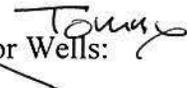




UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

FEB 15 2018

Mr. Tommy Wells, Director
DC Department of Energy and Environment
1200 First Street, N.E.
Washington, DC 20002

Dear Director Wells: 

The U.S. EPA conducted the third round of the State Review Framework (SRF) review of the Department of Energy and Environment's (DOEE) Clean Air Act (CAA) Stationary Source, and the Resource Conservation and Recovery Act (RCRA) enforcement programs. The review evaluated enforcement data and files from Fiscal Year 2016.

I want to thank you and your staff for cooperating with us throughout this review. We found significant improvement in the quality of the Air enforcement program's inspection reports since the previous evaluation. In addition, the RCRA enforcement program exceeded national goals for inspection coverage. We look forward to continuing collaborative efforts, including training and sharing best practices from our other State partners to help DOEE in those areas identified as needing improvement as well as other matters that may arise affecting these compliance assurance programs. The enclosed report summarizes findings from the review, areas of strong performance, and planned actions to facilitate program improvements.

If you have any questions, please do not hesitate to contact me or have your staff contact Ms. Samantha Phillips Beers, Director Office of Enforcement, Compliance and Environmental Justice Office at (215) 814-2627.

Sincerely,



Cosmo Servidio
Regional Administrator

Enclosure



STATE REVIEW FRAMEWORK

District of Columbia

Clean Air Act and Resource Conservation and Recovery Act Implementation in Federal Fiscal Year 2016

**U.S. Environmental Protection Agency
Region 3, Philadelphia**

**Final Report
February 7, 2018**

Executive Summary

Introduction

In 2017, EPA Region III enforcement staff conducted a State Review Framework (SRF) enforcement program oversight review of the District of Columbia Department of Energy and the Environment (DOEE). The Region reviewed enforcement files from Fiscal Year 2016 for the Clean Air Act -Stationary source program (CAA), and the Resource Conservation Recovery Act (RCRA). U.S.EPA, Office of Enforcement and Compliance Assurance (OECA) conducted a separate review of Region III's direct implementation of the Clean Water Act -National Pollution Discharge Elimination System (NPDES). The findings and results are contained in a separate report.

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 agency's SRF Tracker and publish reports and recommendations on EPA's ECHO web site.

Areas of Strong Performance

Air:

- DOEE has significantly improved since Round 2 of the SRF in the areas of inspection report elements and the quality of the reports. DOEE has developed and implemented the use of an inspection template resulting in improved quality of inspection reports.

RCRA:

- Inspection coverage commitments were found to meet expectations and exceeded most national coverage averages.
- DOEE has taken appropriate enforcement actions to address violations and returned violators to compliance.

Priority Issues to Address: None

Most Significant CAA Stationary Source Program Issues: None

Most Significant RCRA Subtitle C Program Issues:

Concerns regarding inspection reports lacking sufficient information have had a cascading effect throughout the assessment of other SRF elements. Without sufficient documentation of observations, it is difficult to determine whether or not an accurate compliance determination was made. EPA is recommending DOEE develop internal SOPs for inspection report writing quality and the use of a template for field activities to improve the quality of inspection reports in order to improve compliance determinations. EPA will provide training to DOEE as needed.

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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 (3) 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 (5) 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: FY 2016

Key dates:

Air File Reviews: July 10-12, 2017

RCRA File Review June 22, 2017 – August 11, 2017

State and EPA key contacts for review:

EPA Region III: Samantha Beers, Director, Office of Enforcement, Compliance and Environmental Justice and Betty Barnes, Region III SRF Coordinator

Air Contacts:

EPA Region III: Danielle Baltera, State Oversight Team Leader, Office of Air Permits and State Programs

DOEE: Kelly E. Crawford, Chief, Compliance and Enforcement Branch

RCRA Contacts:

EPA Region III:

Rachel Mirro, DC State Program Manager, RCRA Waste Branch

Jeanna R. Henry, Chief, RCRA Waste Branch

Carol Amend, Associate Director, Office of RCRA Programs

DC DOEE:

Barbara R. Williams, Chief, Hazardous Waste Branch, Toxic Substances Division

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 (3) 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 (1) 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 (1) or more SRF metrics show as a significant problem that the agency is required to address. Recommendations should address root causes. These recommendations must have well-defined timelines and milestones for completion, and EPA will monitor them for completion between SRF reviews in the SRF Tracker.

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

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

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

Clean Air Act

CAA Element 1 — Data						
Finding 1-1	Area for State Improvement					
Summary	DOEE did not consistently enter their Minimum Data Requirements (MDR) timely into ICIS-Air.					
Explanation	<p>With the exception of metric 3b1, all other MDRs were entered into ICIS-Air at a timeliness rate of <73%. Even though the performance of metric 3b1 was 80.8%, the EPA Review Team believes that all MDR timeliness metrics need improvement and can be addressed in Standard Operating Procedures. For compliance monitoring data, 9 of the 10 late entries were Title V Annual Compliance Certifications (TVACC). The other late entry was a Full Compliance Evaluation (FCE). The EPA review team believes the primary cause of the lateness can be attributed to the Enforcement Branch Chief and Data Manager vacancies that existed through the majority of FY 2016. Both vacancies have subsequently been filled and new staff have received training by EPA staff on the timely entry of MDRs into ICIS-Air. The FY 2017 metrics for 3b2 and 3b3 are at 100% and show a solid improvement over FY2016. For metric 3a2 there have been no entries for FY2017 and for metric 3b1 there is a slight decline, thus far. EPA will continue to monitor the DOEE's progress by conducting quarterly data reviews in conjunction with the Timely & Appropriate (T&A) meetings.</p>					
Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
	3a2 Timely reporting of HPV determinations (*)	100%	80.9%	2	3	66.7%
	3b1 Timely reporting of compliance monitoring MDRs	100%	80.9%	42	52	80.8%
	3b2 Timely reporting of stack test dates and results	100%	77.1%	21	29	72.4%
	3b3 Timely reporting of enforcement MDRs	100%	77.2%	2	3	66.7%
	(*) The numbers in this metric do not match the original DMA. There was an error in the metric configuration in the DMA. The metrics above reflect the correct data.					
State response						
Recommendation	1) DOEE to perform a root cause analysis for untimely reporting of MDRs. DOEE to submit the final root cause analysis report to					

EPA for their review and approval within 60 days after the date of the final report.

- 2) DOEE to develop protocols (e.g., data management plan, Standard Operating Procedure) to address issues and ensure timely data entry into ICIS-Air within 120 days after the date of the final report. EPA to review and approve the final protocol.
-

CAA Element 1 — Data**Finding 1-2** Meets or Exceeds Expectations**Summary** Greater than 90% of the facility files reviewed had accurate MDRs in ICIS-Air.**Explanation** Twenty-one (21) of twenty-three (23) facility files reviewed had 100% accurate data in ICIS-Air when comparing to the facility files. The two (2) facilities with inaccurate data had an FCE and a TVACC whose dates were off by one day. The EPA Review Team believes that these were isolated incidents and DOEE does not have an issue entering accurate data into ICIS-Air

Relevant metrics	Metric ID Number and Description	Natl	Natl	State	State	State
		Goal	Avg	N	D	% or #
	2b Accurate MDR data in AFS	100%	NA	21	23	91.3%

State response**Recommendation** None

CAA Element 2 — Inspections

Finding 2-1	Area for State Attention						
Summary	The majority of Title V Annual Compliance Certifications (TVACC) scheduled to be reviewed in FY 2016 were reviewed.						
Explanation	The performance of this metric was originally 80% (i.e., 32/40). However, three (3) sources in the universe were not reviewed because a Title V permit has not been issued. Thus, a TVACC was not required to be submitted and reviewed in FY 2016. One (1) facility did not submit a TVACC in FY 2016, therefore, it could not be reviewed. The four (4) remaining TVACCs were received but not reviewed. Therefore, the revised metric is 32/36 (88.9%).						
Relevant metrics	Metric ID Number and Description		Natl Goal	Natl Avg	State N	State D	State % or #
	5e Review of Title V annual compliance certifications (*)		100%	69.6%	32	36	88.9%
	(*) The numbers in this metric do not match the original DMA. Original DMA indicated a universe of 40 Title V annual compliance certification. The above explanation provides information regarding the accurate universe.						
State response							
Recommendation	None						

CAA Element 2 — Inspections

Finding 2-2	Meets or Exceeds Expectations					
Summary	DOEE has significantly improved since Round 2 of the SRF in the areas of inspection report elements (metric 6a) and the quality of the reports (metric 6b). DOEE met the negotiated frequency compliance evaluations for major sources and the two (2) sources that are part of an approved Alternative Compliance Monitoring Strategy (CMS) plan. In addition, all Compliance Monitoring Reports (CMR) reviewed provided sufficient documentation to determine facility compliance and document the FCE elements.					
Explanation	All required FCEs at major and alternative CMS sources were conducted. Finally, all 19 CMRs reviewed provided sufficient documentation to determine facility compliance and document the FCE elements. As a result of the recommendations in Round 2 of the SRF, DOEE has developed and implemented the use of an inspection template. This has resulted in the improvement of the quality of inspection reports (ie; documentation of inspection elements such as visible emission observations, review of facility records and operating logs, assessment of control equipment, inventory check and description, quality of report content, etc).					
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%	84.50%	17	17	100%
	5b FCE coverage: SM-80s	100%	NA	NA	NA	NA
	5c FCE coverage: minors and synthetic minors (non-SM 80s) that are part of CMS plan or alternative CMS Plan.	100%	79.9%	2	2	100%
	6a Documentation of FCE elements	100%	NA	19	19	100%
	6b Compliance monitoring reports (CMRs) or facility files reviewed that provide sufficient documentation to determine compliance of the facility	100%	NA	19	19	100%
State response						
Recommendation	None					

CAA Element 3 — Violations

Finding 3-1	Area for State Improvement																	
Summary	Only one (1) of three (3) High Priority Violators (HPV) identified by DOEE in FY2016 were identified timely.																	
Explanation	<p>The current HPV Policy requires that an HPV be identified within 90 days of the discovery action. The EPA review team found two (2) of three (3) HPVs they reviewed were not identified in a timely manner. However, it should be noted that the HPV identifications were only one (1) and nine (9) days late (i.e., beyond the 90-day deadline). The EPA review team believes the primary cause of the lateness can be attributed to the Enforcement Branch Chief and Data Manager vacancies that existed through the majority of FY 2016. Both vacancies have subsequently been filled and the new staff have received training by EPA staff on the timely identification of HPVs. EPA will continue to provide training on the HPV policy on an as-needed basis. Finally, EPA will continue to monitor the DOEE’s progress by conducting quarterly data reviews in conjunction with the Timely & Appropriate (T&A) meetings.</p>																	
Relevant metrics	<table border="1"> <thead> <tr> <th data-bbox="477 1058 997 1136">Metric ID Number and Description</th> <th data-bbox="997 1058 1057 1136">Natl Goal</th> <th data-bbox="1057 1058 1175 1136">Natl Avg</th> <th data-bbox="1175 1058 1235 1136">State N</th> <th data-bbox="1235 1058 1295 1136">State D</th> <th data-bbox="1295 1058 1427 1136">State % or #</th> </tr> </thead> <tbody> <tr> <td data-bbox="477 1136 997 1203">13 Timeliness of HPV determinations</td> <td data-bbox="997 1136 1057 1203">100%</td> <td data-bbox="1057 1136 1175 1203">83.6%</td> <td data-bbox="1175 1136 1235 1203">1</td> <td data-bbox="1235 1136 1295 1203">3</td> <td data-bbox="1295 1136 1427 1203">33.3%</td> </tr> </tbody> </table>						Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #	13 Timeliness of HPV determinations	100%	83.6%	1	3	33.3%
Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #													
13 Timeliness of HPV determinations	100%	83.6%	1	3	33.3%													
State response																		
Recommendation	<p>1) DOEE to update enforcement Standard Operating Procedure (SOP) to address the process of identifying HPVs within six (6) months of the date of the final report. EPA to review and approve final SOP.</p>																	

CAA Element 3 — Violations

Finding 3-2	Meets or Exceeds Expectations																							
Summary	DOEE has significantly improved since Round 2 of the SRF in the areas of violation identification, as well as implementation of the Federally-Reportable Violation (FRV) and HPV policies. DOEE did a thorough job in accurately reporting FRVs and HPVs into ICIS-Air and making accurate FRV and HPV determinations.																							
Explanation	All 24 compliance determinations reviewed were accurately reported to ICIS-Air (metric 7a). Also, all nine (9) violations reviewed were found to be accurate HPV determinations (metric 8c). Since Round 2 of the SRF, inspectors' ability in identifying and documenting violations has improved as well as familiarity with the FRV and HPV policies. This was evident in conversations with several inspectors.																							
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Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #																			
7a Accuracy of compliance determinations	100%	NA	24	24	100%																			
8c Accuracy of HPV determinations	100%	NA	9	9	100%																			
State response																								
Recommendation	None																							

CAA Element 4 — Enforcement

Finding 4-1	Meets or Exceeds Expectations					
Summary	DOEE included corrective actions in formal responses and took timely and appropriate enforcement action consistent with the HPV policy.					
Explanation	All formal enforcement responses reviewed required the facility to return to compliance if they had not already done so at the time of the execution of the Consent Agreement. In addition, all enforcement responses reviewed by the EPA team were determined to be appropriate. All HPVs reviewed were addressed by Day 180, therefore, no Case Development and Resolution Timelines were required.					
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.	100%	NA	4	4	100%
	10a Timeliness of addressing HPVs or alternatively having a case development and resolution timeline in place.	100%	NA	3	3	100%
	10b Percent of HPVs that have been have been addressed or removed consistent with the HPV Policy.	100%	NA	3	3	100%
	14 HPV Case Development and Resolution Timeline In Place When Required that Contains Required Policy Elements	100%	NA	0	0	NA
State response						
Recommendation	None					

CAA Element 5 — Penalties

Finding 5-1	Meets or Exceeds Expectations					
Summary	DOEE sufficiently documented all penalty calculations.					
Explanation	All three (3) penalty calculations reviewed included the gravity and economic benefit components, there were no reduction from the initial penalty calculations. The only penalty collected had a copy of the check in the file to confirm it was paid. The other two (2) penalty calculations reviewed were still under negotiation at the time of the on-site file review. Thus, no penalties were collected.					
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	100%	NA	3	3	100%
	12a Documentation of rationale for difference between initial penalty calculation and final penalty	100%	NA	0	0	NA
	12b Penalties collected	100%	NA	1	1	100%
State response						
Recommendation	None					

Resource Conservation and Recovery Act Findings

RCRA Element 1-1: Data	
Finding 1-1	Area for State Attention
Summary	In 75.0% of files reviewed, all mandatory data was entered into RCRAInfo, the national database for the RCRA program.
Explanation	<p>Seven (7) out of 28 files did not have all of the required mandatory data elements entered into RCRAInfo. These instances include the following generalizations:</p> <ul style="list-style-type: none"> • Two (2) Enforcement action(s) (i.e., Notice of Violation (NOV)) not entered into RCRAInfo. • Three (3) Incorrect violation citation(s) entered or violation(s) not linked to the associated enforcement action in RCRAInfo. • Three (3) Did not enter violation return to compliance (RTC) date(s). <p>For each of the seven (7) files where a data discrepancy was noted, only one (1) or two (2) data points were not entered into RCRAInfo. Because each file has the potential to contain multiple errors, the SRF reviewers consider the eight (8) data discrepancies found within those seven (7) files to be of low significance despite the calculated 75% output.</p> <p>DOEE’s data accuracy has improved since SRF Round 2. As a part of the improvements and as a way to further enhance data entry, the Region has been working with DOEE as they develop and implement new standard operating procedures (SOPs) for their hazardous waste program. New procedures will require inspectors to individually input their inspection data into RCRAInfo. To ensure accuracy, once all data components are entered, a routine secondary review will be performed by a designated staff member to validate quality. In addition to this internal control, new and tenured staff will participate in ongoing RCRAInfo training opportunities, such as the RCRAInfo Conference held this past August in Chicago, at which two DOEE inspectors attended.</p> <p>DOEE has also expressed their desire to focus on changes anticipated to occur as the RCRAInfo database shifts from Version 5.0 to Version 6.0. In order to accommodate newly implemented rule changes such as e-manifest, DOEE will be dedicating more resources toward quality data</p>

	input. DOEE has also agreed to continue to support their staff’s training needs by continuing to participate in internal and external training activities.					
Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
	2a Long-standing secondary violators	--	--	--	--	4
	2b Complete and accurate entry of mandatory data	100%	--	21	28	75.0%
State response						
Recommendation						

RCRA Element 2-1: Inspections

Finding 2-1	Meets or Exceeds Expectations																																																						
Summary	DOEE met or exceeded all inspection commitments negotiated in the EPA/DOEE Cooperative Agreement.																																																						
Explanation	<p>In response to a national pharmaceutical case, DOEE has experienced a significant increase in large quantity generator (LQG) notifications. Of the 34 facilities not counted for annual inspection coverage as LQGs, 19 were registered as a CVS or other retail pharmacy. After taking into account the additional inspection coverage needed to support the inflated LQG universe, the adjusted average annual inspection coverage for LQGs can be considered to exist at approximately 11%.</p> <p>The adjusted average (11.76%) for metric 5b still falls below the national goal (20%) and national average (17%). However, due to the District's unique universe, the percentage is acceptable and aligns with the other relevant metrics.</p>																																																						
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RCRA Element 2-2: Inspections

Finding 2-2	Area for State Improvement
Summary	Inspection reports were consistently completed in a timely manner as established by EPA's Enforcement Response Plan, however, 17.9% of inspection reports lacked sufficient information to determine compliance.
Explanation	<p>82.1% of reports included relevant attachments and contained the appropriate information required to accurately assess a facility under their registered generator status. However, five (5) reports (17.9%) lacked sufficient information to make a compliance determination based on the following:</p> <ul style="list-style-type: none">• Lack of detail in two inspection reports impeded the reviewers' ability to properly identify a facility's generator status and relevant regulatory requirements.• Lack of detail in two reports impeded reviewers' ability to determine what regulatory requirements were evaluated during the inspection.• Information in one report did not substantiate the violations cited in the follow-up enforcement action (i.e., NOV). <p>Inspection report writing styles, including ways to more specifically document observations during an inspection, were discussed between EPA and DOEE during SRF Round 2. After formal meetings with DOEE in June and November, the Region believes that DOEE fully recognizes the need for assistance regarding this issue and is taking the proper steps to improve their procedures.</p> <p>Monthly conversations with management continue to help identify internal writing issues among DOEE inspectors and provide a forum for new and existing opportunities to show improvement.</p> <p>In FY17, EPA provided DOEE an inspection report template to promote consistency in format and content.</p> <p>EPA has conducted peer reviews and provided comments for recent DOEE compliance evaluation inspections (CEI).</p> <p>EPA plans to follow-up with the District during FY18 to determine the effectiveness of the new tools.</p>

	Out of the 28 files reviewed, only (1) was found to be in excess of the standard and outside the 35-day average.					
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	100%	--	23	28	82.1%
	6b Timeliness of inspection report completion	100%	--	27	28	96.4%
State response						
Recommendation	DOEE is in the process of developing an SOP that addresses expectations for procedures on inspection report writing, including formatting and style components critical to CEIs. Additionally, DOEE is developing an inspection report template that inspectors will use during field operations as a tool to generate questions and appropriately document their findings and observations. The SOP for inspection report writing and the inspection template should be submitted to EPA within 90 days of the issuance of this report for assessment and review. EPA will provide training support to DOEE, regarding inspection report writing prior to the Inspector Workshop in November 2018.					

RCRA Element 3-1: Violations

Finding 3-1	Area for State Attention
Summary	Accurate compliance determinations were made in 78.6% of files reviewed.
Explanation	<p>In six instances, files were found to exhibit concerns about whether or not an accurate compliance determination was made during the time of the inspection. Those six instances are categorized as such based on the following generalizations:</p> <ul style="list-style-type: none">• In four (4) instances there are potential violations documented in the report but there is no documentation of a compliance determination.• In two (2) instances compliance determinations not supported by the information provided in the inspection reports. <p>Out of 76 CEI inspections, 13 were found to have violations. All 13 of those files were included in the file selection process. EPA found that due to the extensive number of Small Quantity Generators (SQGs) and Conditionally Exempt Small Quantity Generators (CESQGs) in the District's universe, DOEE does not generate a high percentage of violations because the majority of their facilities are not subject to the more stringent RCRA generator regulatory requirements.</p> <p>DOEE is working to make SQG/CESQG regulations more stringent to better distinguish universal and hazardous waste violations since universal waste (UW) violations are not legally supported within the District. It is the District's intention that when a UW violation is observed in either a SQG or CESQG, the facility will receptively bring themselves back into compliance. However, if the facility fails to comply before a formal case is made, the violations may be left in a state of uncertainty with the District Office of Enforcement and Environmental Justice (OEEJ).</p> <p>EPA's <i>Hazardous Waste Civil Enforcement Response Policy</i> (December 2003) states that agencies should make and report SNC designations within 150 days of the first day of inspection (day zero). In FY16, DOEE did not identify any SNCs. In one instance, the SRF reviewer determined that due to the history of repetitive violations found at the facility and the probability of the violations recurring, DOEE should have identified the facility as a SNC.</p>

DOEE has expressed interest in developing a stronger understanding of how to appropriately and consistently identify SNCs. EPA will provide training to DOEE on SNC identification.

Concerns addressed in Element 2-2 have had a cascading effect throughout the assessment of the other elements. Without sufficient documentation of observations, it can be difficult to justify whether or not an accurate compliance determination was made. EPA believes that through the development of internal SOPs for inspection report writing quality and the use of a generalized inspector template for field activities, metric percentages, such as the ones listed above for Element 3-1, will begin to show linear progression and provide a usable measure for evaluating development.

*The evaluation of metrics 8a, 8b and 8c could not be properly evaluated since the District did not identify any SNCs during the review period. Percentages shown below are believed to be accurately represented by the Element Finding and should not be misinterpreted based on the displayed calculation.

Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
	7a Accurate compliance determinations	100%	--	22	28	78.6%
7b Violations found during inspections	--	35.90%	13	76	17.10%	
*8a SNC identification rate	--	2.10%	0	76	0%	
*8b Timeliness of SNC determinations	100%	84.20%	--	--	--	
*8c Appropriate SNC determinations	100%	--	27	28	96.4%	

State response	
Recommendation	

RCRA Element 4-1: Enforcement

Finding 4-1	Meets or Exceeds Expectations					
Summary	DOEE has taken appropriate enforcement actions to address violations and returned violators to compliance.					
Explanation	In 100% of cases, DOEE has taken appropriate enforcement to address violations and return violators to compliance. In two (2) instances, enforcement cases are still pending action from the District Office of Enforcement and Environmental Justice (OEEJ). These two (2) instances are expected to properly return the facility to compliance.					
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%		11	13	84.6%
	10a Timely enforcement taken to address SNC	80.0%	86.4%	--	--	--
	10b Appropriate enforcement taken to address violations	100%		11	11	100%
State response						
Recommendation						

RCRA Element 5-1: Penalties

Finding 5-1	Meets or Exceeds Expectations					
Summary	Only one (1) penalty action was performed under the scope of this review.					
Explanation	<p>The penalty calculation, which included an appropriate gravity and economic benefit, is still pending review by OEEJ.</p> <p>Historical documentation of previously submitted SRF reports found that DOEE did not provide a penalty assessment which included economic benefit. DOEE has developed and is utilizing a new Schedule of Fines which includes an assessment for economic benefit.</p> <p>*The penalty action documented in metric 11a has not been fully processed at this time, therefore, has not been accounted for in metrics 12a and 12b.</p>					
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%		1	1	100%
	*12a Documentation on difference between initial and final penalty	100%		0	0	0
	*12b Penalties collected	100%		0	0	0
State response						
Recommendation						

STATE REVIEW FRAMEWORK

District of Columbia

Clean Water Act

Direct Implementation in Federal Fiscal Year 2016

**U.S. Environmental Protection Agency
Headquarters, Washington, D.C.**

**Final Report
June 27, 2018**

Executive Summary

Introduction

On September 18 through 22, 2017, the Office of Enforcement and Compliance Assurance (OECA) conducted a review of the enforcement files for EPA Region III's Direct Implementation (DI) of the Clean Water Act -National Pollution Discharge Elimination System (NPDES) program. DI programs are managed by the EPA Regional Offices until states or territories receive authorization. When Headquarters conducts an SRF review of DI programs, it uses EPA, and not Region actions, to calculate national averages for all metrics.

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 SRF web site.

<https://www.epa.gov/compliance/state-review-framework-compliance-and-enforcement-performance>

Areas of Strong Performance

- The Region accurately maintains data in ICIS-NPDES, the national data system.
- Inspection reports were of high quality and compliance determinations were well organized and accurate.
- Penalty calculations consistently included documentation of gravity and economic benefit.
- Enforcement response were successful in returning a large portion of facilities into compliance.

Most Significant CWA-NPDES Program Issues¹

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

- Inspection reports take, on average, approximately 102 days to finalize (6b). This impacts timely identification of violations, compliance determinations, and when enforcement actions are taken.

¹ EPA's "National Strategy for Improving Oversight of Region 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 Region actions; routine failure of Regions to identify and report significant noncompliance; routine failure of Regions to take timely or appropriate enforcement actions to return violating facilities to compliance, potentially allowing pollution to continue unabated; failure of Regions 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."

- Enforcement action follow-up is not occurring in a timely and appropriate manner. Although enforcement actions were taken once violations were identified, they often occurred between 7 months to 1 ½ years after a violation was discovered.
- Documentation of rationale for the difference between initial penalty calculation and the finalized penalty calculation is not being maintained.

Comparison of Most Significant Findings in SRF Round 2 and Round 3 Reviews

Only one of the three performance issues identified during the SRF Round 2 review was found to be an problem in Round 3 (Metric 10d). The Round 3 review team found, however, three new issues that were not identified in Round 2 (Metric 6b, 10b, 12a).

Metric	Round 2 Finding (FY 2011)	Round 3 Finding (FY 2017)
6b- Inspection reports were not completed in a timely manner	Meets SRF Program Requirements. ²	Area for Regional Improvement
9c- Percentage of enforcement responses that have returned or will return a source with non-SNC violations to compliance	Area for Regional Improvement	Meets or Exceed Expectations
10b- Enforcement responses are not consistently addressing SNC violations in an appropriate manner	Area for Regional Attention	Area for Regional Improvement
10d- Percentage enforcement responses reviewed that appropriately address non-SNC violations	Area for Regional Improvement	Area for Regional Improvement
10e- Percentage enforcement responses for non-SNC violations where a response was taken in a timely manner	Area for Regional Improvement	Meets or Exceed Expectations
12a- Documentation of the difference between initial and final penalty and rationale	Meets SRF Program Requirements	Area for Regional Improvement

EPA – DC NPDES Program Roles and Responsibilities

² For Round 2, the highest level of performance was identified as “Meets SRF Program Requirements.” This was changed to “Meets or Exceeds Expectations” in Round 3.

Under the EPA's CWA Section 106 grant with the DC Department of Energy and the Environment (DOEE), the work-plan identifies the workload responsibilities for compliance monitoring and enforcement activities between the Region and the city. Although Region 3 didn't have any documentation of present or past agreements on workload sharing with DOEE, they did provide some details during the entrance meeting on their relationship with DOEE under the program. For example, all informal actions, such as, Notices of Violations, are issued by DOEE. During quarterly conference calls with the city, the Region will assess the city's response to determine if more follow-up or a formal action is required.

Most of the compliance monitoring tasks are performed by either a Regional contractor or DOEE staff. For example, all inspections at major industrial and municipal facilities are conducted by the Region and its contractor staff. Based on the FY2016 Compliance Monitoring Strategy (CMS) commitments, DOEE inspected one Combined Sewer Overflows (CSO), one Storm Sewer Overflow (SSO), and five industrial Stormwater facilities in 2016.

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I. Background on the Region Review Framework

The Region Review Framework (SRF) is designed to ensure that EPA conducts nationally consistent oversight. It reviews the following local, Region, 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 Region 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 Region programs.

Each Region'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: FY 2016

Key dates:

- Kick-off e-mail to Region 3- June 8, 2017
- Kick-off conference calls between Region 3 and Headquarters- July 11 and 31, 2017
- Data Metric analysis and file selection list sent to Region 3
 - CWA- 4aTable- June 8, 2017
 - CWA- File selection lists- July 12 and August 10, 2017
- Draft report to Region 3: May 10, 2018
- Revised draft report sent to Region 3: June 26, 2018
- Report Finalized: June 27, 2018

Region and EPA key contacts for review:

SRF Headquarters	Region 3
Arlene Anderson- Review Team Leader and Region 3 SRF Liaison	Betty Barnes- SRF Coordinator
Michael Mason- Branch Chief	Samantha Beers- Director of Office of Enforcement, Compliance and Environmental Justice
Elizabeth Walsh- Staff	Katherine McManus- Acting Director of Water Protection Division
Fran Jonesi- Staff	David McGuigan- Associate Director of NPDES Permit and Enforcement Office
Andrew Moiseff- Staff	Andrew Dinsmore- Chief of NPDES Enforcement Branch
	Ingrid Hopkins- Staff Liaison for the District of Columbia NPDES program
	Rebecca Crane- Enforcement Officer

III. SRF Findings

Findings represent EPA’s conclusions regarding Region 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 Region’s last SRF review
- Follow-up conversations with Region 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 Region performs above national program expectations.

Area for Region Attention: An activity, process, or policy that one or more SRF metrics show as a minor problem. Where appropriate, the Region 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 Region 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.

Whenever a metric indicates a major performance issue, EPA will write up a finding of Area for Region 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 Region has made.
- **Natl Avg:** ³The national average across all Regions, territories, and the District of Columbia.
- **Region N:** For metrics expressed as percentages, the numerator.
- **Region D:** The denominator.
- **Region % or #:** The percentage, or if the metric is expressed as a whole number, the count.

³ For DI SRF reviews, the national average includes only EPA actions and not actions by delegated Regions

Clean Water Act Findings

CWA Element 1 — Data						
Finding 1-1	Meets or Exceeds Expectations					
Summary	Region 3 accurately maintains the data in the national data system (ICIS-NPDES) and the documentation in the files reflected this (2b).					
Explanation	The SRF review team evaluated the information in the enforcement files and found that they were accurately reflected in the national data system.					
Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	DI N	DI D	DI % or #
	1b1 Permit limit rate for major facilities	>= 95%	66.8%	5	5	100%
	1b2 DMR entry rate for major facilities	>= 95%	99.1%	234	234	100%
	2b Files reviewed where data are accurately reflected in the national data system	100%		29	30	96.7%
Region response						
Recommendation	None					

CWA Element 2 — Inspections

Finding 2-1	Meets or Exceeds Expectations																																																					
Summary	<p>During the SRF review, the inspection coverage was assessed and evaluated based on the regional Compliance Monitoring Strategy (CMS) Plan for fiscal year 2016. The region met their commitment for industrial stormwater inspections as indicated in the table below (4a8). The zeros in the table below indicates that there were no commitments made for the specific sectors for the fiscal year 2016.</p>																																																					
Explanation	<p>OECA found the inspection coverage of NPDES majors and non-majors was sufficient and met all commitments for the review year (5a1, 5b1, 5b2).</p> <p>The review found that the roles and responsibilities among the regional, contractor, and DOEE staff in providing inspection coverage was not clearly defined. Although EPA contractors and DOEE share the workload for inspections, the relationships are not documented in a written agreement that clearly identifies the workload and specific inspections to be performed by each agency each year.</p> <p>OECA found that there were several sectors where the Region didn't have an active role in inspections and, as a result, was unaware of activities being conducted by DOEE or the actual size of the universe of facilities. For example, during the review, the Region had difficulty identifying the correct universe for the industrial stormwater sector. The Region responded that they had requested universe information for each of the sectors that DOEE performs inspection and enforcement activities. The Region was able to provide a corrected universe prior to the file review.</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>4a1 Pretreatment compliance inspections and audits</td> <td></td> <td></td> <td>0</td> <td>0</td> <td>0</td> </tr> <tr> <td>4a2 Significant Industrial User inspections for SIUs discharging to non-authorized POTWs</td> <td></td> <td></td> <td>0</td> <td>0</td> <td>0</td> </tr> <tr> <td>4a4 Major CSO inspections</td> <td></td> <td></td> <td>0</td> <td>0</td> <td>0</td> </tr> <tr> <td>4a5 SSO inspections</td> <td></td> <td></td> <td>0</td> <td>0</td> <td>0</td> </tr> <tr> <td>4a7 Phase I & II MS4 audits or inspections</td> <td></td> <td></td> <td>0</td> <td>0</td> <td>0</td> </tr> <tr> <td>4a8 Industrial stormwater inspections</td> <td></td> <td></td> <td>10</td> <td>10</td> <td>100%</td> </tr> <tr> <td>4a9 Phase I and II stormwater construction inspections</td> <td></td> <td></td> <td>0</td> <td>0</td> <td>0</td> </tr> </tbody> </table>						Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #	4a1 Pretreatment compliance inspections and audits			0	0	0	4a2 Significant Industrial User inspections for SIUs discharging to non-authorized POTWs			0	0	0	4a4 Major CSO inspections			0	0	0	4a5 SSO inspections			0	0	0	4a7 Phase I & II MS4 audits or inspections			0	0	0	4a8 Industrial stormwater inspections			10	10	100%	4a9 Phase I and II stormwater construction inspections			0	0	0
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4a9 Phase I and II stormwater construction inspections			0	0	0																																																	

	4a10 Medium and large NPDES CAFO inspections			0	0	0
	5a1 Inspection coverage of NPDES majors	100%	51.9%	4	4	100%
	5b1 Inspection coverage of NPDES non-majors with individual permits	100%	23.9%	3	3	100%
	5b2 Inspection coverage of NPDES non-majors with general permits	100%	5.6%	3	3	100%
Region response						
Recommendation	None					

CWA Element 2 — Inspections

Finding 2-2	Meets or Exceeds Expectations					
Summary	Inspection reports were of a high quality. The observations and deficiencies identified during the inspection were well documented (6a).					
Explanation	The format of the inspection reports were accurate and consistently documented violations, which allows the compliance determination memos to be concise and appropriate. These documents to be easily understood.					
Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	DI N	DI D	DI % or #
	6a Inspection reports complete and sufficient to determine compliance at the facility	100%		14	14	100%
Region response						
Recommendation	None					

CWA Element 2 — Inspections

Finding 2-3	Area for Regional Improvement						
Summary	Inspection reports were not completed in a timely manner.						
Explanation	The timeliness of the inspection report is a concern since most of the reports were not finalized or signed by management within the required 30-45 days (inspection without sampling and inspection with sampling, respectively). The finalization of inspection reports averaged 102 days (6b). This impacts timely identification of violations, compliance determinations, and when enforcement actions are taken. There are no procedures in place for the review of reports by an EPA representative and signature by EPA once the reports are determined to be complete.						
Relevant metrics	Metric ID Number and Description		Natl Goal	Natl Avg	DI N	DI D	DI % or #
	6b Inspection reports completed within prescribed timeframe		100%		0	14	0%
Region response							
Recommendation	<p>Region 3 shall develop and submit to OECA within 60 days of the publication of this report an SOP that describes an appropriate time line for inspection reports to be processed and approved by management within 30 (inspection without sampling event) and 45 (inspection with sampling event) days. Region 3 shall modify its contract to clearly direct the contractor to submit inspection reports according to EMS Policy.</p> <p>OECA recommends that Region 3 establish a Workshare Agreement (WA) or Memorandum of Agreement (MOA) with DOEE on how inspections areas or sectors are clearly assigned, and inspection reports are approved within current policy requirements. Region 3 shall submit to OECA a copy of the contract modification, Work Assignment or MOA within 180-days of the publication of this report.</p>						

CWA Element 3 — Violations

Finding 3-1	Meets or Exceeds Expectations																																																											
Summary	The Region’s compliance determinations and identification of Single Event Violations (SEVs) and SNCs were accurate and well documented.																																																											
Explanation	<p>The majority of the violations reviewed were non-SNC violations during the FY 2016 fiscal year (mostly failure to obtain stormwater permit and unpermitted discharges), which were Category I violations at non-majors. One SEV violation was accurately identified and reported in ICIS-NPDES in a timely manner.</p> <p>During the Round 2 review in 2012, the Office of Compliance found that the Region’s determination of SEV/SNCs and non-SNCs was inaccurate. This did not appear to be problem during the Round 3 review and, as a result, the recommendation was marked completed.</p>																																																											
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8b Single-event violations accurately identified as SNC or non-SNC	100%		1	1	100%																																																							
8c Percentage of SEVs identified as SNC reported timely at major facilities	100%		1	1	100%																																																							
Region response																																																												
Recommendation	None																																																											

CWA Element 4 — Enforcement

Finding 4-1	Meets or Exceeds Expectations						
Summary	OECA found that 100% of enforcement responses were timely and returned or will return sources in violation to compliance.						
Explanation	<p>Of the one major facility that was addressed by the Region, OECA found that it was done in a timely manner.</p> <p>During the Round 2 review in 2012, the Office of Compliance found that the Region needed improvement in taking enforcement actions that will return facilities to compliance. This did not appear to be problem during the Round 3 review and, as a result, the recommendation was marked completed.</p>						
Relevant metrics	Metric ID Number and Description		Natl Goal	Natl Avg	DI N	DI D	DI% or #
	9a Percentage of enforcement responses that return or will return source in violation to compliance		100%		9	9	100%
	10a1 Major facilities with timely action as appropriate		>= 98%	12.6%	1	1	100%
Region response							
Recommendation	None						

CWA Element 4 — Enforcement

Finding 4-2	Area for Regional Improvement					
Summary	Enforcement responses are not consistently addressing violations in an appropriate manner. Sixty-six percent of enforcement responses reviewed addressed violations in an appropriate manner.					
Explanation	<p>Five actions reviewed did not have enforcement responses recommended in the NPDES Enforcement Management System (EMS) for violations identified. The National Pollutant Discharge Elimination System Enforcement Management System (NPDES EMS) that sets standards for enforcement responses for different types of violations recommends appropriate enforcement based on the frequency of violation occurrence and severity of the violation. For example, the NPDES EMS lists or letters of violation (LOVs) and administrative orders as appropriate enforcement responses for violations including, but not limited to:</p> <ul style="list-style-type: none"> • record keeping, • operations and maintenance (O&M), • development and implementation of spill prevention control plans, and • best management practices (BMPS) <p>when there is no evidence of negligence or intent to violate. If negligence and/or intent are factors, the NPDES recommends criminal prosecution, or administrative penalty orders (APOs), or judicial action. OECA found during the Round 2 review that the Region needed to improve appropriate enforcement. Since this remains an issue for the Region, OECA plans to carry the issue over to Round 3 and develop a new recommendation. The Round 2 recommendation will be superseded by the one below.</p>					
Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	DI N	DI D	DI % or #
	10b Enforcement responses reviewed that address violations in an appropriate manner	100%		10	15	66.6%
Region response	.					
Recommendation	Region 3 shall develop a SOP within 90 days of the publication of this report on how it will address violations in an appropriate manner. After two quarterly reporting cycles (180 days), OECA will review enforcement action files to assess the appropriateness of enforcement action taken based on NPDES EMS criteria. If the five files review indicates that the Region is					

taking appropriate action, the recommendation will be closed. If OECA determines that the Region is still not addressing violations appropriately, additional five files will be reviewed in subsequent years until sufficient improvement is demonstrated.

CWA Element 5 — Penalties

Finding 5-1 Meets or Exceeds Expectations

Summary All initial penalty calculations in the file included gravity and economic benefit.

Explanation The review team assessed 12 enforcement files and found that they included sufficient documentation of calculations of gravity and economic benefit.

Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	DI N	DI D	DI % or #
	11a Penalty calculations reviewed that consider and include gravity and economic benefit	100%		12	12	100%

Region response

Recommendation None

CWA Element 5 — Penalties

Finding 5-2	Area for Regional Attention					
Summary	The review team found adequate documentation for penalty collection for 10 of 12 files reviewed but the documents weren't in a consistent format, not easily accessible, and not located in the same location.					
Explanation	The documentation of penalty collections included a few copies of checks but the majority had little evidence other than e-mail traffic that penalties were collected. The OECA review team and Region 3 discussed possible options for the documentation of penalty collections and how best to provide a consistent format. Region 3 stated they would develop some options and select one and implement it as soon as possible.					
Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	DI N	DI D	DI % or #
	12b Penalties collected	100%		10	12	83.3%
Region response						
Recommendation	None					

CWA Element 5 — Penalties

Finding 5-3	Area for Regional Improvement																	
Summary	The documentation and an explanation of the difference between the initial calculation and final penalty collected was not documented consistently in the enforcement files.																	
Explanation	<p>The Interim CWA Settlement Penalty Policy dated March 1, 1995 is the enforcement policy penalty calculation for EPA enforcement actions. This policy states that changes to penalties must be documented using specific criteria for penalty reduction. Although calculations for the initial proposed penalties were well documented, a rationale for changes to the final penalty amounts were frequently not available. The regional office provided internal correspondence documenting the rationale for penalty reduction for two facilities. Four facilities lack rationale for the penalty reduction.</p> <p>Region 3 indicated that they will evaluate options on a procedure to document all penalty reductions between the initial calculation and the final amount collected. It is recommended that enforcement files contain clear documentation of: initial internal bottom-line penalty calculation methodology; most recent calculation, and justification for adjustments. Litigated case files should document statutory maximum penalty, plead penalty, final penalty, and justification for adjustments.</p>																	
Relevant metrics	<table border="1"> <thead> <tr> <th data-bbox="472 1289 1040 1360">Metric ID Number and Description</th> <th data-bbox="1040 1289 1122 1360">Natl Goal</th> <th data-bbox="1122 1289 1227 1360">Natl Avg</th> <th data-bbox="1227 1289 1279 1360">DI N</th> <th data-bbox="1279 1289 1331 1360">DI D</th> <th data-bbox="1331 1289 1490 1360">DI % or #</th> </tr> </thead> <tbody> <tr> <td data-bbox="472 1360 1040 1432">12a Documentation of the difference between initial and final penalty and rationale</td> <td data-bbox="1040 1360 1122 1432">100%</td> <td data-bbox="1122 1360 1227 1432"></td> <td data-bbox="1227 1360 1279 1432">4</td> <td data-bbox="1279 1360 1331 1432">8</td> <td data-bbox="1331 1360 1490 1432">50.0%</td> </tr> </tbody> </table>						Metric ID Number and Description	Natl Goal	Natl Avg	DI N	DI D	DI % or #	12a Documentation of the difference between initial and final penalty and rationale	100%		4	8	50.0%
Metric ID Number and Description	Natl Goal	Natl Avg	DI N	DI D	DI % or #													
12a Documentation of the difference between initial and final penalty and rationale	100%		4	8	50.0%													
Region response																		
Recommendation	Within 180 days of the publication of this report, Region 3 should develop and implement a SOP to document the rationale for any difference between the initial and final penalty. By the end of FY2018, OECA will request a random set of penalty calculations to review and assess if documentation has improved by April 30, 2019.																	

Appendix

[This section is optional. Content with relevance to the SRF review that could not be covered in the above sections should be included here. Regions may also include file selection lists and metric tables at their discretion. Delete this page if it isn't used.]