

STATE REVIEW FRAMEWORK

Louisiana

**Clean Water Act, Clean Air Act, and
Resource Conservation and Recovery Act
Implementation in Federal Fiscal Year 2014**

**U.S. Environmental Protection Agency
Region 6, Dallas**

**Final Report
May 9, 2018**

Executive Summary

Introduction

EPA Region 6 enforcement staff conducted a State Review Framework (SRF) enforcement program oversight review of the Louisiana Department of Environmental Quality (LDEQ).

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

Clean Water Act

- (1) LDEQ continues to maintain very high standards in providing complete and actual set of required data in the NPDES-ICIS database in respect to coding permits and entering DMR data for a high percentage of facilities.
- (2) LDEQ continues to accurately identify Single Event Violations as SNC or non-SNC for major facilities. SEVs are identified and reported in a timely manner.
- (3) LDEQ has implemented auditing the storm water management programs of permitted MS4s, which is an important step for: 1) demonstrating the significance of the storm water program for achieving water quality goals; 2) and, ensuring that MS4s are meeting permit requirements to reduce pollutants in storm water discharge and thence to waters of the United States.

RECOGNITION

- EPA would like to recognize LDEQ's effort in meeting their standard operating procedure to inspect 80% of the citizen complaints within 10 days.
- EPA applauds LDEQ's effort to implement the watershed initiative

Priority Issues to Address

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

Most Significant CWA-NPDES Program Issues¹

- (1) EPA identified deficiencies with Core program files and the MS4 File Review indicated MS4s failed to develop Measurable Goals for all Control Measures of the Storm Water Management Programs.
- (2) Low percentages of LDEQ enforcement responses were found to be timely and appropriate
- (3) LDEQs Penalty calculations do not meet National guidance

Clean Air Act

LDEQ met the CAA compliance and enforcement program expectations in several areas including:

- (1) Documentation of full compliance evaluation (FCE) elements in compliance monitoring reports per the Compliance Monitoring Strategy (CMS);
- (2) Issuance of formal actions which returned facilities to compliance;
- (3) All files with penalty calculations were well documented and had adequate documentation to show that penalties considered and included gravity and economic benefit. If economic benefit was considered to be de minimus, facts were well documented; and
- (4) The collection of penalty amounts was well documented.

Resource Conservation and Recovery Act

- (1) LDEQ has an effective and efficient RCRA hazardous waste program implemented by its Office of Environmental Compliance Inspection Division and the Enforcement Division.
- (2) LDEQ strives to meet or exceed all of its inspection and enforcement commitments in accordance with EPA's National Program Manager (NPM) Guidance, EPA's RCRA Enforcement Response Policy, and the LDEQ Performance Partnership Grant (PPG)

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."

- (3) LDEQ continues every year to meet or exceed the inspection program goals identified in the RCRA Compliance Monitoring Strategy to do 100% of its TSD (Treatment, Storage, Disposal) universe every two years and 20% of its' LQG (Large Quantity Generator) universe every year. LDEQ continues to pursue those enforcement actions that result in significant protection to human health and the environment while involving complex negotiations.
- (4) LDEQ Office of Environmental Compliance uses a Field Interview Form (FIF) that identifies the inspector's findings. Facility representative signs the FIF and is given a copy at time of the inspection. This has proven to be efficient in facilities' returning to compliance more quickly.
- (5) LDEQ's Office of Environmental Compliance RCRA Senior Staff participate in monthly conference calls with EPA Region 6, and work closely with EPA on issues and priorities of particular concern to cooperatively address them.
 - The LDEQ Office of Environmental Compliance Manager and Administrators of the Inspection Division and Enforcement Division attend and participate in quarterly enforcement/compliance management meetings with EPA Region 6 Compliance Assurance and Enforcement Division Managers and Branch Chiefs.

Most Significant CAA Stationary Source Program Issues

- (1) LDEQ's definition for HPV discovery and day zero do not match EPA's HPV Policy, leading to data inaccuracies in the national database (ICIS-Air).
- (2) EPA identified deficiencies with LDEQ's identification of HPVs. While LDEQ made correct compliance determinations, there were instances where LDEQ was not timely in making accurate HPV determinations.
- (3) LDEQ did not meet the timeliness goals of the HPV Policy for addressing HPVs.

Most Significant RCRA Subtitle C Program Issues

There are no significant RCRA Subtitle C program issues.

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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: FY14

Key dates:

- Kickoff letter/Meeting: April 23, 2015
- Data Metric Analysis and File Selection sent to LDEQ:
 - CWA: June 16, 2015
 - CAA: June 8, 2015
 - RCRA: June 22, 2015
- On-site File Review conducted:
 - CWA: August 24-28, 2015
 - CAA: July 20-24, 2015
 - RCRA: July 20-24, 2015
- Draft Report sent to LDEQ: September 1, 2016 and December 13, 2017
- Report Finalized: January 24, 2018

State and EPA key contacts for review:

Clean Water Act

EPA Contacts:

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LDEQ Contacts:

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- Angela Marse, (Manager, Enforcement), Angela.Mars@la.gov
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Clean Air Act

EPA Contacts:

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LDEQ Contacts:

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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	LDEQ continues to maintain very high standards in providing complete and actual set of required data in the NPDES-ICIS database for all defined Major facilities.					
Explanation	<p>1b1) LDEQ exceeded National Average of 91.1% for Permit limit rate for major facilities with 94.5%, slightly below the National Goal of 95%.</p> <p>1b2) LDEQ exceeded the National Average of 96.6% DMR data entry rate for major facilities with a 98.10%; well above the National Goal of 95%.</p>					
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%	91.1%	222	235	94.5%
	1b2 DMR entry rate for major facilities	>=95%	96.60%	11108	11326	98.1%
State response						
Recommendation						

CWA Element 1 — Data						
Finding 1-2	Area for State Improvement					
Summary	Selected files were reviewed to ensure accurate data are consistently entered in the Integrated Compliance Information System (ICIS).					
Explanation	<p>2b) EPA reviewed 36 files (7 MS4's, 19 Majors, and 10 non-majors). Initial review of the selected files indicated that LDEQ has maintained a high consistency in entering the required data for their facilities.</p> <p>There were 7 MS4's reviewed. LDEQ issued Expedited Penalty enforcement actions to five (5) of them for failure to submit required Annual Report/s. All enforcement actions were entered and closed appropriately in ICIS.</p>					

Of the 19 Major, and 10 non-major files, EPA identified several deficiencies during the review. 1) Several Informal Enforcement Actions (Warning Letters, and Records for Email/Phone) are entered into ICIS for the facility; however, they are not always linked to, or reflect the violation to which they relate. Also, Records of Communication (ROC) for the email/phone call are not printed and included in the EDMS file. 2) Four of the files contained inspection reports in ICIS, but the compliance monitoring data is missing or incomplete. 3) One of the facilities terminated their permit while in unresolved SNC status. The system shows receipt of DMRs post termination date, but no documentation regarding reissuance.

Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
	2b Files reviewed where data are accurately reflected in the national data system	100%		31	36	86.11%

State response

Recommendation EPA encourages LDEQ to develop and implement a plan to address the noted deficiencies by October 1, 2018: 1) continue to ensure that all Enforcement Actions are linked to the appropriate violations in the ICIS database, and that a copy of the ROC for Email/Phone call is included in the EDMS file. 2) Compliance Monitoring Information should be completed on all inspection reports entered into ICIS. 3) Continue to verify facility violation status prior to allowing permit termination.

CWA Element 2 — Inspections

Finding 2-1	Meets or Exceeds Expectations
Summary	LDEQ has met commitment requirements for inspections in accordance with National CMS requirements.
Explanation	4a1 Pretreatment compliance inspections and audits Every five years, two pretreatment compliance inspections and one audit at each approved local pretreatment program: LDEQ has met CMS commitment requirement.

4a7 Phase I & II MS4 audits or inspections

One audit of each Phase I MS4 by Oct. 2012 and one every five years thereafter; Inspections as needed; One inspection or audit of each Phase II MS4 by Oct. 2014 and one every five years thereafter:

The universe of MS4s permitted under an LPDES individual or general MS4 permit totals to forty-eight (48) MS4s: 4- Phase I MS4s; and, 44- Phase II MS4s. LDEQ reported in Metric 4a that 11 of the 48 MS4s were inspected within the reporting period.

EPA found record of 11 MS4 inspections/audits in the LDEQ EDMS.

All small MS4s are expected to be audited or inspected by 2014. It is undetermined whether the eleven MS4s inspected by LDEQ or the six municipalities identified by EPA are part of the last group of small MS4s to be assessed. The state has four Phase I MS4s to be assessed by 2012; and 44 small MS4s to be assessed by 2014. If all small MS4 audits/inspections have not been completed, EPA encourages LDEQ to:

1. Give small MS4 audits/inspections high priority to determine that these municipalities have developed and are implementing storm water management programs as required by the permit; and, that the programs are effective in reducing pollutants in storm water discharges. MS4 storm water management is rapidly becoming the most effective way to address storm water pollutants;
2. Increase MS4 audits/inspections of small MS4s through planned and scheduled applications to ensure all permitted MS4s are inspected or audited at least once.

4a8-Inspections of 10% of the industrial storm water universe each year

The universe of industrial facilities permitted under a storm water permit is not described in the 4a Metric. LDEQ databases do not include a field for categorizing storm water inspections and whether the inspections are conducted for industrial or construction facilities.

4a9 -Phase I and II storm water construction inspections

The universe of construction facilities permitted under a storm water permit is 2,429 facilities; however, LDEQ does not include a field in its database to categorize storm water inspections that are specifically for construction facilities.

4a10 Medium and large NPDES CAFO inspections

	One inspection of each large and medium NPDES-permitted CAFO every five years LDEQ met CMS Commitment requirement.					
Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
	4a1 Pretreatment compliance inspections and audits	100% of State CMS plan		5	5	100%
	4a7 Phase I & II MS4 audits or inspections	100% of State CMS plan		11	11	100%
	4a8 Industrial stormwater inspections	100% of State CMS plan		N/A	N/A	N/A
	4a9 Phase I and II stormwater construction inspections	100% of State CMS plan		13	N/A	N/A
	4a10 Medium and large NPDES CAFO inspections	100% of State CMS plan		1	1	100%
State response						
Recommendation						

CWA Element 2 — Inspections

Finding 2-2	Meets or Exceeds Expectations
Summary	LDEQ has met commitment requirements for core program Major and Non-Majors inspections.
Explanation	<p>5a1 Inspection coverage of NPDES majors LDEQ exceeded CMS commitments for majors (50% of the 235 Universe (118) w/130)</p> <p>5b1- Inspection coverage of NPDES non-majors with individual permits. The SRF review evaluated LDEQ's performance in regards to the state's CMS which requires an inspection commitment of 20% of the significant water minors.</p> <p>Significant water minors are defined as those minor facilities with individual permits (discharge rate of 100,000 to 999,999 gal per day), those facilities with Class IV General Sanitary Permits (discharge rate of 50,000</p>

to 100,000 gal per day) and those facilities with Class III General Sanitary Permits (discharge rate of 25,000 to 50,000 gal per day)].

The definition of “significant water minors” does not include all non-majors with general permits.

LDEQ exceeded CMS commitments for non-majors with individual permits, (20% of the 1760 Universe (352) w/381)

5b2- Inspection coverage of NPDES non-majors with general permits.

Was not evaluated based on the fact that it is not included in their state CMS plan

Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
	5a1 Inspection coverage of NPDES majors	100% of State CMS plan	55.4%	130	235	55.3%
5b1 Inspection coverage of NPDES non-majors with individual permits	100% of State CMS plan	26.5%	261	1188	21.96%	

State response

Recommendation

CWA Element 2 — Inspections

Finding 2-3 **Area for State Improvement**

Summary EPA reviewed a total of 21 files, 7 MS4s and 14 major/Non-Major, for sufficiency of inspection reports.

Explanation **6a- Inspection reports complete and sufficient to determine compliance at the facility.**

Of the 7 MS4 files reviewed, 6 of the files were sufficient.

The review of documentation indicated that an MS4 had been inspected, but no record of the Audit Checklist was found on file. The partial inspection was a follow-up to a previous action. That inspection was not standard and there was no full evaluation. On follow-up inspections, LDEQ does not develop a full report when there are no areas of concern unable to measure for sufficiency.

EPA commends LDEQ for its initiative to assess the storm water management programs of MS4s using the EPA MS4 Checklist. EPA has modified the checklist into a MS4 Self-Assessment tool that is resourceful in obtaining detailed program implementation data from the MS4 vs the LDEQ conducting the assessment. EPA recommends that the state incorporate the use of the Self-Assessment in future Assessments. EPA would also provide training how to use the Self- Assessment tool.

15 Major/Minor files were chosen for review. Of the 15 Major/Non-Major files, one report was a spill report and was not evaluated. Minimal Data Requirement information was available for the 14 reports. 11 of the 15 files reviewed were sufficient to include compliance determination information. Four reports were considered deficient in supporting information.

Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
	6a Inspection reports complete and sufficient to determine compliance at the facility	100%		17	21	80.95%

State response

Recommendation

- LDEQ should take action to ensure that file copies of inspection report forms are completed accurately. Also, the required information, must be adequately recorded in the National NPDES-ICIS database, i.e., rating, compliance monitoring data etc. Beginning October 1, 2018, EPA will verify compliance by selection of random inspection reports quarterly to confirm that reports are sufficient to determine compliance.

CWA Element 2 — Inspections

Finding 2-4 **Meets or Exceeds Expectations**

Summary	EPA reviewed a total of 21 files, 7 MS4s and 14 major/Non-Major, for timeliness of inspection reports.
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Explanation	<p>6b- Inspection reports completed within prescribed timeframe. Inspection reports were evaluated from the date of completion of the inspection until the inspection is signed by the supervisor as required under LDEQ’s applicable internal Standard Operating Procedure for Compliance Inspections. For sampling inspections, Region 6 used the date lab results were received as the start date to evaluate inspection report timeliness per the state’s SOP.</p> <p>EPA found inspection reports for 5 of the 7 MS4s reviewed were good. The 5 appeared to be completed on the same day of the inspection. 2 MS4s were audit inspections and were outside of standard reporting guidelines, both were completed on time. These inspections included a review of the control measures in-place. The findings were documented on the EPA MS4 Checklist. No further evidence was found that LDEQ develops a separate report of the inspection or audit. Days taken to complete the report was generally one day or the same day of the assessment.</p> <p>EPA selected fifteen (15) Major/Non-Major files to review inspection reports. Of the 15, 14 were reviewed for timeliness. One (1) record was a response to a spill and was not evaluated. 9 were completed; 5 were delayed; 1 due to an inspector personal emergency; 4 due to delayed sample results.</p>
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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%		21	21	100%

State response	
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Recommendation	
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CWA Element 3 — Violations

Finding 3-1	Meets or Exceeds Expectations
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Summary SNC is accurately and timely reported in ICIS

Explanation

7a1 Number of major facilities with single event violations
 There are 117 majors with single event violations that were reported to the national data system. LDEQ enters single events violations timely. LA has trended in the avg. of 117 since 2012 with little to no decrease.

7f1 Non-major facilities in Category 1 noncompliance
 LDEQ has 142 non-majors in Cat 1 non-compliance. There has been consistent progression trend. Category 1 noncompliance has doubled since 2012.

7g1 Non-major facilities in Category 2 noncompliance
 Trends show consistent improvement since 2012.

8a2 Percentage of major facilities in SNC
 LDEQ SNC rate is only slightly above the National Average. LDEQ has generally trended well below the National average since 2011.

8b Single-event violations accurately identified as SNC or non-SNC
 Of the 35 files reviewed, 15 contained single event violations SEVs. All 15 files that contained SEVs, accurately identified SEVs as SNC or non-SNC at major facilities (100%).

8c Percentage of SEVs identified as SNC reported timely at major facilities
 Of the 35 files reviewed, 15 contained SEVs identified as SNC reported timely at major facilities. All 15 SEVs reported timely and linked in ICIS with warning letters issued.

Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
	7a1 Number of major facilities with single event violations					
7f1 Non-major facilities in Category 1 noncompliance						142
7g1 Non-major facilities in Category 2 noncompliance						1225
8a2 Percentage of major facilities in SNC			20.7%	53	244	21.7%
8b Single-event violations accurately identified as SNC or non-SNC		100%		15	15	100%
8c Percentage of SEVs identified as SNC reported timely at major facilities		100%		15	15	100%

State response													
Recommendation													
CWA Element 3 — Violations													
Finding 3-2	Area for State Improvement												
Summary	The percentage for major facilities (94.5%) in noncompliance for LDEQ is higher than the national average (78.7%).												
Explanation	7d1 Major facilities in noncompliance Of the 235 universe for majors, LDEQ has 222 (94.5%) that are in non-compliant status. 2012 and 2013 reports were below the national averages. There was a sharp increase of non-compliant facilities in 2014.												
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>78.7%</td> <td>222</td> <td>235</td> <td>94.5%</td> </tr> </tbody> </table>	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #	7d1 Major facilities in noncompliance		78.7%	222	235	94.5%
Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #								
7d1 Major facilities in noncompliance		78.7%	222	235	94.5%								
State response	<u>7d1</u> - LDEQ is not sure of the reason why more non-compliant facilities were present in 2014, but the number has steadily decreased since that time by a total of 11%. Single event and permit/compliance schedule violations were included in the metric calculations. It is LDEQs belief that single event violations don't necessarily mean significant noncompliance. This metric goes above and beyond the QNCR commitments LDEQ has to EPA.												
Recommendation	<ul style="list-style-type: none"> • EPA recommends that LDEQ assert stringent enforcement action for permit non-compliance when that non-compliance challenges the performance and effectiveness of the program. • Within 45 days of the final SRF report, LDEQ should provide a summary of the follow-up measures enacted to correct deficiencies. • EPA will verify compliance quarterly through review of state enforcement actions and monitoring data metrics 7d1 and 8a2 during the performance of the FY2017 Annual Data Metric Analysis for LDEQ beginning October 1, 2018. 												

CWA Element 3 — Violations

Finding 3-3	Area for State Improvement																	
<p>Summary</p>	<p>EPA evaluated LDEQ’s accuracy in inspection report determinations. EPA identified deficiencies with Core program files and the MS4 File Review indicated MS4s failed to develop Measurable Goals for all Control Measures of the Storm Water Management Programs.</p>																	
<p>Explanation</p>	<p>7e- Inspection reports reviewed that led to an accurate compliance determination</p> <p>EPA reviewed a total of twenty inspection reports, six from the Storm Water program and fourteen Core program; for accuracy of determination.</p> <p>Of the fourteen Core program reports, twelve were considered accurate determinations, while two were unmeasurable due to no determination information found in the report and no record.</p> <p>Of the six Storm Water reports, three determinations were determined as accurate, while three were inaccurate. One of the six MS4s assessed by LDEQ failed to develop Measurable Goals for each Control Measure of its storm water management programs. Failure to develop these Goals violates the permit. No record was found that LDEQ addressed this violation with a formal enforcement action. The MS4 committed to demonstrate compliance with the submittal of its next year (2015) Annual MS4 Report; but, compliance needed to be demonstrated that Measurable Goals were developed for each storm water management program. No record was found that LDEQ followed up with the MS4 to determine compliance was achieved.</p> <p>One of the six MS4s assessed by LDEQ failed to develop a comprehensive Storm Water Management Programs (SWMP). The Inspection Report clearly emphasized the MS4 failed to develop the required programs, which violates Part V. of the MS4 permit. LDEQ issued a Notice of Deficiency in which the MS4 responded with a letter describing its SWMP Measurable Goals. No record was found that LDEQ followed up with the MS4 to determine that a comprehensive SMWP, including Measurable Goals was achieved.</p>																	
<p>Relevant metrics</p>	<table border="1"> <thead> <tr> <th data-bbox="483 1726 1019 1793">Metric ID Number and Description</th> <th data-bbox="1029 1726 1094 1793">Natl Goal</th> <th data-bbox="1104 1726 1169 1793">Natl Avg</th> <th data-bbox="1195 1726 1227 1793">State N</th> <th data-bbox="1237 1726 1269 1793">State D</th> <th data-bbox="1279 1726 1442 1793">State % or #</th> </tr> </thead> <tbody> <tr> <td data-bbox="483 1806 1019 1873">7e Inspection reports reviewed that led to an accurate compliance determination</td> <td data-bbox="1029 1806 1094 1873">100%</td> <td data-bbox="1104 1806 1169 1873"></td> <td data-bbox="1195 1806 1227 1873">15</td> <td data-bbox="1237 1806 1269 1873">20</td> <td data-bbox="1279 1806 1442 1873">75.0%</td> </tr> </tbody> </table>						Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #	7e Inspection reports reviewed that led to an accurate compliance determination	100%		15	20	75.0%
Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #													
7e Inspection reports reviewed that led to an accurate compliance determination	100%		15	20	75.0%													

State response	
Recommendation	<ul style="list-style-type: none"> • EPA encourages LDEQ to assert stringent enforcement action for permit non-compliance when that non-compliance challenges the performance and effectiveness of the storm water program. • Within 45 days of the final SRF report, LDEQ should provide a summary of the follow-up measures enacted to correct deficiencies. • EPA will verify compliance by selection of random inspection reports and reviewing compliance determinations and implementation of those requirements.

CWA Element 4 — Enforcement

Finding 4-1	Area for State Improvement
Summary	EPA evaluated timely and appropriate enforcement activities for compliance and violations.
Explanation	<p>9a-Percentage of enforcement responses that return or will return source in violation to compliance. EPA found that LDEQ’s enforcement responses are returning facilities to compliance at a very low percentage. Of the 82 enforcement responses reviewed, 37 returned, or will return, sources in violation to compliance; averaging 45.1%, where the national goal is 100%.</p> <p>10a1-Major facilities with timely action as appropriate EPA found that LDEQ issued enforcement actions for violations that occurred several years prior to the issuance of that action.</p> <p>10b-Enforcement responses reviewed that address violations in an appropriate manner. Of the 82 responses that were reviewed, 45 were considered to have been addressed appropriately for a rating of 54.9%, where the National Goal is 100%. EPA found LDEQ to address violations by adding the violations to</p>

	previously issued enforcement. EPA was also unable to determine what violations were being addressed when email/phone calls were an enforcement method.																								
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10b Enforcement responses reviewed that address violations in an appropriate manner	100%		45	82	54.9%																				
State response	<p><u>9a</u></p> <ul style="list-style-type: none"> - LDEQ will reiterate to Enforcement staff to follow-up on inadequate responses with the respondents more timely. -Most of those facilities not returning to compliance are municipalities without funding to get them into compliance. -Also, all responses from each facility are being counted individually, when in fact some of the responses are additional information. The matrix included compliance schedule reports that detailed actions to come into compliance but didn't necessarily themselves bring the facility back into compliance. <p><u>10a1</u></p> <ul style="list-style-type: none"> - Due to permitted universe referrals, LDEQs goal is to address SNC, citizen complaints, spills, unauthorized discharges, and inspection referrals. Because of this volume, we expect time delays and lapses in time before getting to all violations found. LDEQ is open to EPA recommendations on how to address these violations more timely. <p><u>10b</u></p> <ul style="list-style-type: none"> - When and if feasible, LDEQ will continue with its policy of amending actions to include previous violations. - LDEQ will refresh the Permit Compliance Unit (PCU) on the process of entering emails/phone calls into ICIS and tying the violations to the action as well as providing comments on the action screen. Water Enforcement will also be refreshed on the importance of sending emails or phone logs down to the file/EDMS 																								
Recommendation	<p>EPA recommends that LDEQ:</p> <ul style="list-style-type: none"> • Issue timely enforcement actions by setting target dates for processing and issuance after a review or inspection has been conducted; 																								

	<ul style="list-style-type: none"> • Add to the file, a copy of corrective actions planned and implemented by the MS4 to achieve compliance, including LDEQ’s assessment and approval of their proposed and completed actions. • Within 45 days of the final SRF report, LDEQ should provide a summary of the follow-up measures enacted to correct deficiencies. • Within 45 days of the final SRF report, EPA will verify compliance by quarterly requesting a random selection corrective actions planned and timely enforcement actions taken for EPA review.
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CWA Element 5 — Penalties

Finding 5-1	Area for State Improvement
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Summary	LDEQs Penalty calculations do not meet National guidance
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Explanation	<p>11a- Penalty calculations were reviewed that consider and include gravity and economic benefit The Gravity component is represented by matrix ranges. LDEQ collects a “monetary” benefit, in lieu of the required “economic” benefit. Efforts for training LDEQ to use the Ben Model to calculate the economic benefit have been offered in the past; however, last minute LDEQ schedule conflicts have resulted in the offer being denied. The offer for Ben Model training will be extended again in FY 2017.</p> <p>EPA MS4 file review found that LDEQ issued Expedited Penalties that varied in amounts. No records were found to document how these amounts were calculated and that the BEN model was applied to make the determinations.</p> <p>12a- Documentation of the difference between initial and final penalty and rationale The difference between initial and final penalty amounts is not documented. Final penalty assessments result from rationale made by the LDEQ Assistant Secretary using the Penalty Policy factors during negotiations. There is no documentation of the rationale and the process is kept confidential.</p> <p>12b- Penalties collected No record was found such as a cancelled check, or notification that the penalty was received for the MS4.</p>
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Although documentation of penalties collected were not readily evident in the file, the Financial Services Division Data System of Record provided clear documentation of settlement payment forms.

Relevant metrics

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
11a Penalty calculations reviewed that consider and include gravity and economic benefit	100%		0	9	0%
12a Documentation of the difference between initial and final penalty and rationale	100%		0	9	0%
12b Penalties collected	100%		3	9	33.3%

State response

11a
 - LDEQ and EPA management personnel have previously discussed EPA providing BEN model training. LDEQ accepted the offers on every occasion and is not aware of or have documentation that LDEQ last minute schedule conflicts prevented the training from occurring. Nonetheless, LDEQ has EPA training on the BEN model scheduled for April 6th & 7th.

12a)
 - LDEQ utilize the Penalties regulations (Office of the Secretary- Chapter 7) when assessing a formal Penalty Assessment. The issued actions/Penalty Assessments (with accompanying worksheets) are located in EDMS. Although not required by regulation or law, LDEQ also consider/utilize the Penalty Regulations when negotiating settlement agreements with Respondent. The Department prepares a settlement packet (offer, spreadsheet utilizing the penalty regulations, etc.) for each settlement agreement. Although the settlement spreadsheets/packets are not located in EDMS, they are available for EPA’s review (upon request) and have been previously provided to EPA for review during prior reviews (both SFR and PPG). With the exception of the spreadsheet, all information/documentation associated with settlement agreements (i.e., action being resolved, Respondent’s offer(s), economic benefit of non-compliance memo, draft and final settlement agreement, etc.), are located in EDMS

12b)
 - It is an LDEQ policy not to send checks or other sensitive documents to EDMS. According to LDEQ policy, payment has to be received prior to finalizing or closure of XP agreements.

Recommendation

NPDES Wastewater

EPA recommends LDEQ complete Ben Model training by December 1, 2018. Use of the BEN Model will allow for the monetary collection of the true economic benefit for a facility's failure to timely comply with the Clean Water Act. This collection of the economic benefit is required by the NPDES program. Training is available online at <https://www.epa.gov/compliance/national-enforcement-training-institute-neti-elearning-center>.

NPDES Storm Water

EPA encourages LDEQ to include Penalty Policy, rationale and relative documentation that explains how the amount of penalty was calculated and complies with the BEN Model for collection of the economic benefit under the Clean Water Act.

Logically written rationale should be developed and recorded for all final penalty assessments that differ in amounts from the initial penalty assessment. This information can be kept as a desk file and need not be shared as information for the public.

By June 1, 2019, EPA will verify compliance by requesting sample of penalty calculations for EPA review.

Clean Air Act Findings

CAA Element 1 — Data																														
Finding 1-1	Area for State Attention																													
Summary	EPA Region 6 evaluated LDEQ’s timeliness and accuracy in reporting. EPA identified areas of concern in Metrics 3a2, 3b1, and 7b1.																													
Explanation	<p>The onsite file review evaluated Metric 3a2 and found an HPV determination was not made and entered timely. However, the HPV determination was entered within 84 days, slightly beyond the 60-day timeframe for data entry.</p> <p>Metric 3b1 indicated that 107 facilities had untimely reporting of compliance monitoring MDRs. Times for reporting ranged from 61 days to 257 days, with an average of 90 days to report the MDRs. We believe LDEQ will meet the reporting timeliness goals by sending data from TEMPO to ICIS-Air via electronic data transmission (EDT).</p> <p>A concern was identified in Metric 7b1 for three out of 21 violations reported for informal actions regarding changing a pollutant compliance status to reflect a violation in AFS. Pollutant compliance status is not tracked in ICIS-Air. The logic for Metrics 7b1 will be redefined to align with the revised HPV and FRV Policies.</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>3a2 Untimely entry of HPV determinations</td> <td>0</td> <td></td> <td>1</td> <td></td> <td></td> </tr> <tr> <td>3b1 Timely reporting of compliance monitoring MDRs</td> <td>100%</td> <td>83.30%</td> <td>655</td> <td>762</td> <td>86%</td> </tr> <tr> <td>7b1 Violations reported per informal actions</td> <td>100%</td> <td>65.60%</td> <td>18</td> <td>21</td> <td>85.71%</td> </tr> </tbody> </table>						Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #	3a2 Untimely entry of HPV determinations	0		1			3b1 Timely reporting of compliance monitoring MDRs	100%	83.30%	655	762	86%	7b1 Violations reported per informal actions	100%	65.60%	18	21	85.71%
Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #																									
3a2 Untimely entry of HPV determinations	0		1																											
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7b1 Violations reported per informal actions	100%	65.60%	18	21	85.71%																									
State response	To assist in this process, EPA HQ contracted with Windsor Solutions Inc. to set up Node software, Staging Tables and draft Procedures on LDEQ’s servers. LDEQ personnel are currently debugging this software. When the debugging process is complete, the Node software will flow data from TEMPO to ICIS-Air on a monthly basis. The projected completion date for this project is December 31, 2017.																													
Recommendation	None																													

CAA Element 1 — Data

Finding 1-2	Area for State Improvement
Summary	<p>EPA Region 6 evaluated LDEQ’s timeliness and accuracy in reporting MDRs and violations reported per informal actions. EPA identified deficiencies in timeliness of reporting stack test MDRs and enforcement MDRs in Metrics 3b2 and 3b3. Deficiencies were identified in Metric 7b3 regarding changing a pollutant compliance status to reflect a violation in AFS. LDEQ’s data in AFS did not match information in facility files.</p> <p>In the previous SRF review, the Region reported that LDEQ did not designate day zero consistent with the previous HPV Policy. As a policy matter and consistent with state statute, LDEQ did not identify HPVs nor FRVs in AFS until they were identified as HPVs by the Administrator of the Enforcement Division of LDEQ as violations. This is a data accuracy issue. However, it is also a programmatic issue because it results in underreporting within a given fiscal year and/or late reporting of violations to EPA and the public.</p> <p>This practice continues with the implementation of the revised HPV and FRV policies. For the five HPVs identified in FY2014, four cases had a day zero which would have been different than the day zero entered for these cases in AFS.</p> <p>LDEQ enters data directly into a State database, TEMPO, and uploaded this data into the AFS national data base using the Universal Interface software. Since the AFS shutdown in October 2014, LDEQ has worked toward utilization of software to enter data from TEMPO to ICIS-Air via EDT. To assist in this process, EPA HQ contracted with Windsor Solutions Inc. to set up Node software, Staging Tables and draft Procedures on LDEQ’s servers. LDEQ personnel are currently debugging this software. When the debugging process is complete, the Node software will flow data from TEMPO to ICIS-Air on a monthly basis.</p> <p>LDEQ prepared and submitted to Region 6 on September 25, 2017, a Quality Assurance Project Plan (QAPP) which describes the ICIS-Air Data Entry Process and the Minimum Data Requirements (MDRs) to be entered. The QAPP was reviewed and approved by Region 6 on October 12, 2017.</p>
Explanation	Metric 2b - EPA staff identified nine out of 41 facilities with inaccurate MDR data in AFS/ECHO. LDEQ did not accurately identify an HPV

for violation(s) at two facilities. Additionally, staff reviewed a file in which a facility had a stack test failure entered in AFS. After requesting and reviewing additional information from the facility, a determination was made that the stack test demonstrated compliance and should be entered as having passed. However, due to AFS cut-off date, data was not changed in AFS and has not been corrected in ICIS-Air. HPV day zeroes for four facilities were not identified by LDEQ per the HPV Policy.

Metric 3b2 and 3b3 – Data was reported untimely for 83 out of 219 stack test MDRs (average of 180 days, ranging from 139-294 days) and 192 out of 381 enforcement MDRs (an average of 120 days, ranging from 63-226 days).

Metric 7b3 – A concern was identified for two out of six HPVs regarding changing a pollutant compliance status to reflect a violation in AFS. Pollutant compliance status is not a reported field in ICIS-Air. ICIS-Air tracks a facility’s “in violation” status from Day Zero to addressed date and reports noncompliance during that timeframe. The current Round 3 metric determines the timeliness of addressing HPVs or alternatively having a case development and resolution timeline in place.

Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
	2b Accurate MDR data in AFS	100%		32	41	78%
3b2 Timely reporting of stack test dates and results	100%	80.80%	136	219	62.10%	
3b3 Timely reporting of enforcement MDRs	100%	77.90%	189	381	49.60%	
7b3 Violations reported per HPV identified	100%	63.20%	4	6	66.70%	

State response To assist in this process, EPA HQ contracted with Windsor Solutions Inc. to set up Node software, Staging Tables and draft Procedures on LDEQ’s servers. LDEQ personnel are currently debugging this software. When the debugging process is complete, LDEQ will utilize the software to enter data from TEMPO to ICIS-Air via EDT. LDEQ will then data from TEMPO to ICIS-Air on a monthly basis. The projected completion date to complete this project is December 31, 2017.

Recommendation LDEQ should ensure that all data for each facility are correct in ICIS Air (formerly documented in AFS) and that MDRs are entered accurately and timely by September 30, 2018 per the approved QAPP. EPA Region 6 and HQ will continue to monitor LDEQ’s progress to upload data via EDT from the State’s TEMPO data system into the national database, ICIS-Air.

- Within 30 days after LDEQ completes its review, LDEQ should provide to EPA its written guidelines on data submission via EDT to ICIS-Air to ensure that MDRs are reported timely and accurately.
- LDEQ should update its written guidelines to meet and include the requirements of the 2014 HPV policy dated August 25, 2014, and the revised FRV policy dated September 23, 2014. Within 180 days of the final SRF report, LDEQ should provide to EPA Region 6 its updated practices and outline the changes that were made which would result in timely HPV entries.
- Region 6 will evaluate data for FY2017 to verify whether MDRs are being entered and request that the state map all MDRs to the correct fields in ICIS and address any rejections that result from the EDT process by December 31, 2018.

CAA Element 2 — Inspections

Finding 2-1

Meets or Exceeds Expectations

Summary

EPA Region 6 evaluated LDEQ’s inspection coverage of Title V major facilities and no deficiencies were identified. A minor concern was identified with the review of Title V Annual Compliance Certifications. No deficiencies were identified in EPA’s review of LDEQ’s documentation of FCE elements in CMRs and CMRs/files contained sufficient documentation to determine facility compliance.

Explanation

5a - LDEQ met the CMS commitment for Title V major facilities. Our review of the two facilities not inspected indicated that one facility was permanently closed, and the other facility was no longer a Title V major.

5b – Review of the data metric indicated that FCEs for two out of 18 were not conducted during FY2014. Further review indicates that both facilities were/are currently permitted as minor sources and are not part of the SM-80 CMS universe; therefore, the FCE coverage for SM-80s would be 16 out of 16 conducted during FY2014 – 100%.

5e - Metric 5e indicated that 47 out of 516 ACC reviews were not completed and entered before the AFS data shutdown on October 9, 2014, which reduced the number of days after the end of the Federal FY to enter data. Timeframe for data entry is 60 days after event occurrence, or no later than November 30, 2014 (end of FY plus 60 days).

Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
	5a FCE coverage of majors and mega-sites	100%	85.70%	244	246	99.20%
5b FCE coverage: SM-80s	100%	91.70%	16	18	88.90%	
5e Review of Title V annual compliance certifications	100%	78.80%	469	516	90.90%	
6a Documentation of FCE elements	100%		19	19	100%	
6b Compliance monitoring reports reviewed that provide sufficient documentation to determine facility compliance	100%		19	19	100%	

State response Of these 47, approximately 12 were not entered, 13 were not entered timely, 4 were submitted by the facilities after the deadline, 6 were not submitted by the facilities and 4 facilities were not required to submit ACCs because one has been a synthetic minor since 2009, one had a Title V permit that was rescinded 5/26/2010, and two were not Title V facilities until mid-2014.

Recommendation

CAA Element 3 — Violations

Finding 3-1 **Area for State Improvement**

Summary EPA Region 6 evaluated LDEQ’s accuracy determining compliance and making accurate HPV and FRV determinations. EPA identified deficiencies with LDEQ’s identification of HPVs.

Explanation We noted Metric 8a, which is a review indicator not a goal, indicated that Louisiana was at 1.20% for its HPV discovery rate at Majors.

The onsite file review evaluated Metric 8c. In four of 24 files, LDEQ made correct compliance determinations but was not timely in making HPV determination. A formal action for a failed stack test was not identified and entered for one facility. LDEQ did not identify violations of emission, monitoring and reporting requirements for two facilities. Concerns were identified failure to identify a process wastewater stream (RE-15 Scrubber discharge steam) as a Group 1, a HON requirement, which is a violation of the facility’s Title V Permit. State subsequently required facility to submit a permit modification which identified the wastewater stream properly.

Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
	7a Accuracy of compliance determinations	100%		37	39	94.9%
8a HPV discovery rate at majors		3.1%	6	517	1.20%	
8c Accuracy of HPV determinations	100%		20	24	83.3%	

State response	<p>On September 22, 2016, the LDEQ Air Enforcement staff met to reiterate the 2014 HPV policy. The staff was also given the 2014 HPV guidance from EPA as well as the slides from an EPA training presentation. Once an enforcement writer believes that a violation is an HPV, he or she will consult with the section supervisor. When an action is routed that contains a violation believed to be an HPV, the enforcement writer will indicate this on the internal route slip in order to alert all reviewers.</p>
Recommendation	<p>LDEQ should ensure that accurate HPV and FRV determinations are made when reviewing a facility’s compliance. LDEQ shall review and implement the 2014 HPV policy dated August 25, 2014, when making HPV determinations and the revised FRV policy dated September 23, 2014, when making FRV determinations.</p> <ul style="list-style-type: none"> • LDEQ should update its written guidelines to meet and include the requirements of the 2014 HPV policy dated August 25, 2014, and the revised FRV policy dated September 23, 2014. Within 180 days of the final SRF report, LDEQ should provide to EPA Region 6 its updated standard operating procedure (SOP) and/or practices and outline the changes that were made which would result in accurate HPV and FRV determinations. • Within 180 days of the final report, Region 6 will randomly select and request five compliance monitoring reports to review in order to verify that the recommendation for Element 3 has been implemented.

CAA Element 4 — Enforcement

Finding 4-1	Meets or Exceeds Expectations					
Summary	EPA Region 6 evaluated LDEQ’s use of enforcement to return facilities to compliance. EPA did not identify any issues with Metric 9a or Metric 10b.					
Explanation	The onsite file review evaluated Metric 9a. Metric 9a met the national goal of 100%. LDEQ’s enforcement actions contained language that required the facility to return to compliance.					
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 timeframe	100%		13	13	100%
	10b Appropriate enforcement responses for HPVs	100%		11	11	100%
State response						
Recommendation						

CAA Element 4 — Enforcement

Finding 4-2	Area for State Improvement					
Summary	EPA Region 6 evaluated LDEQ’s effectiveness in taking timely and appropriate enforcement. EPA identified an issue with Metric 10a. One of five enforcement actions to address HPVs did not meet the timeliness goal of the HPV Policy (within 270 days of Day Zero).					
Explanation	10a – LDEQ staff kept Region 6 apprised of the status of the case not addressed timely during LA/Region 6 monthly calls.					
	The concern identified as an area for state attention in CAA Element 1, would affect this Element as well, as enforcement actions would not be timely if the day zeroes were calculated in accordance with EPA’s HPV policy.					

Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
		10a Timely action taken to address HPVs		73.20%	4	5
State response	While working within the statutes of the state of Louisiana LDEQ Air Enforcement will continue to strive to timely and accurately address HPV violations. Whenever possible, a formal addressing action shall be issued according to policy and state statute. Also, as a separate initiative, the department will begin to offer the opportunity for closure discussions at issuance of formal and informal enforcement actions. This should also reduce the amount of time it takes for formal and informal actions to be closed.					
Recommendation	<ul style="list-style-type: none"> EPA recommends that LDEQ strives to meet the timeliness goals of the HPV Policy while working within Louisiana state statutes by 30 days after the final SRF report. Within 180 days of the final SRF report, EPA requests that LDEQ provide to EPA Region 6 its updated practices and outline the changes that were made which would result in timely addressing actions. Within 180 days of the final report, Region 6 will randomly select and request five Case Development and Return to Compliance Plans to review in order to verify that the recommendation for Element 4 has been implemented. 					

CAA Element 5 — Penalties

Finding 5-1	Meets or Exceeds Expectations
Summary	EPA Region 6 evaluated LDEQ's penalty documentation. EPA did not identify any issues with Metrics 11a, 12a and 12b. LDEQ's enforcement files consistently contained information on penalty calculation amounts and payments collected.
Explanation	<p>The onsite file review evaluated Metrics 11a, 12a and 12b. All files contained sufficient information to show that penalty payments were received. LDEQ's final penalty actions were not preceded by proposed penalty amount.</p> <p>LDEQ's enforcement rules require that LDEQ provide notice and offer an opportunity to confer before a penalty action can be issued. These notices are either formal addressing actions (Consolidated Compliance Order and Notice of Proposed Penalty - CONOPP) or informal</p>

enforcement actions (Notice of Proposed Penalty - NOPP). The CONOPP, which is appealable, or the NOPP would lead to a Penalty Assessment which can be appealed. Reference is made to a possible penalty in accordance with Louisiana statute; however, a specific amount is not proposed.

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	100%		14	14	100%
12a Documentation on difference between initial and final penalty	100%		0	0	0%	
12b Penalties collected	100%		16	16	100%	

State response

Recommendation

Resource Conservation and Recovery Act Findings

RCRA Element 1 — Data

Finding 1-1	Area for State Attention												
<p>Summary</p>	<p>LDEQ has a written process for inspection data to be entered into RCRAInfo (i.e., Tracking Inspections SOP_1641_R03).</p> <p>Data entry into RCRAInfo is done by a member of the Office of Environmental Compliance Enforcement Division.</p> <p>Financial Record Reviews (FRR) are performed by the Office of Environmental Services. The FRRs for TSDFs that had a Compliance and Enforcement Inspection (CEI) conducted were not entered into RCRAInfo. LDEQ will input these FRRs for FY14 and FY15 into RCRAInfo on or before April 1, 2016 as noted in the FY15 end-of-year evaluation.</p>												
<p>Explanation</p>	<p>EPA Region 6 reviewed files for thirty-eight (38) facilities. A total of 76 inspections identified for review.</p> <p>Eleven (11) inspections were either missing data or incorrect data had been entered into RCRAInfo:</p> <ul style="list-style-type: none"> • Six (6) – “Undetermined” violations • Two (2) – Inaccurate inspection dates • One (1) – Focused Compliance Inspection (FCI) entered as a Compliance and Enforcement Inspection (CEI) (incorrect inspection type) • One (1) – FCI inspection not entered into RCRAInfo • One (1) – Groundwater Monitoring Evaluation (GME) entered as a FCI (incorrect inspection type) 												
<p>Relevant metrics</p>	<table border="1"> <thead> <tr> <th data-bbox="483 1562 1008 1640">Metric ID Number and Description</th> <th data-bbox="1016 1562 1089 1640">Natl Goal</th> <th data-bbox="1097 1562 1170 1640">Natl Avg</th> <th data-bbox="1179 1562 1219 1640">State N</th> <th data-bbox="1227 1562 1268 1640">State D</th> <th data-bbox="1276 1562 1409 1640">State % or #</th> </tr> </thead> <tbody> <tr> <td data-bbox="483 1650 1008 1717">2b Complete and accurate entry of mandatory data</td> <td data-bbox="1016 1650 1089 1717">100%</td> <td data-bbox="1097 1650 1170 1717"></td> <td data-bbox="1179 1650 1219 1717">65</td> <td data-bbox="1227 1650 1268 1717">76</td> <td data-bbox="1276 1650 1409 1717">85.5%</td> </tr> </tbody> </table>	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #	2b Complete and accurate entry of mandatory data	100%		65	76	85.5%
Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #								
2b Complete and accurate entry of mandatory data	100%		65	76	85.5%								
<p>State response</p>	<p>Surveillance Division performs data verification analysis approximately three to four times a year to verify data in RCRAInfo</p>												

as compared to data in TEMPO. Currently this verification does not include the Groundwater Monitoring Evaluation. We will open discussions with USTR Division for verification to ensure that data is correctly entered into RCRAInfo.

Discussions were held with OES regarding FRR data entry. FRR data for FFY 2015 has been entered into RCRAInfo. Procedures and training have been completed to ensure that FRR data is entered into RCRAInfo timely.

Recommendation

RCRA Element 2 — Inspections

Finding 2-1

Meets or Exceeds Expectations

Summary

EPA Region 6 reviewed files for thirty-eight (38) facilities.

A total of 76 inspections identified and 75 inspection reports reviewed.

Type of Inspections = 76	Reports = 75
54 CEI	53 CEI *
14 FCI	14 FCI
4 FUI	4 FUI
2 CDI	2 CDI
1 OAM	1 OAM
1 GME	1 GME

Facilities with Multiple Inspections/Reports

# Facilities	# Inspections/Reports
12	2
4	3
1	4
1	5
2	6

*CEI on 9/15/2014 was in conjunction with EPA; EPA lead; no inspection report prepared by LDEQ. Field Interview Form (FIF) (EDMS Doc # 9471729) entered into EDMS defers to EPA.

Compliance Inspections SOP_1108-R05 provides guidance for the Inspection Division inspectors to help ensure statewide consistency in inspection procedures. This is a very detailed SOP identifying pre-inspection activities, on-site inspection activities, and post-inspection activities. This SOP also includes the details of preparing/writing the inspection report.

All 75 inspection reports reviewed were well written and typed. Narratives followed the SOP regarding: a) pre-inspection file review (including information about last inspection, if any, and any enforcement action taken; history of facility; detailed facility description of manufacturing operations and types of waste generated; permit info, if any, regarding treatment and storage, and regulated units' information; disposition of waste); b) physical walk through (description of areas

visited during physical tour); c) administrative review (listing of documents reviewed), and d) identification, if any, of areas of concern. For those inspections where areas of concern were noted, attachments included photos and supporting documentation.

However, it is noted that a few CEI inspection reports raised the question whether or not a comprehensive evaluation of the compliance status of a facility under all applicable RCRA regulations and permits was actually conducted. For those inspection reports that did not include an area of concern, it is noted that a minimum amount of time was spent on-site, and from the inspection report narrative there is a question about the actual on-site physical observance of all facility operations specifically when it is the same inspector. In addition, it is noted that in a few inspection reports the inspector did not identify quantity (i.e., drums/containers), not even an approximate quantity, or types of waste observed in storage areas, and no photos submitted nor a copy of a storage inspection record.

The CEI should include and the inspection report should document:

1. Physical inspection

- Look at all manufacturing processes
- Follow manufacturing processes from “A” to “Z”--- entire process
- Determine/Verify type and amount of waste generated from each process
- Question facility personnel about type and amount of waste generated
- Question facility personnel about training received
- Check hazardous waste storage areas:
 - Correctly labeled containers
 - Open containers
 - Deteriorated containers
 - Aisle space
 - Incompatible waste stored together
 - Tank storage:
 - Secondary containment condition
 - Labeled
 - Visible leaks

Explanation

Metric 5a – LDEQ does almost 100% of its TSDFs annually. The two (2) facilities not done in FY14 were done in FY13. State universe of 24 was covered 100% over the 2-year period FY13 and FY14.

Metric 5c – State exceeded 20% coverage for its LQG universe each year over most recent five years resulting in 100% coverage.

- FY10 = 25.6%
- FY11 = 27.5%
- FY12 = 22.9%
- FY13 = 23.4%
- FY14 = 20.2%

Metric 6a – The one (1) CEI inspection report deemed not to have been a complete CEI is a Federal LQG and TSDF. This facility was typically inspected every year and by the same inspector(s). The FY14 inspection report (CEI 6/17/2014) included information that last inspection did not identify any areas of concern, and a very brief history of facility to include statement that facility notified as a LQG and is permitted as a TSD for the open burning/open detonation for Explosives Ordinance (EOD). Inspector did not provide a count of drums/containers in any of the storage areas. Inspector did not tour the OB/OD unit. Inspector did not identify quantity of material treated (i.e., burned/detonated) since last inspection. Inspector reported on Field Interview Form (FIF) that arrival on-site was at 10:45 am and departed at 2:30 pm and this included having reviewed and discussed with facility personnel a list of eleven (11) documents. It is noted that missing from the list of documents was any document regarding OB/OD activity. *(Note: LDEQ has identified the FY14 inspector of this facility has retired. A review of the FY15 inspection report for this facility documented a complete CEI).*

One (1) CEI inspection report is deemed not to have been a complete CEI. For Metric 6a (Inspection reports complete and sufficient to determine compliance), seventy-four (74) of seventy-five (75) inspection reports reviewed included, at a minimum, a narrative discussion that: a) explains the overall nature of a facility's activities; b) discusses manufacturing and waste management operations at the facility; c) describes the generation and handling of wastes; and d) describes apparent violations, and discusses the documentary evidence supporting a determination that a facility has a violation. Therefore, Metric 6a question (Does the report contain sufficient documentation for making a compliance determination?) is answered positively for 98.7% of the inspection reports reviewed.

Relevant metrics	Metric ID Number and Description	Natl	Natl	State	State	State % or
		Goal	Avg	N	D	#
	5a Two-year inspection coverage of operating TSDFs	100%	88.40%	22	24	91.70%
	5b Annual inspection coverage of LQGs	20%	20.10%	70	346	20.20%
	5c Five-year inspection coverage of LQGs	100%	67.10%	282	346	81.50%
	5d Five-year inspection coverage of active SQGs		10.60%	213	2511	8.50%
	5e1 Five-year inspection coverage of active conditionally exempt SQGs			338		
	5e2 Five-year inspection coverage of active transporters			41		
	5e3 Five-year inspection coverage of active non-notifiers			0		
	5e4 Five-year inspection coverage of active sites not covered by metrics 2c through 2f3			697		
	6a Inspection reports complete and sufficient to determine compliance	100%		74	75	98.7%

State response RCRA inspector training was held in May 2016 which included mandatory report elements along with an overview of the hazardous waste regulations. The Surveillance Division plans to initiate a technical review of inspection reports to ensure that reporting elements are included in each report and areas of concern are cited correctly.

Recommendation

RCRA Element 2 — Inspections

Finding 2-2 **Area for State Attention**

Summary EPA Region 6 reviewed files for thirty-eight (38) facilities. A total of 76 inspections identified and 75 reports reviewed. The average number of days for inspection report to be completed was 98 days.

CEI (9/15/2014) was in conjunction with EPA; EPA lead; no inspection report prepared by LDEQ. Field Interview Form (FIF) (EDMS Doc # 9471729) entered into EDMS defers to EPA.

150-day standard for inspection report timeliness applied for completing inspection reports in a timely manner.

Explanation	<p>Fourteen (14) inspection reports were prepared/completed beyond the 150-day standard.</p> <ul style="list-style-type: none"> • CEI = 9 • FCI = 2 • FUI = 1 • CDI = 1 • GME = 1 																	
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>6b Timeliness of inspection report completion</td> <td>100%</td> <td></td> <td>61</td> <td>75</td> <td>81.3%</td> </tr> </tbody> </table>						Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #	6b Timeliness of inspection report completion	100%		61	75	81.3%
Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #													
6b Timeliness of inspection report completion	100%		61	75	81.3%													
State response	<p>As part of the May 2016 RCRA training, a review of the timelines associated with EPA’s Enforcement Response Policy was given to staff. The importance of timely reports was emphasized with staff and supervisors.</p>																	
Recommendation																		

RCRA Element 3 — Violations

Finding 3-1	Area for State Attention																	
Summary	<p>Fifty-one (51) Long-Standing Secondary Violators were identified in FY14.</p> <p>LDEQ is reviewing the list and following-up as appropriate.</p>																	
Explanation	<p>LDEQ is providing monthly status updates to EPA.</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>2a Long-standing secondary violators</td> <td></td> <td></td> <td></td> <td></td> <td>51</td> </tr> </tbody> </table>						Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #	2a Long-standing secondary violators					51
Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #													
2a Long-standing secondary violators					51													
State response	<p>LDEQ has conducted numerous file reviews and follow-up inspections in recent years to resolve its universe of Long-Standing Secondary Violators identified in RCRAInfo. As a result, LDEQ has reduced the universe of Long-Standing Secondary from over one-hundred (100) in FY2013, to fifty-one (51) in FY 2014 to below thirty (30) in FY 2016. LDEQ is continuing to place emphasis on confirming return to compliance for secondary violators.</p>																	
Recommendation																		

RCRA Element 3 — Violations

Finding 3-2	Meets or Exceeds Expectations																								
Summary	Compliance determinations are based on the inspection report, which identifies areas of concern (if they exist). The inspector reports what is found during an administrative review (pre-inspection, on-site, post-inspection) along with observations made during the on-site visit.																								
Explanation	<p>Metric 7a – based on the inspection report, accurate compliance determinations were made.</p> <p>Metric 8b – LDEQ made timely determination and data entry of such into RCRAInfo.</p> <p>Metric 8c – of the forty-one (41) inspection reports where a violation was identified, the appropriate SNC determination was made.</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 Accurate compliance determinations</td> <td>100%</td> <td></td> <td>71</td> <td>71</td> <td>100%</td> </tr> <tr> <td>8b Timeliness of SNC determinations</td> <td>100%</td> <td>85.20%</td> <td>2</td> <td>2</td> <td>100%</td> </tr> <tr> <td>8c Appropriate SNC determinations</td> <td>100%</td> <td></td> <td>41</td> <td>41</td> <td>100%</td> </tr> </tbody> </table>	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #	7a Accurate compliance determinations	100%		71	71	100%	8b Timeliness of SNC determinations	100%	85.20%	2	2	100%	8c Appropriate SNC determinations	100%		41	41	100%
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8c Appropriate SNC determinations	100%		41	41	100%																				
State response																									
Recommendation																									

RCRA Element 3 — Violations

Finding 3-3	Area for State Attention
Summary	<p>Metric 7a shows that LDEQ made appropriate violation determinations for all the files reviewed in this SRF. However, Metric 7b continues to be below the national average in violations found during inspections.</p> <p>Metric 8a -- LDEQ percentage decreased dramatically from FY13 (3.10%).</p>
Explanation	

Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
		7b Violations found during inspections		36.70%	24	230
	8a SNC identification rate		2%	2	230	0.90%
State response	<p>RCRA inspector training was held in May 2016 which included sessions on evaluating hazardous waste determinations, evaluations of RCRA exemptions and exclusions, RCRA case studies, and mock inspections. LDEQ believes this training will result in a significant increase in violation identification rates associated with future compliance inspections.</p>					
Recommendation						

RCRA Element 4 — Enforcement

Finding 4-1	Meets or Exceeds Expectations					
Summary	LDEQ continues to identify and address violations timely and appropriately. LDEQ’s compliance orders require the facility to come into compliance immediately or within thirty (30) days.					
Explanation						
Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
	9a Enforcement that returns violators to compliance	100%		40	40	100%
	10a Timely enforcement taken to address SNC	80%	84.30%	5	5	100%
	10b Appropriate enforcement taken to address violations	100%		40	40	100%
State response						
Recommendation						

RCRA Element 5 — Penalties

Finding 5-1	Meets or Exceeds Expectations					
Summary	LDEQ considers both economic benefit and gravity components in their penalty calculations.					
	LDEQ documents all considerations that resulted in the final penalty and Environmentally Beneficial Project (EBP), such as ability to pay issues, payment schedules, and adjustments for such items as willingness to comply or history of non-compliance.					
	LDEQ documents the collection of penalties to include date and check number.					
Explanation						
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	100%	11	11	100.0%
	12a Documentation on difference between initial and final penalty	100%	1	1	100.0%
	12b Penalties collected	100%	11	11	100.0%
State response					
Recommendation					