA on July 20, 2016
 - ORCAA on July 5, 2016
 - ECY Industrial – July 6, 2016
 - NWCAA on August 22, 2016
 - Benton on September 19, 2016
 - ECY ERO on September 19, 2016
 - RCRA on July 06, 2016
- On-Site File Reviews Conducted
 - CWA – September 22, 2016, October 13-14, 2016, November 3-4, 2016
 - ORCAA on July 19, 2016
 - ECY Industrial on July 20, 2016
 - NWCAA on October 12, 2016
 - Hanford – ECY and DOH on October 17, 2016
 - Benton on October 19, 2016
 - ECY ERO on October 19, 2016
 - RCRA – N/A
- Draft Report Sent to State and LAAs on September 5, 2017
- LAA comments and State comments received on October 26, 2017
- Report Finalized on December 1, 2017

State and EPA key contacts for review:

Donna Smith, Ecology CWA Program
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Holly Martin, Ecology CAA Program
Kim Wigfield, Ecology Industrial Office (EIO) CAA Program
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Aaron Lambert, Region 10 CAA Reviewer
Paul Koprowski, Region 10 CAA Reviewer
Cheryl Williams, Region 10 RCRA Reviewer
Jack Boller, Region 10 RCRA Reviewer
Scott Wilder, SRF Coordinator

III. SRF Findings

Findings represent EPA’s conclusions regarding state performance and are based on findings 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 an 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 Water Act Findings

CWA Element 1 — Data						
Finding 1-1	Meets or Exceeds Expectations					
Summary	The metrics in the table below all met or exceeded the metrics when evaluated					
Explanation	This metric ensures that the appropriate Water Enforcement National Data Base (WENDB) elements are entered into ICIS-NPDES correctly and completely. This element shows that the state successfully entered the WENDB data that is required.					
Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
	1b1 Permit limit rate for major facilities	>=95%	90.9%	69	73	94.5%
	1b2 DMR entry rate for major facilities	>=95%	96.7%	3386	3427	98.8%
	2b Files reviewed where data are accurately reflected in the national data system		100%	28	28	100%
	5a1 Inspection coverage of NPDES majors	100% of CMS	55.3%	36	73	49%
	5b1 Inspection coverage of NPDES non-majors with individual permits	100% of CMS	26.6%	120	352	34.1%
	5b2 Inspection coverage of NPDES non-majors with general permits	100% of CMS	6.8%	679	4652	14.6%
	7a1 Number of major facilities with single event violations					3
	7f1 Non-major facilities in Category 1 noncompliance					22
	7g1 Non-major facilities in Category 2 noncompliance					165
	8c Percentage of SEVs identified as SNC reported timely at major facilities		100%	5	5	100%
State response	N/A					
Recommendation						

CWA Element 1 — Data

Finding 1-2	Area for State Attention																													
Summary	Major facilities in noncompliance, SNC or failing to initiate timely enforcement actions.																													
Explanation	<p>EPA and Washington Department of Ecology performed an investigation of the 38 majors in noncompliance, and in SNC. After reviewing all of the facilities it was determined that there are significant errors in the data. Of the 38 facilities: 7 showed no violations in either PARIS, or ICIS-NPDES; 10 had some violations in ICIS-NPDES, but the list did not match the list in PARIS, in which PARIS showed no violations; 17 had violations in ICIS-NPDES, but did not match the violations in PARIS, the violations in PARIS that did show in the facilities were all addressed and the addressing action was either not linked to the violations, or the link did not flow to ICIS-NPDES; and the remaining 4 were for late submittals that were received by Ecology, entered into PARIS, but that was not reflected as received in ICIS-NPDES. The State should provide EPA with a schedule to ensure the 2017 annual data metric analysis (DMA) will address the major facilities that are in noncompliance, ensuring that future data flow from PARIS to ICIS-NPDES is corrected, and addressing actions for violations are linked to the violations in PARIS, and that the addressing action link flows to ICIS-NPDES</p>																													
Relevant metrics	<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>7d1 Major facilities in noncompliance</td> <td></td> <td>74.2%</td> <td>66</td> <td>73</td> <td>90.4%</td> </tr> <tr> <td>8a2 Percentage of major facilities in SNC</td> <td></td> <td>19.2%</td> <td>38</td> <td>75</td> <td>50.7%</td> </tr> <tr> <td>10a1 Major facilities with timely action as appropriate</td> <td>>=98%</td> <td></td> <td>1</td> <td>35</td> <td>2.9%</td> </tr> </tbody> </table>						Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #	7d1 Major facilities in noncompliance		74.2%	66	73	90.4%	8a2 Percentage of major facilities in SNC		19.2%	38	75	50.7%	10a1 Major facilities with timely action as appropriate	>=98%		1	35	2.9%
Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #																									
7d1 Major facilities in noncompliance		74.2%	66	73	90.4%																									
8a2 Percentage of major facilities in SNC		19.2%	38	75	50.7%																									
10a1 Major facilities with timely action as appropriate	>=98%		1	35	2.9%																									
State response	<p>PARIS 3.0/ICIS data flow will have equivalent functionalities, and data flow capabilities as current the current version of PARIS. Ecology continues to identify and rectify data issues. Following roll out of PARIS 3.0, anticipated for mid-December, Ecology will conduct recurring meetings to identify data inconsistencies and rectify PARIS/ICIS data flow issues.</p> <p>Leading up to and directly following PARIS 3.0 deployment, training will be provided to staff responsible for entering compliance and enforcement data into PARIS 3.0. We currently anticipate that PARIS 3.0 will deploy and go “live” in mid-December.</p>																													

	Ecology and EPA will conduct the next annual data metric analysis in December of 2017, and review existing data in ICIS up to the date the report for the analysis is extracted, but prior to the data being frozen in order to complete any correction. Priority will be major facilities that are in noncompliance.
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Recommendation	
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CWA Element 2 — Inspections

Finding 2-1	Meets or Exceeds Expectations				
Summary	All of the state’s inspection goals were met for fiscal year 2015.				
Explanation	The sanitary sewer overflow inspections are not explicitly called out for the state. These inspections simply occur during the regular major and minor inspections of each municipality. The rest of Washington’s Compliance Monitoring plan was found to conform to EPA’s Compliance Monitoring Strategy, and in some instances exceeded the national CMS.				
Relevant metrics	Metric ID Number and Description	National CMS Goal	State N	State D	State % or #
	4a1 Pretreatment compliance inspections and audits	20% annually	3	12	25%
	4a4 Major CSO inspections	20% annually	3	3	100%
	4a5 SSO inspections	N/A			
	4a7 Phase I & II MS4 audits or inspections	20% annually	4	6	67%
	4a8 Industrial stormwater inspections	10% annually	338	1,559	22%
	4a9 Phase I and II stormwater construction inspections	10% annually	751	1,967	38%
	4a10 Medium and large NPDES CAFO inspections	20% annually	211	211	100%
	5a1 Inspection coverage of NPDES majors	50% annually	36	73	49%
	5b1 Inspection coverage of NPDES non-majors with individual permits	20% annually	120	352	34%
	5b2 Inspection coverage of NPDES non-majors with general permits	10% annually	679	4,652	14%
	6a Inspection reports complete and sufficient to determine compliance at the facility	100%	28	28	100%
State response	N/A				
Recommendation					

CWA Element 2 — Inspections

Finding 2-2	Area for State Improvement				
Summary	The State did not meet the CMS goal for the SIU inspections.				
Explanation	The State does not meet the CMS criteria of 100% inspections of all SIUs discharging to non-authorized POTWs.				
Relevant metrics	Metric ID Number and Description	National CMS Goal	State N	State D	State % or #
	4a2 Significant Industrial User inspections for SIUs discharging to non-authorized POTWs	100% annually	81	50	62%
State response	<p>Staff turnover and vacancies contributed to the failure to meet inspection criteria, and several POTW's are in the process of seeking pre-treatment delegation. The expected delegation will reduce the number of required inspections and better position Ecology to meet inspection criteria. Additionally, Ecology works proactively to ensure POTWs are designed and operated adequately to treat waste streams from SIU's, and is in contact with permittees on a regular basis for consultation and technical assistance. This proactive approach to addressing inspections of SIU's discharging to POTW's was shared with the EPA in response to their 1999 audit of Ecology's pre-treatment program. At that time, the EPA accepted Ecology's strategy with the understanding that not all SIU's would be inspected every year. Going forward, Ecology will provide an alternate plan to the EPA annually, and maintain a proactive approach to pre-treatment while focusing on new permit applications at an inspection frequency of no less than once per every five years.</p>				
Recommendation	Ensure the State meets the 100% inspection criteria, or provide an alternate plan to EPA by August 31 of each year.				

CWA Element 2 — Inspections

Finding 2-3	Area for State Improvement					
Summary	Not all inspection reports are completed in a timely manner.					
Explanation	The requirement is to have inspection reports completed in 30 days for a compliance inspection without sampling, and 45 days for compliance inspections with sampling. The state failed to meet the deadline in 4 out of the 19 inspections.					
Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
	6b Inspection reports completed within prescribed timeframe	100%	N/A	15	19	79%
State response	Staff turnover and vacancies contributed to 4 inspection reports failing to meet report deadlines. Ecology will educate new staff on both inspection with sampling and inspection without sampling deadlines and continue to reinforce these requirements through recurring unit and section meetings, as well as state-wide Enforcement Workgroups.					
Recommendation	The state shall come up with a plan to routinely remind their inspectors to complete their inspection reports within 30 days for compliance inspections without sampling, and 45 days for compliance inspections with sampling.					

CWA Element 3 — Violations

Finding 3-1	Meets or Exceeds Expectations					
Summary	This metric applies to violations found during inspections.					
Explanation	The inspection reports reviewed allowed an accurate compliance determination to be made, and the state made the appropriate determination in all inspections. The single event violations (SEVs) were all accurately identified and reported in a timely manner.					
Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
	7f1 Non-major facilities in Category 1 noncompliance	N/A		22	352	6.2%
	7e Inspection reports reviewed that led to an accurate compliance determination	100%		21	21	100%
	8b Single-event violations accurately identified as SNC or non-SNC	100%		9	9	100%
	8c Percentage of SEVs identified as SNC reported timely at major facilities	100%		5	5	100%
State response	N/A					
Recommendation						

CWA Element 3 — Violations

Finding 3-2	Area for State Improvement																													
Summary	Number of facilities in the state that are in noncompliance.																													
Explanation	This metric does not have any goals associated with them, however, there are national averages to compare to Washington. The metric pull for Washington shows a large number of facilities in Washington that are in noncompliance. Refer to Finding 1-2.																													
Relevant metrics	<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>7d1 Major facilities in noncompliance</td> <td>N/A</td> <td>74.2%</td> <td>66</td> <td>73</td> <td>90.4%</td> </tr> <tr> <td>7g1 Non-major facilities in Category 2 noncompliance</td> <td>N/A</td> <td></td> <td>165</td> <td>352</td> <td>47%</td> </tr> <tr> <td>8a2 Percentage of major facilities in SNC</td> <td>N/A</td> <td>19.2%</td> <td>38</td> <td>73</td> <td>52%</td> </tr> </tbody> </table>						Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #	7d1 Major facilities in noncompliance	N/A	74.2%	66	73	90.4%	7g1 Non-major facilities in Category 2 noncompliance	N/A		165	352	47%	8a2 Percentage of major facilities in SNC	N/A	19.2%	38	73	52%
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State response	<p>Data errors currently exist in the current version of PARIS. One area of primary focus in the development and deployment of PARIS 3.0 is to analyze current data and identify inconsistent or inaccurate data. Post PARIS 3.0 deployment, existing data will be reviewed for accuracy, and verified either by utilizing EPA’s ICIS database or through facility screening. At which point PARIS 3.0 is deployed and functionally stable, Ecology enforcement staff will review and verify existing data and provide the EPA a “get-well” enforcement plan for major facilities in SNC. PARIS 3.0 ICIS data flow will have equivalent functionalities as current PARIS ICIS flow. Ecology continues to rectify data issues and continues to identify data flow inconsistencies. Following deployment of PARIS 3.0, anticipated for mid-December, Ecology’s Water Quality Program Development Services Team along with the Water Quality Program Information Technology Team will meet bi-weekly to identify and rectify PARIS/ICIS data flow issues.</p> <p>As with any new or updated IT system training will be required prior to and directly following deployment. Training will be provided to staff responsible for entering compliance and enforcement data into PARIS 3.0, and will focus on data accuracy and quality. We currently anticipate that PARIS 3.0 will go “live” in mid-December and training will be close-in-time to roll out.</p> <p>Ecology and EPA will conduct the next annual data metric analysis in December of 2017, reviewing existing data in ICIS up to the date the report for the analysis is pulled and prior to the data being frozen. This will allow</p>																													

	for necessary corrections to be made timely. Our priority will be major facilities that are in noncompliance.
Recommendation	The State should provide EPA with a schedule to ensure the 2017 annual data metric analysis (DMA) will address the major facilities that are in noncompliance, ensuring that future data flow from PARIS to ICIS-NPDES is corrected, and addressing actions for violations are linked to the violations in PARIS, and that the addressing action link flows to ICIS-NPDES.

CWA Element 4 — Enforcement

Finding 4-1	Meets or Exceeds Expectations					
Summary	Review of the enforcement actions during Fiscal Year 2015					
Explanation	The enforcement actions that EPA reviewed were both penalty actions, and informal enforcement actions during Fiscal Year 2015. According to the files reviewed, the state met the criteria for the number of enforcement actions that will bring a source in violation into compliance. Furthermore, the state met the criteria for appropriate enforcement responses that addressed the violations.					
	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%		20	20	100%
	10b Enforcement responses reviewed that address violations in an appropriate manner	100%		27	27	100%
State response	N/A					
Recommendation						

CWA Element 4 — Enforcement

Finding 4-2	Area for State Improvement																	
Summary	Lack of Formal Enforcement action taken at major facilities in significant non-compliance.																	
Explanation	<p>The data show that there was only one formal enforcement action taken against the 35 major facilities that should have received formal enforcement in the SRF review period. All of the 35 facilities were in significant non-compliance (SNC) during the reporting period. EPA enforcement guidance, <i>Clarification of NPDES EMS Guidance on Timely and Appropriate Response to Significant Noncompliance Violations</i>, date May 29, 2008, states “Administrating agencies are expected to take formal enforcement action before the violation appears on the second Quarterly Noncompliance Report, generally within 60 days of the first QNCR.” The only mechanism available to address SNC is for the permit authority to take a formal enforcement action against the permittee.</p> <p>Refer to Finding 1-2.</p>																	
Relevant metrics	<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>10a1 Major facilities with timely action as appropriate</td> <td>>=98%</td> <td>11.8%</td> <td>1</td> <td>35</td> <td>2.9%</td> </tr> </tbody> </table>						Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #	10a1 Major facilities with timely action as appropriate	>=98%	11.8%	1	35	2.9%
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10a1 Major facilities with timely action as appropriate	>=98%	11.8%	1	35	2.9%													
State response	<p>Data errors currently exist in the current version of PARIS. One area of primary focus in the development and deployment of PARIS 3.0 is to analyze current data and identify inconsistent or inaccurate data. Post PARIS 3.0 deployment, existing SNC data will be reviewed for accuracy, and verified either by utilizing EPA’s ICIS database or through facility screening. At which point PARIS 3.0 is deployed and functionally stable, Ecology enforcement staff will review and verify existing data and provide the EPA a “get-well” enforcement plan for major facilities in SNC.</p>																	
Recommendation	<p>As detailed in the explanation for Finding 1-2, EPA recognizes that due to data errors not all of the facilities listed as needing formal enforcement in this element are actually in SNC. However, the State should still issue formal enforcement per the <i>Clarification of NPDES EMS Guidance on Timely and Appropriate Response to Significant Noncompliance Violations</i> for those that are. Within 180 days of receipt of this report, the State shall develop and deliver to EPA a plan to screen major facilities for SNC (or utilize EPA’s ICIS database) and ensure that the State takes proper formal enforcement actions against the permittee in a timely manner for those that continue in SNC.</p>																	

CWA Element 5 — Penalties

Finding 5-1	Meets or Exceeds Expectations					
Summary	Penalty actions taken in Fiscal Year 2015					
Explanation	This metric evaluates whether the state has taken into consideration the economic benefit gained by any facility not complying in a timely manner. The metric also evaluates that the state documented the difference from the initial penalty amount and the final penalty amount with appropriate rationale. Lastly this metric evaluates if the state to documented in the file that the penalties were collected. The state met these criteria in all of the penalty actions reviewed during the review time period.					
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%		4	4	100%
	12a Documentation of the difference between initial and final penalty and rationale	100%		4	4	100%
	12b Penalties collected	100%		4	4	100%
State response	N/A					
Recommendation						

Clean Air Act Findings – Department of Ecology (ECY)

CAA Element 1 — Data	
Finding 1-1	Area for State Improvement
Summary	Twelve of the twenty-one files reviewed contained inaccurate data or were missing documents.
Explanation	<p>The following file review issues related to metric 2b were identified:</p> <ol style="list-style-type: none">1. In four files the date of the inspection was entered as the date the inspection reports were entered into ICIS, not the date when the inspections actually took place.2. A file identified one source as a Synthetic Minor (SM80), when ICIS indicated the source was an Operating Major.3. A file did not include a copy of the Title V Certification or a record of it being reviewed, although, it was entered into ICIS as received and reviewed.4. In one of the files the Title V Certification review date was entered into ICIS as the date the report was received, not the date it was reviewed.5. Two of the files did not contain a copies of the FCE inspection reports, even though the reports were entered into ICIS.6. One of the files was missing documentation of multiple source tests that were entered into ICIS, and in the same file copies of source tests that were included in the file were not entered into ICIS.7. One file was missing documentation related to two NOV's and one file was missing documentation for a warning letter that was entered into ICIS.8. One of the files had an incorrect FCE date entered into ICIS of 11/3/2014 when the FCE in the file indicated the FCE was actually not conducted until 10/15/2015.

Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
	2b Accurate MDR data in ICIS-AIR				12	21
3a2 Timely reporting of HPV determinations		100%	99.6%	8	8	100%
3b1 Timely reporting of compliance monitoring MDRs		100%	64.4%	29	42	69%
3b2 Timely reporting of stack tests and stack test results		100%	65.2%	59	398	14.8%
3b3 Timely reporting of enforcement MDRs		100%	56.6%	13	19	68.4%

State response

Under explanation item #7 EPA notes that there was an ICIS entry for a warning letter on 4/7/2015 that could not be verified. ECY checked the files and concur with this finding, so we do not have a comment related to that finding. ECY was able to locate a PDF of the letter in our electronic folder where we store all of correspondence, etc that we issue. A copy of the letter is available for EPA review upon request.

ECY recognizes the need to update regional processes for recording data to insure that deadlines are met.

ECY recognizes the need to provide standardized training to staff currently tasked with entering data.

ECY recognizes the need to develop internal reference document for ICIS database and continue to develop Registration database. ECY should insure that current databases and future database development are compatible and mutually supportive.

In response to the 2011 SRF CAA recommendations, Ecology proposed and implemented a plan to improve MDR information entered into AFS. Since 2013, data management systems have evolved (AFS replaced by ISIS) and employees have moved-on or retired. Ecology proposes to update the plan submitted and approved by EPA in 2013 to improve data entry and file management practices moving forward. Within 180 days of the completion of this report, ECY would review the SRF MDR and stack test requirements and evaluate it against its current data entry and management practices to identify the root causes of data entry practices that adversely impact the accuracy of data entry. ECY would develop an updated plan based on this review, and provide the plan to EPA for review at the end of the 180-day period. Staff training would be completed within 90 days of plan approval to ensure the updated data entry and management practices are being implemented and that the accuracy of data entry improves.

Recommendation

Within 180 days of the completion of this report, ECY should review the SRF MDR and stack test requirements and evaluate it against its current data entry and management practices to identify the root causes of data entry practices that adversely impact the accuracy of data entry. A revised data entry management policy based on this review should be provided to EPA for review at the end of the 180-day period. Staff training should be completed within 90 days of the issuance of the revised policy to ensure the updated data entry and management practices are being implemented and that the accuracy of data entry improves.

CAA Element 2 — Inspections

Finding 2-1	Area for State Attention					
Summary	ECY generally meets its FCE commitments as delineated in EPA’s Compliance Monitoring Strategy (CMS) Policy					
Explanation	For both metrics 6a and 6b three files were missing copies of inspection reports that had been entered into ICIS. One of the files was missing copies of two PCE inspection reports, and neither of which were entered into ICIS. ECY should review its file management practices and ensure that copies of all CMR documents are included in its files					
Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
	5a FCE coverage: majors and mega-sites	100%	63.2%	9	11	81.8%
	5b FCE coverage: SM-80s	100%	79.5%	11	11	100%
	5c FCE coverage: minor and synthetics minor (non-SM80s) sources that are part of a CMS plan and Alternative CMS Facilities	100%	42.6%	1	5	20%
	5e Reviews of Title V annual compliance certifications completed	100%	39.1%	22	31	71%
	6a Documentation of FCE elements	100%		17	19	89.7%
	6b Compliance monitoring reports (CMRs) or facility files reviewed that provide sufficient documentation to determine compliance of the facility	100%		17	20	85%
State response	ECY will review its file management practices and ensure that copies of all CMR documents are included in its files.					
Recommendation						

CAA Element 3 — Violations

Finding 3-1	Area for State Attention																								
Summary	ECY compliance determinations are mostly accurate however, three files had issues that should be reviewed.																								
Explanation	<p>For one of the files reviewed, Region 10 could not establish compliance with a specific permit condition. In this instance, it appears the source’s pollution control device was operating below the permitted range during an inspection, but documents in the file and the inspection report did not include enough information or data to establish compliance with the permit condition.</p> <p>A second file included enough information and data to establish the source was in compliance, but the compliance status was entered into ICIS as Unknown or N/A.</p> <p>The third file documented violations at a source, but there was no entry in ICIS indicating that the source was in violation. Notes in the file also pointed to an NOV that had been issued, but a copy of the NOV was not included in the file.</p> <p>ECY should ensure that sufficient information and data are included in its files to determine compliance. Inspection reports could be subjected to a peer review process to ensure they include sufficient information and data to determine compliance. ECY needs to improve adherence to the FRV policy</p>																								
Relevant metrics	<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>7a Accuracy of compliance determinations</td> <td></td> <td></td> <td>18</td> <td>21</td> <td>85.7%</td> </tr> <tr> <td>8c Accuracy of HPV determinations</td> <td>N/A</td> <td>1%</td> <td>5</td> <td>5</td> <td>100%</td> </tr> <tr> <td>13 Timeliness of HPV identification</td> <td>100%</td> <td>82.6%</td> <td>7</td> <td>7</td> <td>100%</td> </tr> </tbody> </table>	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #	7a Accuracy of compliance determinations			18	21	85.7%	8c Accuracy of HPV determinations	N/A	1%	5	5	100%	13 Timeliness of HPV identification	100%	82.6%	7	7	100%
Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #																				
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8c Accuracy of HPV determinations	N/A	1%	5	5	100%																				
13 Timeliness of HPV identification	100%	82.6%	7	7	100%																				
State response	ECY will endeavor to ensure that sufficient information and data are included in its files to determine compliance. Ecology will ensure inspection reports include sufficient information and data to determine compliance. ECY will improve adherence to the FRV policy.																								
Recommendation																									

CAA Element 4 — Enforcement

Finding 4-1	Area for State Attention																																			
Summary	HPVs are not always appropriately or timely addressed by ECY.																																			
Explanation	<p>For (Metric 10a) a HPV was not resolved and addressed within the timeframe required by the August 2014 HPV Policy. In this instance it took 861 days to address and resolve the HPV. The Case Development and Resolution Timeline (Metric 14) also was not developed for this HPV until day 791.</p> <p>For Metric 10b a HPV violation was resolved in 92 days, but remains as unaddressed in ICIS. This HPV also appears to have been resolved and addressed without the assessment of any penalty which is inconsistent with the policy</p> <p>In addition to continuing regular HPV calls with Region 10, ECY should coordinate with Region 10 to conduct a joint review and training session on the August 2014 HPV policy to ensure that all future HPVs are addressed and resolved accordingly.</p>																																			
Relevant metrics	<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 Formal enforcement responses that include required corrective action that will return the facility to compliance in a specified time frame or the facility fixed the problem without a compliance schedule.</td> <td></td> <td></td> <td>5</td> <td>5</td> <td>100%</td> </tr> <tr> <td>10a Timeliness of addressing HPVs or alternatively having a case development and resolution timeline in place.</td> <td></td> <td></td> <td>4</td> <td>5</td> <td>80%</td> </tr> <tr> <td>10b Percent of HPVs that have been have been addressed or removed consistent with the HPV Policy.</td> <td></td> <td></td> <td>4</td> <td>5</td> <td>80%</td> </tr> <tr> <td>14 HPV Case Development and Resolution Timeline In Place When Required that Contains Required Policy Elements</td> <td></td> <td></td> <td>3</td> <td>7</td> <td>75%</td> </tr> </tbody> </table>						Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #	9a Formal enforcement responses that include required corrective action that will return the facility to compliance in a specified time frame or the facility fixed the problem without a compliance schedule.			5	5	100%	10a Timeliness of addressing HPVs or alternatively having a case development and resolution timeline in place.			4	5	80%	10b Percent of HPVs that have been have been addressed or removed consistent with the HPV Policy.			4	5	80%	14 HPV Case Development and Resolution Timeline In Place When Required that Contains Required Policy Elements			3	7	75%
Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #																															
9a Formal enforcement responses that include required corrective action that will return the facility to compliance in a specified time frame or the facility fixed the problem without a compliance schedule.			5	5	100%																															
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14 HPV Case Development and Resolution Timeline In Place When Required that Contains Required Policy Elements			3	7	75%																															
State response	ECY will coordinate with Region 10 to conduct a joint review and training session on the August 2014 HPV policy to ensure that all future HPVs are addressed and resolved accordingly.																																			

CAA Element 5 — Penalties

Finding 5-1	Meets or Exceeds Expectations					
Summary	ECY documented the consideration of economic benefit and gravity, the rationale for reduction of penalties, and the collection of penalties.					
Explanation	No discrepancies or other issues were identified in the files that were reviewed against metrics 11a, 12a, and 12b.					
Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
	11a Penalty calculations reviewed that document gravity and economic benefit			2	2	100%
	12a Documentation of rationale for difference between initial penalty calculation and final penalty			1	1	100%
	12b Penalties collected			2	2	100%
State response	N/A					
Recommendation						

Clean Air Act Findings – Ecology and Department of Health: Hanford

CAA Element 1 — Data																																										
Finding 1-1	Area for State Improvement																																									
Summary	ECY does not enter timely data into ICIS. DOH consistently enters accurate but not always timely data in to ICIS																																									
Explanation	<p>The Hanford Nuclear facility is a Department of Energy (DOE) Mega-Site that encompasses an area of nearly 540 square miles and includes approximately 1000 radionuclide air emission sources. ECY has responsibility for conducting oversight of all non-radionuclide air emission sources and DOH has sole responsibility for conducting oversight of all radionuclide sources at the Hanford Nuclear Complex. Based on conversations with ECY staff and the records reviewed during the onsite visit, EPA believes that the timeliness of MDR data entered into ICIS is insufficient due to a period of up to one-year when no ECY CAA inspector was on staff to conduct inspections or enter compliance and enforcement related data. Based on conversations with DOH staff and records that were reviewed EPA determined that the timeliness of DOH’s MDR data entry into ICIS was not consistent. Specifically, the entry of source test data and results into ICIS does not appear to be occurring.</p>																																									
Relevant metrics	<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 ICIS-AIR</td> <td></td> <td></td> <td>0</td> <td>5</td> <td>00%</td> </tr> <tr> <td>3a2 Timely reporting of HPV determinations</td> <td>100%</td> <td>99.60%</td> <td>0</td> <td>5</td> <td>00%</td> </tr> <tr> <td>3b1 Timely reporting of compliance monitoring MDRs</td> <td>100%</td> <td>64.20%</td> <td>0</td> <td>1</td> <td>00%</td> </tr> <tr> <td>3b2 Timely reporting of stack test dates and results</td> <td>100%</td> <td>64.50%</td> <td>0</td> <td>0</td> <td>N/A</td> </tr> <tr> <td>3b3 Timely reporting of enforcement MDRs</td> <td>100%</td> <td>56.40%</td> <td>0</td> <td>1</td> <td>00%</td> </tr> </tbody> </table>						Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #	2b Accurate MDR data in ICIS-AIR			0	5	00%	3a2 Timely reporting of HPV determinations	100%	99.60%	0	5	00%	3b1 Timely reporting of compliance monitoring MDRs	100%	64.20%	0	1	00%	3b2 Timely reporting of stack test dates and results	100%	64.50%	0	0	N/A	3b3 Timely reporting of enforcement MDRs	100%	56.40%	0	1	00%
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State response	<p>ECY: Ecology disagrees that the timeliness of MDR data entered into ICIS is insufficient due to a period of up to one-year when no ECY CAA inspector was on staff to conduct inspections or enter compliance and enforcement related data.</p> <p>Ecology (Nuclear Waste Program) prioritized resources during a period when an existing CAA inspector accepted a different position and the hiring of a new inspector. During this time period, no inspections were</p>																																									

being performed. The decision was based on the fact that Ecology has three years to perform a full compliance evaluation of the Hanford Mega-Site and the existing inspector left near the start of this period. Ecology had time to defer inspections initially and make-up this time later. A new inspector was hired with approximately a year and a half left in the period. As no inspections were being performed, no data existed to input into ICIS were generated.

Ecology did complete the FCE on time and entered the PCE and FCE data into ICIS.

The recommendation for an interagency working group to develop or update SOPs to improve data management practices is an issue that needs to be addressed at a State-Wide level and not at a specific site level. The Nuclear Waste Program agrees with the response from the Air Quality Program in the CAA – Data “Department of Ecology” section (as opposed to this Ecology: Hanford section) where the Department of Ecology proposes to update the plan submitted and approved by EPA in 2013 to improve data entry and file management practices moving forward.

The Ecology Nuclear Waste Program agrees that training needs related to ICIS data entry and use will help further ICIS data entry and management. The updated State-Wide Plan will provide a basis to evaluate and prepare this training.

DOH: Prior to 2014, ECY was entering the necessary information into AFS which is now ICIS-AIR. In 2014 and the start of the ICIS-AIR system, Ecology entered into discussions with DOH to have DOH enter inspection and compliance data directly into ICIS-AIR. DOH staff received training on the ICIS-AIR system, and with the beginning of a new three-year Full Compliance Inspection (FCE) period beginning January 1, 2015, began to enter inspection data into the database. While not all inspections had been entered into ICIS-AIR at the time of the audit in 2015, we had completed approximately 60 inspections on the Hanford site, and by the completion of the last three-year cycle ending September 30, 2017, we had conducted approximately 550 inspections encompassing all 609 emissions units at least once. These reviews successfully met the conditions of performing FCE within three years for the Hanford Mega-Site. It should also be noted that in some cases emission units were inspected several times over, and some inspections consisted of looking at multiple emission units concurrently.

As far as specific stack test data that is required to be entered into ICIS-AIR for radionuclide emissions, we are unclear of EPA’s expectations. If

	<p>this is referring to the source reporting requirements of 40 CFR 60.10, 40 CFR 61 Subpart H is exempt from those requirements as called out in 40 CFR 61.97 “<i>Exemption from the reporting and testing requirements of 40 CFR 61.19</i>”.</p>
Recommendation	<p>Within 90 days of the date of this report, EPA, ECY and DOH should develop an interagency working group² tasked with conducting a review and assessment of past and current MDR data entry practices for non-radionuclide and radionuclide emission sources at the Hanford Mega-Site. The review should be complete 120 days after the workgroup is formed. The results of that review should be developed into recommendations within 60 days of the completion of the review that can be used by ECY and DOH to establish updated SOPs to improve data management practices and policies. The review will also identify the training needs ECY and/or DOH has for ICIS so that EPA can provide specific ICIS training before the end of calendar year 2018 to help further ensure MDR data entry and maintenance is accurate and timely.</p>

² ECY and DOH Hanford programs are interconnected and work closely together under the same permit mechanisms and or requirements. As such, for purposes of efficiency and to avoid duplication of efforts the interagency working group should be comprised of both ECY and DOH.

CAA Element 2 — Inspections

Finding 2-1	Area for State Improvement																																										
Summary	ECY/DOH has a period of 3 years to complete a comprehensive Full Compliance Inspection (FCE) of the Hanford Nuclear Complex. ECY indicated to EPA file reviewers that it was not certain when the last comprehensive FCE of all of the non-radionuclide air emission sources located at the Hanford Complex was completed. It was also unclear to EPA file reviewers if and when the last comprehensive FCE of all of the radionuclide air emission sources was completed																																										
Explanation	Based on conversations with ECY staff indicating that there was a period of up to one-year when no ECY CAA inspector was on staff to conduct inspections or enter compliance and enforcement related data for non-radionuclide sources at the Complex, EPA was not able to establish the consistency or comprehensiveness of past and present FCE inspections conducted at the Hanford Nuclear Complex. The DFR for Hanford does indicate that DOH has conducted several years of onsite PCEs at the Complex. However, no offsite FCE entry appears in the DFR, indicating that the entire complex of approximately 1000 radionuclide air emission sources has been inspected as required within the 3-year period allotted for a Mega-Site. FCEs at Mega-Sites are completed by multiple onsite PCEs being conducted over time at multiple sources within the Mega-Site that are then combined together to comprise single comprehensive FCE evaluation of the entire Complex.																																										
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State response

ECY: When EPA conducted the audit, they discovered the date of the last FCE was not in the database. Ecology and Department of Health (DOH) investigated the issue and corrected the coding of the corresponding compliance evaluation in the database from PCE to FCE (it was incorrectly coded as PCE). With this correction, the FCE was dated as December 31, 2014. The next FCE was due to be completed on September 30, 2017, and Ecology and DOH were only half way through the 3-year inspection timeframe window at the time of the audit. As discussed above, a new inspector was hired by Ecology to complete all required inspections within the 3-year window. The inspector has since completed all AOP discharge point inspections within the required 3-year period and entered the appropriate data/results into EPA's ICIS database.

The inspector provided compressive evaluations for the latest 3-year round of FCE inspections through inspection close-out letters which provide detailed information regarding determination of compliance. The EPA was included in the distribution of these letters. Ecology is open to any feedback from the EPA regarding the depth and breadth of their inspection close out letters content and would be happy to invite EPA on inspections.

It is recommended that any SOP discussions be returned to the general CAA section as it is a State wide issue. As discussed in the response to Element 1, The Ecology Nuclear Waste Program agrees with the response from the Air Quality Program in the CAA – Data “Department of Ecology” section (as opposed to this Ecology: Hanford section) where The Department of Ecology proposes to update the plan submitted and approved by EPA in 2013 to improve data entry and file management practices moving forward.

Ecology's Hanford Air Section uses the Department of Ecology's procedures and guidance in the performance of inspections. Any changes or modifications to these SOPs would need to be performed in coordination with the State-wide Air Quality Program.

DOH: As stated in Finding 1-1, prior to 2014 DOH did not enter data into what was previously AFS and is now ICIS-AIR. It was our understanding that ECY was entering the necessary information into AFS. In 2014 and the start of the ICIS-AIR system, ECY entered into discussions with DOH for the purpose of having DOH enter inspection and compliance data directly into ICIS-AIR. DOH staff received training on the ICIS-AIR system, and with the beginning of the new three-year FCE beginning January 1, 2015, began to enter the inspections data into the database. While not all inspections have been entered into ICIS-AIR,

at the time of the audit in 2015, we had completed approximately 60 inspections on the Hanford Site, and by the completion of the last three-year cycle ending September 30, 2017, we had conducted approximately 550 inspections inspecting all 609 emissions units at least once. This successfully met the conditions of performing a FCE within three years for the Hanford Mega-Site. I should also be noted that in some cases emission units were inspected several times over, and some inspections consisted of looking at multiple emission units concurrently.

We invite EPA to review the history of radionuclide air emission inspections completed by DOH in our existing database which identifies all inspections going back to the 1990s.

DOH inspections are rigorous, comprehensive, and time intensive. They are drive by the Emission Units (EU) license conditions, monitoring and abatement technology requirements developed specifically for that EU's unique proves, and potential to emit. The release of emission documents take additional time at the Hanford Site as the United States Department of Energy (USDOE) has to evaluate all documents provided to DOH to ensure they do not contain control information. It is also DOH's practice to not close an inspection and issue a report until all issues are addressed.

DOH has performed numerous joint inspections of Hanford EUs with EPA Region 10 radiation health physicists for several years. During this time, no issues on National Emission Standards for Hazardous Air Pollutants (NESHAP) inspections were ever identified to DOH by EPA.

DOH looks forward to meeting with EPA and ECY to determine EPAs expectations as they relate to the SRF, as well as, the inspection responsibilities for NESHAP facilities in which the State has been delegated.

Recommendation

As part of the interagency working group developed to assess MDR data entry practices and issues addressed in the element above, EPA and ECY/DOH should also use the resources of that working group to conduct a comprehensive review and assessment of ECY and DOH inspection policies and practices. In addition, ECY and DOH will invite EPA to attend CAA inspections at the Hanford facility for at least one year of the 3-year FCE inspection cycle. After completing the review, assessment, and conducting joint inspections, EPA and ECY/DOH will review the data, findings and best practices generated from that effort and use that information to develop a list of recommendations, policies, and practices that ECY/DOH can adopt and utilize as SOPs to ensure the consistency and comprehensiveness of all of its FCE inspection efforts at the Hanford facility. Within 90 days of completing this effort ECY/DOH

will submit a draft report to EPA that identifies the root causes of these issues and details the corrective actions that will be taken.

CAA Element 3 — Violations

Finding 3-1	Area for State Improvement						
Summary	Issues regarding the accuracy of compliance determinations and timeliness of HPV determinations were identified.						
Explanation	Based on conversations with ECY and DOH staff regarding the development, processing and managerial review of violations alleged at the Hanford Nuclear Complex, EPA is concerned that past and present compliance determinations are inconsistent with ECY, DOH and EPA enforcement policies, guidance, and the Clean Air Act stationary source civil penalty policy. Currently, there are four (4) HPVs that have been identified by DOH and one (1) HPV correctly identified by ECY, but all of them remain unaddressed after two or more years. It also appears that both ECY and DOH intend to resolve the HPVs without assessing a penalty. Such a resolution could be contrary to the CAA stationary source penalty policy and more likely than not would be inconsistent with EPA’s historic practices and HPV policy when resolving similar HPVs at large complex facilities.						
Relevant metrics	Metric ID Number and Description		Natl Goal	Natl Avg	State N	State D	State % or #
	7a Accuracy of compliance determinations				4	5	80%
	8c Accuracy of HPV determinations				5	5	100%
	13 Timeliness of HPV determinations				0	5	00%
State response	<p>ECY: The HPVs in question were the first HPVs issued by Ecology’s Nuclear Waste Program. Previous HPV guidance would not have classified them as HPVs. Ecology, DOH and United States Department of Energy (the Permittee) were learning the HPV process for the first time and all levels of management, inspectors, compliance, and permit writers were part of the learning process.</p> <p>Ecology has no objection to collaborating with EPA Region 10’s Office of Compliance and Enforcement to address all future HPVs consistently with EPA’s guidance.</p> <p>DOH: Until late 2014, DOH was unaware of the EPA policies regarding High Priority Violations and Federal Reportable Violations (HPV/FRV). As a result, we were not evaluating our inspection findings and notifications against those policies. Once we became aware of the policies, our evaluations were consistent with your procedures. It should be noted that up until the new HPV/FRV policy was issued, an HPV</p>						

only occurred when a violation in a Title V permit occurred for the constituents that required the Site to obtain a Title V permit. As the radiological NESHAPS that ECY contracts DOH to manage are not a constituent that required the Hanford site to obtain a Title V permit, no HPV for radiological only violation could occur.

With the new guidance document inclusion of NESHAP violations, a system has been put in place by DOH to review all notifications to determine if they trigger an HPV/FPV criteria. The system also evaluates all issues identified during an inspection. The new guidance on HPVs resulted in four HPVs being identified in 2015. We agree that the timeliness identified in the policies were not met for the Hanford Site, however part of the difficulties is due to the length of time it takes to deal with the USDOE. At this time, three of the HPVs can be closed out and there is a corrective action plan to correct the final HPV which is due to be completed in March 2018.

It is DOH's opinion that compliance and protection of public health is sometimes better served by prevention of releases through licensing requirements and inspections. Even when an issue is found the finding does not necessarily mean that the EUS license limit has been exceeded. We have not had a finding at Hanford where the Ambient Air standard of 10 mrem/yr has been exceeded. Issues identified generally equate to a public dose several orders of magnitude lower than the Ambient Air standard of 10 mrem/yr which is still a conservative limit.

In regards to issuing penalties, the DOH preference is to work with the licensee to gain compliance and only use monetary penalties as a last resort.

We look forward to meeting with EPA and ECY to discuss the HPV/FRV policy. Based on the outcome of those meetings, we will update our procedures, as appropriate, to clearly identify our processes for issuing penalties.

Recommendation

ECY should collaborate with EPA Region 10's Office of Compliance and Enforcement (OCE) to appropriately address and resolve the current HPV consistent with national HPV policy and guidance within 90 days of the finalization of the SRF report. All future HPVs should be addressed consistent with national policy and guidance by the authorized state agency or EPA, if necessary.

CAA Element 4 — Enforcement

Finding 4-1	Area for State Improvement					
Summary	<p>ECY has not timely addressed the one HPV identified and DOH has not addressed 4 HPVs. Additionally, both were late in developing CD&R timelines. Based on periodic HPV conferences, ECY staff have indicated that the HPV identified for the Hanford Nuclear Complex will not be addressed with a civil penalty. Note that ECY has not yet requested to resolve the HPV without penalty at this time, though staff have indicated that this is anticipated in the future.</p>					
Explanation	<p>ECY currently has 1 HPV and DOH has 4 at the Hanford Nuclear Complex, and all remain unaddressed after more than 2 years. The violations of the engine NESHAP are relatively straightforward and should not require such an extended period of time to address and resolve.</p>					
Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
	9a Formal enforcement responses that include required corrective action that will return the facility to compliance in a specified time frame or the facility fixed the problem without a compliance schedule.			0	5	00%
	10a Timeliness of addressing HPVs or alternatively having a case development and resolution timeline in place.			0	5	00%
	10b Percent of HPVs that have been have been addressed or removed consistent with the HPV Policy.			0	5	00%
	14 HPV Case Development and Resolution Timeline In Place When Required that Contains Required Policy Elements			0	5	00%
State response	<p>ECY: The HPVs in question were the first HPVs issued by Ecology’s Nuclear Waste Program. Previous HPV guidance would not have classified them as HPVs. Ecology, DOH and United States Department of Energy (the Permittee) were learning the HPV process for the first time and all levels of management, inspectors, compliance, and permit writers were part of the learning process.</p>					

Ecology has no objection to collaborating with EPA Region 10's Office of Compliance and Enforcement to address all future HPVs consistently with EPA's guidance.

DOH: Until late 2014, DOH was unaware of the EPA policies regarding High Priority Violations and Federal Reportable Violations (HPV/FRV). As a result, we were not evaluating our inspection findings and notifications against those policies. Once we became aware of the policies, our evaluations were consistent with your procedures. It should be noted that up until the new HPV/FRV policy was issued, an HPV only occurred when a violation in a Title V permit occurred for the constituents that required the Site to obtain a Title V permit. As the radiological NESHAPS that ECY contracts DOH to manage are not a constituent that required the Hanford site to obtain a Title V permit, no HPV for radiological only violation could occur.

With the new guidance document inclusion of NESHAP violations, a system has been put in place by DOH to review all notifications to determine if they trigger an HPV/FPV criteria. The system also evaluates all issues identified during an inspection. The new guidance on HPVs resulted in four HPVs being identified in 2015. We agree that the timeliness identified in the policies were not met for the Hanford Site, however part of the difficulties is due to the length of time it takes to deal with the USDOE. At this time, three of the HPVs can be closed out and there is a corrective action plan to correct the final HPV which is due to be completed in March 2018.

It is DOH's opinion that compliance and protection of public health is sometimes better served by prevention of releases through licensing requirements and inspections. Even when an issue is found the finding does not necessarily mean that the EUS license limit has been exceeded. We have not had a finding at Hanford where the Ambient Air standard of 10 mrem/yr has been exceeded. Issues identified generally equate to a public dose several orders of magnitude lower than the Ambient Air standard of 10 mrem/yr which is still a conservative limit.

In regards to issuing penalties, the DOH preference is to work with the licensee to gain compliance and only use monetary penalties as a last resort.

We look forward to meeting with EPA and ECY to discuss the HPV/FRV policy. Based on the outcome of those meetings, we will update our procedures, as appropriate, to clearly identify our processes for issuing penalties.

Recommendation

1. ECY and DOH should address and resolve the existing HPVs within 90 days of the finalization of the SRF Report.
2. ECY and DOH should also review national HPV policy, guidance, and the CAA stationary source civil penalty policy and develop a draft SOP within 90 days of this report to ensure all future HPVs identified at the facility are addressed and resolved consistent with HPV policy and guidance.

A draft HPV SOP should be completed and submitted to EPA within 180 days of the finalization of the SRF report.

CAA Element 5 — Penalties

Finding 5-1	N/A					
Summary						
Explanation						
Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
	11a Penalty calculations reviewed that document gravity and economic benefit			0	0	00%
	12a Documentation of rationale for difference between initial penalty calculation and final penalty			0	0	00%
	12b Penalties collected			0	0	00%
State response	N/A					
Recommendation						

Clean Air Act Findings Northwest Clean Air Agency (NWCAA)

CAA Element 1 — Data							
Finding 1-1	Meets or Exceeds Expectations						
Summary	NWCAA provides accurate and timely data entry into ICIS						
Explanation	<p>NWCAA utilizes an electronic data base for file management that is frequently updated and well managed. Use of this data base allows NWCAA to maintain consistently accurate and up to date MDR data entry in to ICIS.</p> <p>For Metric 3b1, 3b2 and 3b3 it was believed that the low percentages for these metrics was being caused because NWCAA had accidentally been entering data into the ICIS test platform after ICIS production went online. During the file review NWCAA pointed out this issue to EPA and indicated that the data had been correctly entered into ICIS since then. A subsequent review of the same data metrics for 2017 verify that data entry errors for these metrics have been corrected. Therefore, EPA recommends these data metric percentages be revised using the 2017 data metrics to reflect the corrections.</p>						
Relevant metrics	Metric ID Number and Description		Natl Goal	Natl Avg	State N	State D	State % or #
	2b Accurate MDR data in ICIS-AIR				15	15	100%
	3a2 Timely reporting of HPV determinations		100%	99.6%	0	0	N/A
	3b1 Timely reporting of compliance monitoring MDRs (Revised)		100%	64.4%	13	15	86.7%
	3b2 Timely reporting of stack tests and stack test results (Revised)		100%	65.2%	6	6	100%
	3b3 Timely reporting of enforcement MDRs (Revised)		100%	56.6%	7	8	87.5%
State response	N/A						
Recommendation	None Required						

CAA Element 2 — Inspections

Finding 2-1	Meets or Exceeds Expectations					
Summary	NWCAA clearly documents FCE elements and the files include ample CMR documentation					
Explanation	Inspection reports and supporting CMR documents were immediately and easily accessed using NWCAA’s electronic file system. For each of the files reviewed, it was easy for the reviewer to locate and review the supporting documents, and file contained sufficient data and documents to accurately determine the compliance of the facility.					
Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
	6a Documentation of FCE elements			9	9	100%
	6b Compliance monitoring reports (CMRs) or facility files reviewed that provide sufficient documentation to determine compliance of the facility			12	12	100%
	5a FCE coverage: majors and mega-sites	100%	63.2%	8	8	100%
	5b FCE coverage: SM-80s	100%	79.5%	2	2	100%
	5c FCE coverage: minor and synthetics minor (non-SM80s) sources that are part of a CMS plan and Alternative CMS Facilities	N/A	N/A	N/A	N/A	N/A
	5e Reviews of Title V annual compliance certifications completed	100%	39.1%	20	24	83.3%
State response	N/A					
Recommendation	None Required					

CAA Element 3 — Violations

Finding 3-1	Meets or Exceeds Expectations																																			
Summary	NWCAA makes consistent and accurate compliance and HPV determinations.																																			
Explanation	Compliance determinations were based on the information contained in the source file, and the compliance determinations were accurately reported into ICIS. The HPV status was accurately determined using the August 2014 HPV Policy. NWCAA still needs to improve its adherence to the FRV policy. NWCAA contacted EPA after the file review was completed and informed EPA that it had identified some FRVs that had not been correctly entered. NWCAA indicated that it had taken steps to ensure the reporting of all FRVs and that it had successfully entered those FRVs into ICIS.																																			
Relevant metrics	<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>7a Accuracy of compliance determinations</td> <td></td> <td></td> <td>15</td> <td>15</td> <td>100%</td> </tr> <tr> <td>8a Accuracy of HPV determinations</td> <td>N/A</td> <td>1%</td> <td>0</td> <td>20</td> <td>0%</td> </tr> <tr> <td>8c Accuracy of HPV determinations</td> <td></td> <td></td> <td>1</td> <td>1</td> <td>100%</td> </tr> <tr> <td>13 Timeliness of HPV identification</td> <td>100%</td> <td>82.6%</td> <td>0</td> <td>0</td> <td>N/A</td> </tr> </tbody> </table>						Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #	7a Accuracy of compliance determinations			15	15	100%	8a Accuracy of HPV determinations	N/A	1%	0	20	0%	8c Accuracy of HPV determinations			1	1	100%	13 Timeliness of HPV identification	100%	82.6%	0	0	N/A
Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #																															
7a Accuracy of compliance determinations			15	15	100%																															
8a Accuracy of HPV determinations	N/A	1%	0	20	0%																															
8c Accuracy of HPV determinations			1	1	100%																															
13 Timeliness of HPV identification	100%	82.6%	0	0	N/A																															
State response	N/A																																			
Recommendation	None Required																																			

CAA Element 4 — Enforcement

Finding 4-1	Meets or Exceeds Expectations					
Summary	NWCAA uses formal enforcement responses to return facilities to compliance in a specified time frame. HPVs are addressed or removed according to the timing requirements of the August 2014 HPV Policy					
Explanation	All of the formal enforcement responses reviewed included a document such as an order or consent decree with requirements that a source return to compliance within a specified timeframe. The HPV that was reviewed was addressed according to the August 2014 HPV policy.					
Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
	9a Formal enforcement responses that include required corrective action that will return the facility to compliance in a specified time frame or the facility fixed the problem without a compliance schedule.			6	6	100%
	10a Timeliness of addressing HPVs or alternatively having a case development and resolution timeline in place.			1	1	100%
	10b Percent of HPVs that have been have been addressed or removed consistent with the HPV Policy.			1	1	100%
State response	N/A					
Recommendation	None Required					

CAA Element 5 — Penalties

Finding 5-1	Meets or Exceeds Expectations					
Summary	All but one of the files reviewed documented consideration of economic benefit and gravity, the rationale for reduction of penalties, and the collection of penalties.					
Explanation	For one penalty that was issued there was not any supporting documentation discussing gravity and economic benefit, and there was no rationale for how the penalty amount was established. According to NWCAA in this particular instance no penalty calculations were made because the penalty was derived through a settlement process.					
Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
	11a Penalty calculations reviewed that document gravity and economic benefit			4	5	80%
	12a Documentation of rationale for difference between initial penalty calculation and final penalty			2	2	100%
	12b Penalties collected			5	5	100%
State response	N/A					
Recommendation	None Required					

Clean Air Act Findings – Olympic Regional Clean Air Agency (ORCAA)

CAA Element 1 — Data						
Finding 1-1	Area for State Attention					
Summary	ORCAA generally enters accurate and timely data into ICIS					
Explanation	Only one of the files reviewed contained MDR data that was not entered into ICIS. The file contained two source test reports but only one of the reports was entered into ICIS.					
Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
	2b Accurate MDR data in ICIS-AIR			14	15	93.3%
	3a2 Timely reporting of HPV determinations	100%	99.6%	0	0	N/A
	3b1 Timely reporting of compliance monitoring MDRs	100%	64.4%	16	27	59.3%
	3b2 Timely reporting of stack tests and tack test results	100%	65.2%	1	5	20%
	3b3 Timely reporting of enforcement MDRs	100%	56.6%	0	0	N/A
State response	N/A					
Recommendation	None Required					

CAA Element 2 — Inspections

Finding Choose an item.	Meets or Exceeds Expectations					
Summary	ORCAA carefully documents FCE elements and compliance monitoring reports are included in its files are sufficient to determine facility compliance					
Explanation	For both Metrics 6a and 6b one file indicated that a FCE inspection was conducted, but it appears that two significant permit conditions related to facility compliance were not evaluated or considered during the FCE inspection.					
Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
	5a FCE coverage: majors and mega-sites	100%	63.2%	12	12	100%
	5b FCE coverage: SM-80s	100%	79.5%	9	9	100%
	5c FCE coverage: minor and synthetics minor (non-SM80s) sources that are part of a CMS plan and Alternative CMS Facilities	N/A	N/A	N/A	N/A	N/A
	5e Reviews of Title V annual compliance certifications completed	100%	39.1%	5	11	45.5%
	6a Documentation of FCE elements			14	15	93.3%
	6b Compliance monitoring reports (CMRs) or facility files reviewed that provide sufficient documentation to determine compliance of the facility			14	15	93.3%
State response	N/A					
Recommendation	None Required					

CAA Element 3 — Violations

Finding 3-1	Meets or Exceeds Expectations					
Summary	ORCAA makes accurate compliance determinations					
Explanation	Compliance determinations in the 15 files reviewed were accurately determined and supported by the documents and data included in the files. No HPVs were identified during the review period, so metric 8a is not applicable.					
Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
	7a Accuracy of compliance determinations			15	15	100%
	8c Accuracy of HPV determinations	N/A	1%	0	13	0%
	13 Timeliness of HPV identification	100%	82.6%	0	0	N/A
State response	N/A					
Recommendation	None Required					

CAA Element 4 — Enforcement

Finding 4-1	Meets or Exceeds Expectations					
Summary	ORCAA mostly uses formal enforcement mechanisms that include specific corrective actions and a timeline to return a facility to compliance					
Explanation	ORCAA had one formal enforcement response during the review period and the formal enforcement response required corrective action within a specified time frame to return the facility to compliance. No HPVs were identified during the review period, so metrics 10a, 10b and 14 are not applicable.					
Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
	9a Formal enforcement responses that include required corrective action that will return the facility to compliance in a specified time frame or the facility fixed the problem without a compliance schedule.			1	1	100%
State response	N/A					
Recommendation	None Required					

CAA Element 5 — Penalties

Finding Choose an item.	Area for State Attention																		
Summary	ORCAA did not document consideration of gravity and economic benefit in its penalty calculation.																		
Explanation	Two minor issues were identified regarding the penalty calculation. First, ORCAA’s civil penalty worksheet states there was no economic benefit resulting from the instance of noncompliance, however, it does not explain and justify why no economic benefit was assessed as part of the penalty. Second, the civil penalty worksheet also has a section asking if there were previous violations at the facility in the last five years, and the worksheet is checked no indicating that there were not any violations, however, ICIS data indicates that an Agreed Order (AO) was issued to the facility in 2014 indicating that at least one prior violation existed. There was no difference between the initial and final penalty calculation so Metric 12a is not applicable, and a copy of the check used to pay the penalty was included in the file. ORCAA needs to ensure that penalty calculations include a written justification and rationale in the file, when the economic benefit component of a penalty is not assessed.																		
Relevant metrics	<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>11a Penalty calculations reviewed that document gravity and economic benefit</td> <td></td> <td></td> <td>0</td> <td>1</td> <td>0.0%</td> </tr> <tr> <td>12b Penalties collected</td> <td></td> <td></td> <td>1</td> <td>1</td> <td>100%</td> </tr> </tbody> </table>	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #	11a Penalty calculations reviewed that document gravity and economic benefit			0	1	0.0%	12b Penalties collected			1	1	100%
Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #														
11a Penalty calculations reviewed that document gravity and economic benefit			0	1	0.0%														
12b Penalties collected			1	1	100%														
State response	N/A																		
Recommendation	None required																		

Clean Air Act Findings – Benton Clean Air Agency (BCAA)

CAA Element 1 — Data						
Finding 1-1	Area for State Attention					
Summary	Information reported into ICIS was mostly consistent with the information contained in all of the files reviewed.					
Explanation	BCAA enters accurate MDR data into ICIS. However, it appears that stack test data is not being entered into ICIS at all.					
Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
	2b Accurate MDR data in ICIS-AIR			5	5	100%
	3a2 Timely reporting of HPV determinations	100%	99.6%	0	0	N/A
	3b1 Timely reporting of compliance monitoring MDRs	100%	64.4%	1	1	100%
	3b2 Timely reporting of stack tests and stack test results	100%	65.2%	1	5	20%
	3b3 Timely reporting of enforcement MDRs	100%	56.6%	0	0	N/A
State response	N/A					
Recommendation	None required					

CAA Element 2 — Inspections

Finding 2-1	Area for State Improvement					
Summary	BCAA compliance documentation was incomplete or it lacked sufficient analysis and detail to determine the compliance status of a source.					
Explanation	<p>1. One DFR indicated that stack tests were entered into ICIS as reviewed, when they were not. Records of the stack test results and data were not provided to BCAA and they were not included in the source file. According to BCAA the source conducts its own internal source testing, but it does not submit copies of the stack test results and data to BCAA, because the permit originally issued in 1995 does include a requirement for the submission of stack test records and data to BCAA.</p> <p>2. For one source the FCE inspection was not completed within the five-year period required by the CMS plan. According to BCAA the inability to conduct this FCE was caused by a shortage of travel dollars, and the FCE for this source will be completed October 1, 2017.</p> <p>3. In the remaining files FCE Inspection Reports only contained general statements regarding the source's records that were reviewed, but did not indicate explicitly what the records determined with regard to compliance. Documentation of FCE elements in this regard were consistently insufficient to determine compliance. For example; in one instance, general comments were made about process operating conditions in the inspection report, such as; permit condition 2.1.7. limits SO² emissions < 1000ppm @ 7% O² (60-minute average) the FCE report mentions the documentation the source submits to show compliance with this condition, however, the FCE report does not indicate whether or not the SO² content of the Natural Gas met the requirement. In another instance, Region 10 was not able to determine compliance because the inspection report did not contain sufficient details regarding exactly how BCAA determined compliance during and after the inspection. Finally, in other instances, FCE files included an annual inspection checklist spreadsheet with notes, however, the notes that were included were not detailed enough to draw conclusions regarding compliance. Also in many instances the checklists were not completely filled out.</p>					
Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
	5a FCE coverage: majors and mega-sites	100%	63.2%	1	1	100%
	5b FCE coverage: SM-80s	100%	79.5%	0	3	0%

5c FCE coverage: minor and synthetics minor (non-SM80s) sources that are part of a CMS plan and Alternative CMS Facilities	N/A	N/A	N/A	N/A	N/A
5e Reviews of Title V annual compliance certifications completed	100%	39.1%	0	0	0%
6a Documentation of FCE elements			2	5	40%
6b Compliance monitoring reports (CMRs) or facility files reviewed that provide sufficient documentation to determine compliance of the facility			2	5	40%

State response	N/A
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Recommendation	<p>1. Within 120 days of the finalization of the SRF report BCAA should amend the 1995 AOP to ensure the submission of stack test results, in addition to any other applicable compliance data and/or information in the future. Region 10 also recommends that BCAA provide Region 10 monthly progress reports detailing its efforts to renew or amend the existing permit to Region 10 until such efforts are successfully concluded.</p> <p>2. BCAA and EPA should develop a strategy within 90 days of finalizing this report for Region 10 to provide support to BCAA when needed to ensure that all CMS commitments are met within the required timeframe. BCAA should also develop internal policy and/or guidance that requires notification of Region 10 as soon as possible whenever any circumstances arise that may prevent BCAA from meeting the requirements of the CMS plan in a timely manner.</p> <p>3. Within 180 days of the completion of this report, BCAA needs to develop a draft revised inspection report template for regional review that includes permit terms and clear concise statements regarding how and why compliance is determined. The inspectors need to include in the inspection reports the “basic elements” as identified in the CMS Policy. Also within 180 days, an SOP needs to be developed for the supervisor of the inspectors to review and approve all inspection reports. Inspectors should receive training on drafting inspection reports within a year of this report.</p> <p>4. For a period of at least 1 year after BCAA begins utilizing the new inspection report template and conducting supervisory review and approval of inspection reports. BCAA should submit copies of each inspection report and supervisor approval to EPA for peer review and discussion. EPA will review each report and provide feedback to BCAA on inspection report completeness and adequacy within 30 days.</p>
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CAA Element 3 — Violations

Finding Choose an item.	Area for State Improvement																													
Summary	BCAA compliance documentation was incomplete or it lacked sufficient detail to reliably determine the compliance status of a source.																													
Explanation	<p>Two of the four files reviewed lacked sufficient information and data to accurately determine compliance.</p> <p>In two of files FCE Inspection Reports only contained general statements regarding the source’s records that were reviewed, but did not indicate explicitly what the records determined with regard to compliance. Documentation of FCE elements in this regard were consistently insufficient to determine compliance. For example; in one instance, general comments were made about process operating conditions in the inspection report, such as; permit condition 2.1.7. limits SO2 emissions < 1000ppm @ 7% O2 (60-minute average) the FCE report mentions the documentation the source submits to show compliance with this condition, however, the FCE report does not indicate whether or not the SO2 content of the Natural Gas was meeting the requirement. In the other instance, Region 10 was not able to determine compliance because the inspection report did not contain sufficient enough details regarding exactly how BCAA determined compliance during and after the inspection.</p>																													
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State response	N/A																													
Recommendation	<p>Within 180 days of the completion of this report, BCAA needs to develop a draft revised inspection report template for regional review that includes permit terms and clear concise statements regarding how and why compliance is determined. The inspectors need to include in the inspection reports the “basic elements” as identified in the CMS Policy. Also within 180 days, an SOP needs to be developed for the supervisor of the inspectors to review and approve all inspection reports. Inspectors should</p>																													

receive training on drafting inspection reports within a year of this report. For a period of at least 1 year after BCAA begins utilizing the new inspection report template and conducting supervisory review and approval of inspection reports. BCAA should submit copies of each inspection report and supervisor approval to EPA for peer review and discussion. EPA will review each report and provide feedback to BCAA on inspection report completeness and adequacy within 30 days.

CAA Element 4 — Enforcement

Finding 4-1	Area for State Improvement					
Summary	BCAA did not conduct any enforcement responses during the review period.					
Explanation	See Explanation for Finding 5-1 as it also applies to these metrics as well.					
Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
	9a Formal enforcement responses that include required corrective action that will return the facility to compliance in a specified time frame or the facility fixed the problem without a compliance schedule.			0	0	N/A
	10a Timeliness of addressing HPVs or alternatively having a case development and resolution timeline in place.			0	0	N/A
	10b Percent of HPVs that have been have been addressed or removed consistent with the HPV Policy.			0	0	N/A
	14 HPV Case Development and Resolution Timeline In Place When Required that Contains Required Policy Elements			0	0	N/A
State response	N/A					
Recommendation	See Recommendation for Finding 5-1 as it applies to these metrics also.					

CAA Element 5 — Penalties

Finding 5-1	Area for State Improvement						
Summary	BCAA did not conduct any enforcement responses during the review period and therefore no penalties were assessed or collected.						
Explanation	<p>It should be noted, that the BCAA source universe consists of a total of six sources; two of which are Title V Major and four are Synthetic Minor (SM80) sources. Thus, BCAA’s work load is significantly less than most other state and local agencies in Region 10. For the BCAA SRF review only one source file had an activity within the review period, and as such, Region 10 elected to conduct a review of all of BCAA’s source files. The only activity that took place during the review period was an FCE inspection at one of BCAA’s two Title V major sources. It also appears that BCAA has not reported any HPV or FRV violations before or after the updated HPV and FRV policies came into effect. In addition, to conducting a review of all of the BCAA source files, Region 10 also decided to review the ICIS <u>State Enforcement Activities Report</u> covering the period from 2008 to the present. According to this report, BCAA has not taken an informal or formal enforcement actions against any of its major or minor sources for at least 9 years. Based on discussions with BCAA staff, it also appears that when instances of non-compliance are identified that BCAA chooses to utilize non-enforcement actions to address most instances of non-compliance. Reliance on non-enforcement actions that do not conclude in formal enforceable orders and the evaluation of penalties concerns EPA, because, the sole use of non-enforcement actions to return to compliance and deter future non-compliance is inconsistent with existing EPA enforcement policy(s), guidance and practices in that the reliance on such mechanisms does not create a fair and level playing field.</p>						
Relevant metrics	Metric ID Number and Description		Natl Goal	Natl Avg	State N	State D	State % or #
	11a Penalty calculations reviewed that document gravity and economic benefit				0	0	N/A
	12a Documentation of rationale for difference between initial penalty calculation and final penalty				0	0	N/A
	12b Penalties collected				0	0	N/A
State response	N/A						
Recommendation	For a period of at least 1 year after BCAA begins utilizing the new						

inspection report template and conducting supervisory review and approval of inspection reports. BCAA should submit copies of each inspection report and supervisor approval to EPA for peer review and discussion. EPA will review each report and provide feedback to BCAA on inspection report completeness and adequacy within 30 days.

Resource Conservation and Recovery Act Findings

RCRA Element 1 — Data						
Finding Choose an item.	Area for State Improvement					
Summary	Multiple errors in data were found.					
Explanation	<p>Since the type of data error varied from case file to case file it appears this is a quality control issue versus a lack of understanding the data requirements. In some instances, the database elements did not match the documents in the file and in other instances the errors appeared to be typographical in nature. Accurate data is necessary for EPA to verify work the State does as part of the Grant and Performance Partnership Agreement. Accurate date is also the primary way that the public is able to evaluate the status of any particular facility.</p>					
Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
	2b Complete and accurate entry of mandatory data			33	42	78.6%
State response	<p>Ecology has re-instituted regular meetings for RCRAInfo data entry staff. The first meeting occurred in September 2017. Future meetings will occur at least quarterly and focus on answering questions, resolving problems, and expanding knowledge of RCRAInfo in general. Program experts for financial assurance, permitting, and corrective action data will lead sessions and share knowledge.</p> <p>Quality Assurance/Quality Control (QA/QC) reports are available and updated monthly. RCRAInfo data entry staff have been regularly informed of the updates. Beginning December 2017, Ecology inspectors and field staff supervisors will be notified as the monthly updates to the QA/QC reports occur. Ecology will coordinate with EPA Region 10 staff and develop customized reports to allow better review by Ecology.</p> <p>Ecology will review the data and files that EPA examined in this State Review Framework (SRF), looking for common patterns that might be corrected to improve data quality. Staff supervisors will be informed of any recurring data entry issues, so correction can occur with supervisory support and intervention if needed.</p>					

	<p>EPA is updating RCRAInfo for better and more consistent data entry. The Compliance Monitoring module in RCRAInfo is expected to become available within the next year, and should allow more accurate data entry.</p> <p>This SRF cycle was the first time Ecology primarily provided documents electronically for review. Previously, EPA staff traveled to Ecology offices to review most documents. Some discrepancies between Ecology documentation and RCRAInfo data appear to be the result of incomplete delivery of documents to EPA. EPA did not ask for documents that were missing in all cases, resulting in incomplete information in some cases. A plan for better communication in the future will help with this time saving aspect of the review.</p>
<p>Recommendation</p>	<p>All data entered into the database must be supported by a corresponding document in the facility file; all data entered must be accurate. Ecology will ensure data quality by instituting a quality control procedure into its data entry process and ensure that all employees doing responsible for data have been trained on data entry requirements and quality control procedures. EPA and State will negotiate an agreeable timeframe for all data to go through quality control and to ensure all employees responsible for data entry are thoroughly training in data entry and quality control once findings are shared with the State.</p>

RCRA Element 2 — Inspections

<p>Finding Choose an item.</p>	<p>Area for State Improvement</p>
<p>Summary</p>	<p>Quality and completeness of inspection reports appears to be sacrificed for quantity and timeliness.</p>
<p>Explanation</p>	<p>The State exceeds national averages regarding inspection coverage for generators and meets the national goal of 100% for TSD inspections.</p>

The state was very timely in completing inspection reports and notifying the facility of the inspection outcome (violations). On average, the state completed the inspection reports and sent the report documenting violations that needed correcting approximately 56 days after the inspection occurred. However, it appears that the state's emphasis on increased inspection coverage and timely inspection reports has been at the expense of well written reports that have sufficient documentation to support the findings. Only 59.5% of the inspection reports were found to be complete and sufficient enough to determine compliance. For example, in some instances the reports and the compliance letters did not match, photos were not linked to the narrative evidence, regulations were inaccurately quoted, and inspectors decided at the time of the inspection without adequate reason, to hold a facility to more stringent generator conditions than required by the regulations.

Relevant metrics

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
5a Two-year inspection coverage of operating TSDFs	100%	90.6%	13	13	100%
5b Annual inspection coverage of LQGs	20%	18.3%	115	457	25.20%
5c Five-year inspection coverage of LQGs	100%	52.50%	327	457	71.60%
5d Five-year inspection coverage of active SQGs		10.20%	373	696	53.60%
6a Inspection reports complete and sufficient to determine compliance			25	42	59.5%
6b Timeliness of inspection report completion			42	42	100%

State response

The SRF review examined work completed in federal fiscal year 2015. The most recent report reviewed is over two years old. Ecology, including hazardous waste inspectors, has had significant employee turnover. Twenty-five percent of current HWTR program inspectors have been DW inspectors for less than 2 years. One third of the reports reviewed were of inspections done by now former inspectors.

Our current inspection document package that we send to facilities has been developed with EPA assistance to address multiple purposes. Our focus has been to meet our inspection count obligations per the findings in the SRF Round 3 2013 Report, which we have accomplished. Having achieved that regularly, Ecology is committed to improving the quality of our reports. Since the timeframe of the reports reviewed, Ecology has instituted certain protocols to improve the quality of inspection reports. Further improvements will be identified during the root cause analysis by the Compliance Network, with EPA participation, in January 2018.

We will consider EPA’s recommendation on separation of our inspection report and decision tree for verifying generator status at that time. We will identify issues, develop a plan, and implement it no later than October 1 2018.

We have an inspector training curriculum that we are reviewing and revising to address the deficiencies identified by EPA as well as other emerging program needs. It will include training on how to conduct a thorough compliance evaluation inspection, how to gather evidence to support violations found, how to write a defensible report, and the proper citation of violations according to generator status.

Recommendation

State will provide inspector training that addresses documenting evidence and properly citing violations no later than October 1, 2018. The training should also address exclusions, and exemptions, and include a decision tree or some similar tool that helps the inspectors verify generator size and appropriate regulations applicable at the time of inspection. Finally, the training should address what inspectors may require a facility to do in the compliance letters.

EPA will defer to Ecology on the format of inspection reports and will instead work with Ecology to improve the quality of the information documented in reports by conducting periodic, real-time reviews by randomly selecting eight (seven LQGs* and one operating TSD) inspection reports to review, twice each year. The reviewers (including one Ecology person, if Ecology elects to participate) will provide the results of the review to Ecology within three months. These reviews will take place in January and July each year and will be selected from the previous six-month timeframe. EPA will continue to randomly review inspection reports until the next SRF review of Ecology is conducted, or no later than September 30, 2021. However, the number of reports and or the number of reviews may be decreased over time as improvements are made.

*inspection reports will be selected for review as follows: NWRO-2, SWRO-2, CRO-1, ERO-1, and one report from either the Industrial Section or Nuclear Waste Program.

RCRA Element 3 — Violations

Finding Choose an item.	Area for State Improvement						
Summary	Although the State finds more violations than the national average the accuracy of those determinations and the rate of determining SNCs is lower that would be expected.						
Explanation	The State aggressively looks for violations during inspections as is indicated by the significantly higher than national average number of violations found during inspections (73.4% versus 36.5%). However, the reviewers found multiple reports where violations were missed or mis-cited or as importantly the state failed to make accurate SNC determinations based on those violations. The low SNC rate is likely related to the State’s misunderstanding that a SNC determination is a separate (but related) decision from the enforcement response. It is the State’s practice make a SNC determination only after they have determined they will pursue formal enforcement rather than first making a SNC determination and then deciding the appropriate enforcement response based on that determination.						
Relevant metrics	Metric ID Number and Description		Natl Goal	Natl Avg	State N	State D	State % or #
	7a Accurate compliance determinations				26	42	61.90%
	7b Violations found during inspections			36.5%	290	395	73.40%
	8a SNC identification rate			2.2%	3	395	.080%
	8c Appropriate SNC determinations				28	43	65.10%
State response	See Element 4 response						
Recommendation	See Element 4 Recommendation						

RCRA Element 4 — Enforcement

Finding Choose an item.	Area for State Improvement						
Summary	Most of the enforcement actions taken by the state are timely and return the facility to compliance, at least in the short term.						
Explanation	<p>Although the State is very timely in addressing all violations (and documents that the majority of the time the violations that have been found are returned to compliance), the data does not seem to support sustained compliance when compared to the number of handlers from each universe that are inspected each year and the number of violations found.</p> <p>Rather the lack of formal enforcement appears to indicate facilities in the state are using state inspectors as consultants to point out violations and potential violations</p>						
Relevant metrics	Metric ID Number and Description		Natl Goal	Natl Avg	State N	State D	State % or #
	9a Enforcement that returns violators to compliance				37	41	90.2%
	10a Timely enforcement taken to address SNC		80%	81.4%	5	6	83.30%
	10b Appropriate enforcement taken to address violations				27	43	62.8%
State response	<p>Ecology’s agency-wide enforcement process is being revised. The Hazardous Waste and Toxics Reduction Program will update its enforcement process to be consistent with the revised agency enforcement policy as soon as possible.</p> <p>Ecology issues formal enforcement in accordance with Ecology’s Compliance Assurance Manual and individual program policies. Enforcement of the Dangerous Waste regulations is determined by the HWTR Compliance Assurance Policy 3-1. Ecology’s Nuclear Waste Program and Waste 2 Resources Program Industrial Section use HWTR Policy 3-1 when developing formal enforcement of the dangerous waste regulations.</p> <p>Of the sites reviewed, EPA suggests that over 20% should have been identified as SNCs. This far exceeds the current national average of 2% SNC identification. The resultant expectation of formal enforcement is neither reasonable nor achievable. Ecology will revise its SNC identification and tracking process, which will increase the rate of SNC</p>						

	<p>identification. Decisions to issue formal enforcement will continue to be made using existing agency standards.</p> <p>Most of the content of EPA’s tool recommendation already exists in Ecology processes. Through root cause analysis based on objective criteria, Ecology will determine an appropriate enforcement response that conforms with existing Ecology processes. Ecology regional section supervisors have already begun to vet enforcement state-wide during bi-monthly calls. These reviews focus on regulatory issues, and consistency with similar enforcement actions at other locations.</p> <p>Additionally, inspector training as discussed in the response to RCRA Element 2 will result in better violation documentation which will in turn support enforcement actions.</p> <p>We plan to implement these changes before July 1, 2018.</p>
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Recommendation	<p>EPA recommends that the State develop an enforcement evaluation tool that will be used across all Regions no later than July 1, 2018..</p> <p>Similar to the Finding 2 recommendation, twice each year EPA will randomly select one enforcement action to review and will provide the results of the review to Ecology within three months. These reviews will take place in January and July each year and the enforcement actions will be from the previous six-month timeframe. The number of reviews may be decreased over time as improvements are made. Reviews will conclude no later than September 30, 2021</p>
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RCRA Element 5 — Penalties

Finding Choose an item.	Area for State Attention
Summary	State has procedures for documenting penalty determinations and collections
Explanation	Although the state has put into place procedures for calculating, documenting, and collecting penalties it appears that at times the state chooses not to calculate or collect economic benefit. In one instance the recommendation for enforcement (RFE) indicates that the EB could not be quantified (EPA disagrees) and in another although calculated chose not to collect because didn’t want to take money away from cleaning up the contamination.

Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
	11a Penalty calculations include gravity and economic benefit			4	7	57.1%
	12a Documentation on difference between initial and final penalty			5	6	83.3%
	12b Penalties collected			5	7	71.4%
State response	Ecology’s Hazardous Waste and Toxics Reduction Program will review the Economic Benefit determination process as identified in the Performance Partnership Agreement and Hazardous Waste and Toxics Reduction Program Assurance Policy 3-1. In consultation with the EPA, the Program will review relevant language and processes. Ecology management will also review these requirements with inspectors to better ensure compliance with these agreements. This topic will be included in the inspector training proposed in response to Element 2 of this SRF.					
Recommendation						