

STATE REVIEW FRAMEWORK

**Bay Area Air Quality Management District
California**

**Clean Air Act
Implementation in Federal Fiscal Year 2016**

**U.S. Environmental Protection Agency
Region 9, San Francisco**

**Final Report
March 11, 2019**

Executive Summary

Introduction

The U.S. Environmental Protection Agency (EPA) Region IX Air & TRI Enforcement Section conducted a State Review Framework (SRF) enforcement program oversight review of the Bay Area Air Quality Management District (Air District) of California.

The State of California divides air quality stationary source regulatory work by geographic regions into 35 different air districts. The Bay Area Air District, created in 1955, regulates stationary sources within 9 counties in the San Francisco Bay Area. The region encompasses Alameda County, Contra Costa County, Marin County, Napa County, City and County of San Francisco, San Mateo County, Santa Clara County, southern Sonoma County, and south-western Solano County. The Air District is governed by a 24-member Board of Directors which oversees its policies and has the authority to develop and enforce regulations within its jurisdiction. The Board of Directors also appoints the Air District's Executive Officer/Air Pollution Control Officer, who implements policies and manages staff, as well as the Office of the District Counsel, who directs the Air District's legal affairs. Air District staff consists of engineers, inspectors, planners, scientists, and other professionals.

The Air District has the responsibility to issue permits, conduct inspections, issue administrative enforcement actions, and issue administrative abatement or enforcement orders at its public hearing board. In some cases, judicial enforcement actions are referred to the State Attorney General. The Air District implements aspects of the Title V program that include requirements under facility permit conditions, rules adopted under its State Implementation Plan, New Source Performance Standards, National Emission Standards for Hazardous Air Pollutants, Maximum Achievable Control Technology, as well as targeting and inspections at industrial facilities, reviewing annual compliance certifications, performing and overseeing source testing and monitoring at emission sources, and pursuing enforcement cases.

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 the EPA ECHO web site.

Areas of Strong Performance

- The Air District evaluates air Compliance Monitoring Strategy (CMS) sources on a more frequent basis than the minimum evaluation frequencies recommended in the CMS Policy.
- The CMS source universe is accurate.
- Cases with enforcement penalties: The Air District has a state-mandated penalty policy that is consistent with EPA's, taking into consideration economic benefit in its penalty calculations. The Air District continues to take this into account as it implements state requirements to ensure a level playing field.

Priority Issues to Address

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

- **Data Reporting/Timeliness:** While the Air District consistently provided dates of inspections at its facilities, information on informal and formal actions taken to return facilities to compliance was missing.
- **Lack of Federally-Reportable Violations (FRV) and High Priority Violations (HPV) reporting:** Similar to Data Reporting and Timeliness, while the Air District consistently provided dates of inspections at its facilities, information on Federally-Reportable Violations (FRV) and High Priority Violations (HPV) was missing.

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/Evaluations** — meeting inspection/evaluation and coverage commitments, inspection (compliance monitoring) 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/local 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/local programs.

Each state/local program is reviewed once every four 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:

- Kickoff letter sent to the Air District: June 29, 2017
- CAA data metric analysis and file selection list sent to the Air District: August 4, 2017
- On-site CAA file review: September 25-27, 2017
- Draft report sent to the Air District: October 2018
- Report finalized: March 2019

State and EPA key contacts for review:

BAAQMD

- Wayne Kino, Director of Enforcement, Compliance and Enforcement Division
- Juan Ortellado, Air Quality Program Manager, Compliance and Enforcement Division
- Jeffrey Gove, Supervising Air Quality Specialist, Compliance and Enforcement Division

EPA Region IX

- Matt Salazar, Manager, Air & TRI Office, Enforcement Division, Region IX
- Andrew Chew, Case Developer/ Inspector, Air & TRI Office, Enforcement Division, Region IX
- David Basinger, Case Developer/ Inspector, Air & TRI Office, Enforcement Division, Region IX
- Jennifer Sui, ICIS-Air Coordinator, Information Management Section, Enforcement Division, Region IX
- Elizabeth Walsh, Office of Compliance, Office of Enforcement and Compliance Assurance

III. SRF Findings

Findings represent EPA’s conclusions regarding state/local 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 previous state/local SRF review
- Follow-up conversations with state/local 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/local performs above national program expectations.

Area for State/Local Attention: An activity, process, or policy that one or more SRF metrics show as a minor problem. Where appropriate, the state/local 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/Local 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/Local 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/local has made.
- **Natl. Avg:** The national average across all states, territories, and the District of Columbia.
- **State N:** For metrics expressed as percentages, the numerator.
- **State D:** The denominator.
- **State % or #:** The percentage, or if the metric is expressed as a whole number, the count.

Clean Air Act Findings

Element 1 — Data	
Finding 1-1	Area for State Improvement
Summary	The SRF File Review indicated information reported into ICIS-Air was not consistent with the information found in the files reviewed.
Explanation	<p>Review Metric 2b evaluates the completeness and accuracy of reported Minimum Data Requirements (MDRs) in the ICIS-Air reporting system. Timeliness is measured using the date the activity is achieved and the date it is reported to ICIS-Air. While the national goal for accurately reported data in ICIS-Air is 100%, we found that, with exception of the facility identifiers and Full Compliance Evaluation (FCE) dates, none of the other reviewed data in the files were accurately reported. To elaborate, facility identifiers that were related to facility information (names, addresses, contact phone numbers, Compliance Monitoring Strategy information, pollutants, operating status, etc.) were correctly reported. Dates of FCE performed, when applicable, were also correctly reported. However, information and activity data related to steps taken after the performance of FCEs were missing (e.g., stack test results were not reported to ICIS-Air). EPA reiterates the importance of accurate, complete, and timely reporting as non-reporting results in a lack of information and transparency being provided to the public, and could be potentially misleading.</p> <p>Our review of ICIS-Air indicated that there were no HPVs reported. Upon review of case files and conversation with staff, we learned that this circumstance was due to an overall failure to identify (and therefore report) HPVs.</p> <p>Metric 3b1 measures the timeliness for reporting compliance-related MDRs (FCEs and Reviews of Title V Annual Compliance Certifications). Out of 30 facilities (where 30 FCEs were performed and 16 Title V Annual Compliance Certifications [ACC] reviewed), 0 were reported within 60 days (0.0%). The national goal is 100%.</p> <p>Metric 3b2 evaluates whether stack test dates and results are reported within 120 days of the stack test. The national goal for reporting results of stack tests is to report 100% of all stack tests within 120 days. We selected 9 stack tests to review. Of the 9 stack tests we selected, none were reported (0%). This is below the national goal.</p> <p>Metric 3b3 measures timeliness for reporting enforcement-related MDRs within 60 days of the action. No actions were reported by the Air District,</p>

despite numerous informal and formal enforcement actions documented in their case files and databases. For this reason, missing enforcement MDR reporting resulted in none reported within 60 days (0%), which is below the national goal of 100%.

Relevant metrics

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
2b- Accurate MDR Data in ICIS-Air	100%		0	31	0.0%
3a2- Untimely Entry of HPVs	100%	18.4%	0	0	0.0%
3b1 – Timely Reporting of Compliance Monitoring MDRs	100%	68.3%	0	46	0.0%
3b2 – Timely Reporting of Stack Test Dates and Results	100%	63.8%	0	9	0.0%
3b3 – Timely Reporting of Enforcement MDRs	100%	61.3%	0	195	0.0%

State Response

As conveyed in the November 8, 2018, conference call with EPA Region IX staff, the Air District is committed to addressing the data reporting/timeliness findings identified in the SRF draft report. The Air District will be implementing the following improvements and will provide a draft plan of the items mentioned to EPA Region IX for review and approval within 60 days of issuance of the final SRF report:

- a) Two additional Enforcement staff will be added to enter compliance monitoring and enforcement activity data into ICIS-Air
- b) Compliance monitoring and enforcement data entry to ICID-Air will occur on a monthly frequency to ensure reporting timeliness (i.e. HPV, FRV, etc.)
- c) Compliance monitoring activity data will include Stack Testing and Annual compliance certifications (ACC)
- d) Federally reportable violations (FRV) and high priority violations (HPV) are appropriately entered into ICIS-Air. [Note: The Air District will be looking to EPA for guidance on timeliness reporting of FRV, HPV, informal enforcement and formal enforcement actions as it relates to Air District’s notice of violation resolution process.]
- e) Informal and formal enforcement actions are appropriately entered into ICIS-Air (see above note).

The Air District is receptive to monthly or quarterly conference calls with EPA Region IX to discuss minimum data requirements (MDRs) and compliance monitoring reporting topics. Additionally, EPA training on reporting MDRs into ICIS-Air would be helpful to four Enforcement staff members responsible for ICIS-Air data entry.

Recommendation	<ul style="list-style-type: none"> EPA recommends that within 60 days of issuance of the final report, the Air District should provide to EPA Region IX for review and approval a draft plan describing how it will address data entry and reporting issues. The Air District and EPA will commence monthly or quarterly conference calls to discuss MDRs, including compliance monitoring-related reporting. If requested, EPA will provide training on reporting MDRs into ICIS-Air. Once the Air District begins implementing the plan, Region IX will review the reported data throughout FY 2019. If the data is timely, complete, and accurate, the recommendation will be deemed completed at the end of the Fiscal Year.
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Element 2 — Inspections/Evaluations

Finding 2-1	Meets or Exceeds Expectations
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Summary	The Air District has a correct listing of CMS source universe [number of Majors, Synthetic Minor-80s (SM80s), and Mega-Sites], and meets goals for inspection coverage.
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Explanation	<p>This Element evaluates whether the negotiated frequency for compliance evaluations is being met for each source. The Air District met the national goal for the relevant metrics.</p> <p>The Air District met the negotiated frequency for conducting Full Compliance Evaluations of Title V Major Sources, Mega-Sites, and SM80s. The Air District ensured each major source was evaluated with an FCE once every two years, each Mega-Site once every three years, and each SM80 once every five years.</p> <p>EPA commends the Air District for full compliance evaluations at major facilities, an impressive accomplishment given the distance and complexities of the sources it regulates. The Air District goes beyond the minimum frequencies and inspects sources more often than EPA’s CMS policy requires. The Air District kept their CMS plan up to date. The Air District maintained its database files on their CMS source universe and updated ICIS-Air correctly (adhering to the CMS evaluation frequency).</p> <p>Out of 31 facilities files reviewed, only two CMS sources were not properly identified as a Title V Major Source or SM80 in the Air District’s database. We believe that the Air District will have corrected this by the time of issuance of the final report.</p>
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Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
	5a – FCE Coverage Majors	100%	86.6%	28	28	100%
	5b – FCE Coverage SM80s	100%	91.6%	3	3	100%
	5c – FCE Coverage CMS non-SM80s	100%	79.8%	0	0	0.0%
State Response						
Recommendation	None required.					

Element 2 — Inspections/Evaluations

Finding 2-2	Area for State Improvement					
Summary	The Air District completed the required reviews for each Title V Annual Compliance Certification (ACC); however, the Air District had not reported its universe into ICIS- Air.					
Explanation	The Air District failed to report any of its Title V ACCs into ICIS-Air, as required under Element 2. This Element evaluates whether the delegated agency has completed the required review for Title V Annual Compliance Certifications. The Air District did complete 23 out of 28 Title V Annual Compliance Certifications of sources selected. There were no records to indicate that the remaining 5 reviews had been completed. Furthermore, of the 23 completed reviews, only 14 were shown to have been completed within 60 days of receipt.					
Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
	5e – Review of TV ACCs	100%	69.4%	23	28	82.1%
State Response	The Air District has completed the review of all Title V ACC to ensure data have been entered into ICIS Air. As indicated in the response for Element 1, Finding 1-1, Title V ACCs data will be included in the compliance monitoring activity data entered into ICIS-Air. [Note: in a call on January 30, 2019, Air District staff indicated all ACCs were reviewed and the data entered.]					
Recommendation	In EPA’s draft report, we recommended that the Air District determine if all required reviews of Title V Annual Compliance Certifications were performed during the review period and thereafter, input the data that was described under the recommendations for Element 1, as well as report all ACCs. The Air District has indicated the above is now complete as of the					

date of this report. Actions to ensure continuing compliance with this reporting element should be included within a plan as recommended under Element 1 within 60 days of issuance of the final report.

Element 2 — Inspections/Evaluations

Finding 2-3 Area for State Attention

Summary Overall, the Air District compliance monitoring reports (CMRs) provided were adequate, but additions of relevant information may make them more useful to inspectors.

Explanation

Some reports, such as those for stack tests or tank inspections, lacked sufficient information to allow an understanding of what steps or recommendations were needed after an inspector had completed his or her review. For example, tank inspection reports did not include a determination of compliance.

Inspection reports did not include descriptions of enforcement history which is considered a “basic element” that should be included (as discussed in the CMS Policy). The District report format/template should be updated to include an enforcement history section.

The statement of a facility being “in compliance” should be removed from inspection reports (CMRs) and instead language stating “no violations seen at this time” should be used. Inspectors should continue citing observations and recommendations in their reports.

Twenty-seven Air District compliance monitoring reports were reviewed under this Element. Reviewers found 23 inspections were fully documented, and 4 were missing FCE Elements.

Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
	6a – Documentation of FCE Elements	100%		23	27	85.0%
6b – CMRs/Sufficient Documentation to Determine Compliance	100%		23	27	85.0%	

State Response

Recommendation None required.

Element 3 — Violations

Finding 3-1

Area for State Improvement

Summary

In general, compliance determinations were accurately made; however, they were not reported into ICIS-Air based on the CMRs reviewed and other reviewed compliance monitoring information (i.e., Title V ACCs, stack test reports, NOVs, and RCAs).

Explanation

Metric 7a is designed to evaluate the overall accuracy of compliance determinations and Metric 8c focuses on the accurate identification of violations that are determined to be High Priority Violations (HPVs).

For 7a, in 18 out of 18 reviewed compliance determinations, there was enough information to show that the Air District made appropriate compliance determinations.

During the period addressed by this review, the Air District had not been reporting any violations as HPVs or Federally Reportable Violations (FRVs). In our review of six case files, all appeared to contain more than adequate information to make a determination of HPV, and should have been timely reported as such, in accordance with EPA policy. This concern was discussed with the Air District staff, who said they were aware of both policies. In those discussions, we learned that data non-reporting and missing HPV determinations were a result of resource constraints as the District had been working on building out and transitioning to a new permit database system. As this important project has been completed, the Air District will have resources available to report all compliance determinations and FRVs/HPVs into ICIS-Air.

The Air District did not differentiate between FRV violations and HPV violations. HPVs are a “subset” of FRVs and, as more significant violations that meet the HPV criteria, are treated differently, and must be reported accordingly into ICIS-Air. Failure to do so runs counter to the MDRs/reporting requirements. Identifying HPV violations according to EPA policy could help identify appropriate corrective actions to be taken and improve their timeliness.

Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
	Metric 7a – Accurate Compliance Determinations	100%		0	18	0.0%
	Metric 8c – Accuracy of HPV Determinations	100%		0	0	0.0%

State Response	<p>As indicated in the response for Element 1 recommendations (Finding 1-1), the Air District plans to submit a draft plan describing how the data reporting/timeliness findings identified in the SRF draft report will be addressed. The draft plan will be provided to EPA Region IX for review and approval within 60 days of issuance of the final report.</p> <p>Air District Notices of Violations (NOVs) resolved for the review period (FY16) have been entered into ICIS-Air. Based on guidance from the previous EPA Region IX ICIS-Air coordinator, the NOVs were entered into ICIS-Air as an informal enforcement action and followed by a formal enforcement action entry with an administrative order, penalty information and final order date. [Note: on September 20, 2016, Air District staff met with the EPA R9 ICIS-Air Coordinator for a “Year End Check-in Meeting.” One of the discussion items was around HPVs and the best way to enter them into ICIS-Air. Majority of the NOVs issued by the Air District are categorized as HPVs; guidance was asked on the least burdensome method to enter these HPVs into ICIS-Air. Guidance was given to enter the NOVs into ICIS-Air as an informal and formal enforcement action.]</p>
Recommendation	<ul style="list-style-type: none"> • The Air District must ensure that all enforcement responses (Formal Notices of Violations; field citations; warnings; and informal NOVs) are reported into ICIS-Air as required in the ICR within 90 days of the final SRF report being issued. All staff and managers should be provided copies of the FRV and HPV policies. All FRVs and HPVs need to be reported consistent with EPA policy. • Reiterating our recommendation under Finding 1-1, the Air District should develop a plan that details a process to address FRV/HPV determinations along with other reporting issues. The Air District should provide the plan to Region IX within 60 days of issuance of the final report. The plan must adequately resolve the weaknesses on FRV/HPV determinations, as well as timeliness and completeness in reporting. • As stated in the HPV Policy, Region IX will have conference calls with the Air District to discuss potential HPVs (as well as any issues concerning FRVs and CMS implementation). These will

occur on a regular basis (monthly calls) to discuss any relevant reporting issues.

- Region IX will be reviewing FRV/HPV determinations/reporting throughout FY2019. If the reporting is accurate, the recommendation will be deemed completed at the end of 2019.

Element 4 — Enforcement

Finding 4-1 Area for State Improvement

Summary The six enforcement actions available for review in this period did not require timelines for corrective action in order to demonstrate the facilities’ return to compliance. Based on a review of the case files, EPA believes the Air District took timely and appropriate steps in formal enforcement to address these violations. However, the Air District did not perform HPV determinations consistent with the policy.

Explanation EPA reviewed several case files that recorded formal enforcement actions for various source categories. The Air District failed to document how the facilities returned to compliance. The Air District has a varied source universe. EPA commends the Air District for its enforcement responses.

The Air District should fully document that all enforcement responses (Formal Notices of Violations; field citations; warnings; informal NOVs; settlements and corrective actions) return facilities to compliance, and are sufficient to be an appropriate response.

Metric 10a is designed to evaluate the extent to which the agency takes timely action to address HPVs. The Air District did not code violations as HPVs, though file reviews indicated instances where an HPV designation would have been appropriate. The Air District did not adhere to the 2014 HPV Policy and inspectors did not recognize when violations meet the HPV criteria and should be identified/reported as HPVs.

Metric 10b is designed to evaluate the extent to which the agency takes appropriate enforcement responses for HPVs. Although the enforcement response was appropriate, the Air District did not identify the HPVs consistent with policy.

Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
	9a – Formal Enforcement Returns Facilities to Compliance	100%		0	6	0.0%

10a – Timely Action Taken to Address HPVs	73.2%	0	0	0.0%
10b – Appropriate Enforcement Responses for HPVs	9.9%	0	0	0.0%

State Response

Recommendation	<p>Reiterating our recommendation under Finding 3-1, the Air District should develop a plan that details a process to address FRV/HPV determinations along with other reporting issues. The Air District should provide the plan to Region IX within 60 days of issuance of the final report. A plan must adequately resolve the weaknesses on FRV/HPV determinations, as well as timeliness and completeness in reporting.</p> <p>As stated in the HPV Policy, Region IX will have conference calls with the Air District to discuss potential HPVs (as well as any issues concerning FRVs and CMS implementation). These will occur on a regular basis (monthly calls) to discuss any relevant reporting issues.</p> <p>Region IX will be reviewing FRV/HPV determinations/reporting throughout FY2019. If the reporting is accurate, the recommendation will be deemed completed at the end of 2019.</p>
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Element 5 — Penalties

Finding Meets or Exceeds Expectations

Summary	The California Health and Safety Code governs the Air District’s penalty policy, which includes accounting for economic benefit. We believe that the penalty amounts serve as an effective deterrent to future violations and that enforcement is handled consistently with similar penalties for similar violations.
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Explanation	<p>Our File Review and interview with the District Counsel representative indicated that the penalties the Air District assessed accounted for economic benefit. Economic benefit is important to include in the penalty because it accounts for monetary benefit any institution receives by not implementing the appropriate measures required to meet regulations.</p> <p>Metric 12a is designed to evaluate the extent to which the agency documents the rationale for the difference between initial and final penalty. In the three cases reviewed with the District Counsel’s representative, we found that the initial penalty amounts reflected economic benefit and gravity, with reasonable adjustments made before final penalty amounts were settled.</p>
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Metric 12b is designed to evaluate whether there is documentation that the final penalty was collected. Upon request for several case files and discussion with the District Counsel representative, we reviewed copies of District documentation that showed its receipt of penalty payments.

Furthermore, the District Counsel representative affirmed that the penalty calculations developed under California state statute and implemented through the Air District’s penalty policy incorporated an economic benefit component and gravity.

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%			3	3
12a – Documentation of Rationale for Difference Between Initial and Final Penalty	100%			3	3	100.0%
12b – Penalties Collected	100%			3	3	100.0%

State Response

Recommendation None required.

STATE REVIEW FRAMEWORK

California

Clean Water Act Implementation in Federal Fiscal Year 2016

**U.S. Environmental Protection Agency
Region 9, San Francisco**

**Final Report
March 11, 2019**

Executive Summary

Introduction

EPA Region 9 enforcement staff conducted a State Review Framework (SRF) enforcement program oversight review of the State of California's NPDES compliance and enforcement program. The review included an examination of facility files at the Santa Ana Regional Water Quality Control Board (Santa Ana Regional Board, or RB8) in California. Data metrics were evaluated both on a statewide basis and separately for RB8.

As per past California SRFs, EPA conducted the file review at one or two regional boards while reviewing available statewide performance metrics. The State of California divides the water quality regulatory work by watersheds into nine semi-autonomous Regional Water Quality Control Boards (RWQCBs), who function in partnership with the State Water Resources Control Board.

Each RWQCB consists of Governor appointed board members and a regulatory office headed by an Executive Officer. Each individual RWQCB has the responsibility to issue permits, conduct inspections, manage compliance data, issue administrative enforcement actions, and refer judicial enforcement actions to the State Attorney General. Permits and administrative enforcement orders are issued by the Boards at public hearings, typically held monthly. The RWQCBs regulate all aspects of the NPDES program including pretreatment, stormwater, SSO/CSOs, animal feeding operations, non-point source, watershed management, water quality certification, basin planning, TMDL development, as well as State-mandated non-NPDES programs for irrigated lands, discharges to ground waters, site clean-ups, and septic systems.

Standard operating procedures are consistent across regional boards and indicative of overall state performance. Previous SRFs have conducted file reviews at the San Francisco and San Diego RWQCBs (SRF Round 2), and at the Los Angeles and Central Valley RWQCBs (SRF Round 1).

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

- *Inspection coverage at major, minor, and most stormwater facilities exceeds commitments in the state-specific CMS plan.*
- *Significant non-compliance at major facilities is below the national average.*
- *Entry of major facility permit and effluent limits exceeds expectations.*
- *Penalty calculations are well-documented and penalties were consistently collected.*

Priority Issues to Address

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

- *Timely and appropriate CWA enforcement taken to return facilities in Significant Noncompliance to compliance.*

Most Significant CWA-NPDES Program Issues

- *Accuracy of data reported on facility information, inspections, violations, and enforcement actions is not completely reported as required.*
- *Inspection report timeliness is unclear with many stormwater inspection reports lacking documentation of the date the document was finalized or delivered to the facility.*
- *Single event violations are not consistently reported.*

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- **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
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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: *FY 2016. California's inspection coverage was evaluated on the State Fiscal Year 2016 (July 1, 2015 to June 30, 2016). Data metrics were evaluated on the Federal Fiscal Year 2016 (October 1, 2015 to September 30, 2016).*

Key dates: **Field Review-- July 2017**
 Draft Report-- September 2018
 Final Report –March 2019

State and EPA key contacts for review:

CWA EPA Contacts: *Michael Weiss (EPA Region 9), Greg Gholson (EPA Region 9)*
CWA State Contact: *Matthew Buffleben (State Water Resources Control Board)*

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

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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

Metric 1b: Completeness of permit limit and discharge data in EPA’s ICIS database.

Finding 1-1	Meets or Exceeds Expectations																							
Summary	The state meets or exceeds EPA’s expectations for coding major facility permit limits and entering Discharge Monitoring Report (DMR) data in EPA’s Integrated Compliance Information System (ICIS), EPA’s national database.																							
Explanation	<p>Metrics 1b1 and 1b2 measure the state’s rate of entering permit limits and DMR data into ICIS.</p> <p>According to EPA’s data metric analysis, California entered 83.9% of permit limits in ICIS for major facilities state-wide as indicated in the values presented for metric 1b1 below. This analysis, however, misrepresents California’s true permit limit rate by including dozens of facilities in the rate calculation even though the facility permits lack effluent limits. The 1b1 metric analysis includes 20 municipal separate storm sewer systems (MS4) permits and 20 expired permits, none of which require permit limit entry in ICIS. MS4 permits often have effluent limits that are a narrative instead of numeric and hence cannot easily be entered into a database as opposed to more traditional NPDES permits.</p> <p>Similarly, the calculated permit limit entry rate for the Santa Ana Regional Water Quality Control Board (89.5%) incorrectly included two MS4 permits. Were the MS4 and expired permits to be excluded, the permit limit entry rate for the Santa Ana Regional Board and California statewide would likely meet EPA’s national goal of 95% permit limit entry rate.</p> <p>California enters 99.0% of DMR data into ICIS, exceeding both EPA’s national goal and the national average DMR data entry rates. The Santa Ana Regional Board has a 99.8% DMR entry rate.</p>																							
Relevant metrics	<table border="1"> <thead> <tr> <th data-bbox="483 1619 1003 1724">Metric ID Number and Description</th> <th data-bbox="1011 1619 1084 1724">Natl Goal</th> <th data-bbox="1092 1619 1166 1724">Natl Avg</th> <th data-bbox="1174 1619 1247 1724">State N</th> <th data-bbox="1255 1619 1328 1724">State D</th> <th data-bbox="1336 1619 1442 1724">State % or #</th> </tr> </thead> <tbody> <tr> <td data-bbox="483 1734 1003 1801">1b1 Permit limit rate for major facilities in California (state-wide)</td> <td data-bbox="1011 1734 1084 1801">≥95%</td> <td data-bbox="1092 1734 1166 1801">91%</td> <td data-bbox="1174 1734 1247 1801">208</td> <td data-bbox="1255 1734 1328 1801">248</td> <td data-bbox="1336 1734 1442 1801">83.9%</td> </tr> <tr> <td data-bbox="483 1812 1003 1879">1b1 Permit limit rate for major facilities in Regional Water Board 8 (Santa Ana)</td> <td data-bbox="1011 1812 1084 1879">≥95%</td> <td data-bbox="1092 1812 1166 1879"></td> <td data-bbox="1174 1812 1247 1879">17</td> <td data-bbox="1255 1812 1328 1879">19</td> <td data-bbox="1336 1812 1442 1879">89.5%</td> </tr> </tbody> </table>						Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #	1b1 Permit limit rate for major facilities in California (state-wide)	≥95%	91%	208	248	83.9%	1b1 Permit limit rate for major facilities in Regional Water Board 8 (Santa Ana)	≥95%		17	19	89.5%
Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #																			
1b1 Permit limit rate for major facilities in California (state-wide)	≥95%	91%	208	248	83.9%																			
1b1 Permit limit rate for major facilities in Regional Water Board 8 (Santa Ana)	≥95%		17	19	89.5%																			

	1b2 DMR entry rate for major facilities in California (state-wide)	≥95%	97%	13,815	13,955	99.0%
	1b2 DMR entry rate for major facilities in Regional Water Board 8 (Santa Ana)	≥95%		1,236	1,239	99.8%
State response						
Recommendation	None.					

CWA Element 1 — Data

Metric 2b: Completeness and accuracy of inspections and enforcement action data in EPA’s ICIS database.

Finding 1-2	Area for State Improvement
Summary	Only fourteen percent of files reviewed had complete information reported to EPA’s ICIS database, well below the national goal of 100%.
Explanation	<p>Under Metric 2b, EPA reviewers compared inspection reports and enforcement actions found in selected files at the Santa Ana Regional Board to determine if the inspections, inspection findings and enforcement actions were accurately entered into ICIS. The analysis was limited to data elements mandated in EPA’s ICIS data management policies. States are not required to enter inspections or enforcement actions for certain classes of facilities.</p> <p>EPA found only 5 of the 35 files reviewed (14.3%) in RB8 had all the required information (facility location, inspection dates, violations, and enforcement action information) accurately entered into ICIS when compared with data in California’s Integrated Water Quality System (CIWQS). CIWQS is a computer system used by the State and Regional Water Quality Control Boards to track inspections, manage permits, and oversee enforcement activities. California also uses CIWQS as its electronic file for storage of inspection reports and enforcement documents. The data in CIWQS presented a more complete record of actual State inspections and enforcement actions for comparison to ICIS.</p> <p>Failure to record violations and enforcement actions in ICIS were among the most frequently cited data accuracy issues for the Santa Ana Regional Board. This was also an issue in the California Round 2 SRF 2012 Report, which reviewed the San Francisco and San Diego Regional Boards that</p>

	<p>still had yet to be fully resolved at the time of the file review. None of RB8’s industrial or construction stormwater or CAFO inspections reviewed in CIWQS were recorded in ICIS. Prior to July 2017, stormwater and CAFO inspections (i.e. general permit inspections) were only entered manually in ICIS when resources were available. This issue has been addressed and currently (post July 2017) all inspections are entered in CIWQS which then routinely uploads to ICIS.</p>												
<p>Relevant metrics</p>	<table border="1"> <thead> <tr> <th data-bbox="483 506 1003 611">Metric ID Number and Description</th> <th data-bbox="1011 506 1084 611">Natl Goal</th> <th data-bbox="1092 506 1166 611">Natl Avg</th> <th data-bbox="1174 506 1247 611">State N</th> <th data-bbox="1255 506 1328 611">State D</th> <th data-bbox="1336 506 1442 611">State % or #</th> </tr> </thead> <tbody> <tr> <td data-bbox="483 621 1003 726">2b Files reviewed where data are accurately reflected in the national data system for Regional Water Board 8 (Santa Ana)</td> <td data-bbox="1011 621 1084 726">100%</td> <td data-bbox="1092 621 1166 726"></td> <td data-bbox="1174 621 1247 726">5</td> <td data-bbox="1255 621 1328 726">35</td> <td data-bbox="1336 621 1442 726">14.3%</td> </tr> </tbody> </table>	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 for Regional Water Board 8 (Santa Ana)	100%		5	35	14.3%
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 for Regional Water Board 8 (Santa Ana)	100%		5	35	14.3%								
<p>State response</p>	<p>In July 2017, the Water Boards implemented a compliance data flow from its California Integrated Water Quality System (CIWQS) and Stormwater Multiple Application and Report Tracking System (SMARTS) databases to ICIS, which fixed many of the incomplete data issues identified in the Draft Report. In general, new inspection, violation and enforcement action records in the State databases are reflected in ICIS; however, business rule differences and data entry errors may result in less than 100% completeness in ICIS for certain permitting scenarios. For example, new NPDES permit enrollees under an administratively extended permit are entered into CIWQS and SMARTS, yet such entries are not permitted to be entered into ICIS.</p> <p>By March 31, 2019, the Water Boards will develop an audit framework to ensure that the records in CIWQS and SMARTS are: (1) consistent with records in ICIS, or (2) identified and purposefully excluded due to business rule differences.</p>												
<p>Recommendation</p>	<p>While EPA acknowledges that data management requires resources from state enforcement agencies also engaged in inspections and other compliance activities, EPA also understands the importance of data management for monitoring compliance activities and achieving progress towards national goals.</p> <p>By June 30, 2019, California should ensure all relevant information, including facility location, inspection, violation, and enforcement action information is entered into ICIS accurately and in accordance with EPA’s data entry requirements and eReporting Rule. This is especially significant for facilities covered under general NPDES permits and for non-major noncompliance categorization.</p>												

By June 30, 2019, the State Board will investigate, address, or create a plan to address the data flow problems contributing to missing data in ICIS. EPA will include this as a standing agenda topic during regular meetings with the state to track progress and ensure California is meeting its CWA section 106 grant workplan commitments for ICIS-NPDES data management.

CWA Element 2 — Inspections
4a Metrics: Inspection coverage compared to State Workplan commitments.

Finding 2-1

Area for State Attention

Summary

The State met most inspection commitments in its Clean Water Act section 106 grant Workplan but fell short of its commitments for SSO inspections and Phase II MS4 inspections.

Explanation

The 4a metrics measure the number of inspections completed by the State overall in the State Fiscal Year 2016 compared to the commitments in California’s Clean Water Act section 106 grant Workplan. EPA Region 9 established 106 Workplan inspection commitments for California consistent with the inspection frequency goals outlined in EPA’s 2014 CWA NPDES Compliance Monitoring Strategy (CMS).

Metric 4a1 measures pretreatment compliance inspections and audits. During State FY 2016, California’s Regional Boards met their Workplan commitment by completing 41 pretreatment compliance inspections or audits at the 92 publicly owned treatment works (POTW) pretreatment programs in California. The State has a goal of conducting one Pretreatment Compliance Audit (PCA) in each five-year permit term of all approved active POTW Pretreatment programs, and at least two Pretreatment Compliance Inspections (PCI) during each five-year permit term on all approved active POTW Pretreatment programs. Metric 4a2 measures inspections of Significant Industrial Users (SIUs). For Metric 4a2, California relies on an EPA-managed in-kind-services contract to complete pretreatment inspections of Industrial Users, including SIUs discharging to non-authorized POTWs. The data needed for Metric 4a2 is segmented among the separate Regional Water Boards and non-authorized POTWs and is not readily accessible. The Regional Boards typically delegate this responsibility to the non-authorized receiving POTW as a requirement of their NPDES Permit/Waste Discharge Requirement (WDR) (as a “POTW Mini-Program” as described in the EPA Memorandum *Oversight of SIUs Discharging to POTWs without Approved Pretreatment Programs*).

Because there are only two Combined Sewer Systems in California, Metric 4a4 has a high percent of completion. Under metric 4a5, California is expected to annually inspect at least five percent of sanitary sewage collection systems subject to its general Waste Discharge Requirement (WDR) for sewage collection systems (Order No. 2006-0003-DWQ). During State FY 2016, California inspected 18 (1.6%) of its 1,093 sanitary sewer systems.

California meet its 106 Workplan CMS inspection commitments for most stormwater inspection categories. Per the Workplan, the Regional Water Boards must perform an on-site audit for all Phase I and II MS4 permittees at least once every ten years, or 10% per year. The State reported completing 39 audits out of 316 Phase I MS4s permittees (12%), and 15 audits out of 400 of Phase II MS4s permittees (4%) - falling short in this category.

According to the Workplan, the Regional Water Boards are expected to inspect at least 10% of industrial stormwater permittees, 10% of permitted Phase I construction sites, and at least 5% of permitted Phase II construction sites each year. The State reported completing 1,941 industrial stormwater inspections out of 11,583 permittees (17%), and 1,838 construction stormwater inspections out of 8,629 permittees (21%). Construction site category (i.e. Phase 1 v. Phase II) was not tracked during this reporting period.

There are 1,736 medium and large CAFOs throughout California (some covered by general NPDES permits and most covered by general WDRs). Regional Boards inspected 26% of the CAFOs, which met the CMS goal of inspecting large and medium CAFOs at least once every five years (20% per year).

Relevant metrics

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
4a1 Pretreatment compliance inspections and audits	100% state specific CMS Plan commitment		41	92	44.5%
4a2 Significant Industrial User inspections for SIUs discharging to non-authorized POTWs	100% state specific CMS Plan commitment				unknown
4a4 Major CSO inspections	20% of Combined Sewer Systems		1	2	50%

	4a5 SSO inspections	5% of Sanitary Sewer Systems	18	1093	1.6%
	4a7 Phase I MS4 audits or inspections	10% of Phase I permittees	39	316	12%
	4a7 Phase II MS4 audits or inspections	10% of Phase II permittees	15	400	4%
	4a8 Industrial stormwater inspections	10% of industrial SW permittees	1,941	11,583	17%
	4a9 Phase I and II stormwater construction inspections	100% state specific CMS Plan commitment	1,838	8,629	21%
	4a10 Medium and large NPDES CAFO inspections	100% state specific CMS Plan commitment	460	1,736	26%
State response					
Recommendation	None required.				

Element 2 — Inspections
Metrics 5a and 5b: Inspection coverage compared to State Workplan commitments.

Finding 2-2	Meets or Exceeds Expectations
Summary	The State met or exceeded inspection commitments in its Clean Water Act section 106 grant Workplan for major and minor facilities.
Explanation	<p>Metrics 5a and 5b measure the number of inspections at major and minor (non-major) facilities in the State Fiscal Year 2016 compared to the commitments in California’s Clean Water Act section 106 grant Workplan. EPA Region 9 established Workplan inspection commitments for California consistent with the inspection frequency goals outlined in EPA’s 2014 CWA NPDES Compliance Monitoring Strategy.</p> <p>Metric 5a1 measures the inspection coverage of NPDES majors, metric 5b1 measures inspection coverage of NPDES non-majors with individual permits (also called minors), and metric 5b2 measures inspection coverage of NPDES non-majors with general permits. California inspected 124 (46%) major facilities and 60 (26%) minor facilities during the fiscal year,</p>

meeting the CMS based Workplan commitment to inspect major permittees at least once every two years and each minor facility at least once during its five-year permit term.

The State’s non-major general permit inspections (metric 5b2) are described individually in Finding 2-1, under the CMS and State Workplan commitments for general stormwater and CAFO inspections. The industrial stormwater, construction stormwater, and CAFO inspections and universes were summarized into metric 5b2 below, which is well above the national average.

Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
	5a1 Inspection coverage of NPDES majors	100% state specific CMS Plan commitment	51.9%	124	271	46%
	5b1 Inspection coverage of NPDES non-majors with individual permits	100% state specific CMS Plan commitment	23.9%	60	227	26%
	5b2 Inspection coverage of NPDES non-majors with general permits	100% state specific CMS Plan commitment	5.6%	4,239	21,948	19%

State response

Recommendation None required.

Element 2 — Inspections
Metric 6a: Quality of inspection reports.

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

Summary Seventy-eight percent of inspection reports reviewed were sufficient to determine compliance. The seven inspection reports that were inadequate either lacked a narrative description of the inspection findings or the reports were missing from CIWQS or other databases.

Explanation Metric 6a assesses the quality of inspection reports, in particular, whether the inspection reports provide sufficient documentation to determine the

compliance status of inspected facilities. Twenty-six out of 33 inspection reports reviewed at the Santa Ana Regional Board were complete and sufficient to determine compliance in accordance with EPA’s 2017 NPDES Compliance Inspection Manual guidelines. The EPA file reviewers evaluated RB8 inspection reports in CIWQS. CIWQS is used as an electronic filing system for inspection reports and enforcement actions.

The EPA reviewers found seven inspection reports were either missing narrative information or the report was missing from CIWQS entirely.

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 for Santa Ana Regional Board	100%		26	33	78.8%

State response The Water Boards are committed to improving inspection reports, including format. The Water Boards will update inspection report guidance and procedures, and develop staff training by June 30, 2019. The guidance and procedures will: (1) guide inspectors to develop clearly written narratives, (2) include requirements to upload the reports into the proper databases, and (3) track report completion. Subsequently, the Water Boards will initiate training events and include the updated guidance into the corresponding administrative procedures manual.

Recommendation By June 30, 2019, the State Board will work with the Regional Boards to: 1) require all inspection reports to include a narrative format that describes the inspector’s observations, across all NPDES platforms (CAFO, stormwater, pretreatment, etc.), and 2) ensure that all inspection reports are properly uploaded into CIWQS.

Element 2 — Inspections
Metric 6b: Timeliness of inspection reports.

Finding 2-4 **Area for State Improvement**

Summary Only 18 of the 33 inspection reports reviewed by EPA were dated or completed within EPA’s recommended timeline for completing an inspection report.

Explanation Metric 6b measures the state’s timeliness on completing inspection reports within the EPA recommended deadlines of 45 days for sampling inspection

reports and 30 days for non-sampling types of inspections. The State did not have a policy of tracking inspection completion times or a policy regarding inspection report deadlines. Inspection reports lacking completion dates, inspection reports bearing dates beyond the recommended timeliness deadlines, and facility files that have at least one inspection entered into ICIS with no corresponding inspection report in the file were all considered as not meeting EPA’s guidelines for timely on completion of inspection reports.

Based on review of 33 files at RB8, EPA found that many inspection reports were not dated, which made it difficult to assess the timeliness of these reports. In the absence of any documentation of report completion date, such as a cover letter transmitting a report to the discharger, EPA reviewers assumed that undated reports were not timely. Stormwater inspection reports were found to be finalized without dates of report completion making it difficult to assess the timeliness of facility corrective actions to address inspection findings and the need for escalated enforcement response. The State enters its stormwater inspection reports into its SMARTS database with inspection date but no data field for date of report completion.

Nine of the 33 inspection reports reviewed were not dated and counted as not meeting timeliness guidelines. An additional six reports were dated later than EPA’s recommended 30-day deadline.

Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
	6b Inspection reports completed within prescribed timeframe for Santa Ana Regional Board	100%		18	33	54.5%

State response The Water Boards are committed to improving the content and completion rate of inspection reports. The Water Boards’ update and implementation of inspection report guidance and procedures, as described in response to Metric 6A above, will address the timeliness of inspection reports and dates recorded in the report and corresponding databases.

Recommendation By June 30, 2019, the State Board will work with the Regional Boards to improve the inspection report format to include a report completion, especially for stormwater water inspection reports.

CWA Element 3 — Violations
Metrics 7a1, 8b and 8c: Tracking of single event violations.

Finding 3-1	Area for State Attention
Summary	California does not enter single event violations (SEVs) into EPA’s ICIS database as required for major facilities.
Explanation	<p>SEVs are violations discovered by means other than the ICIS automated screening of DMRs for effluent limit and reporting violations. Violations documented in inspection reports are typically classified as SEVs. Metric 7a1 measures whether SEVs are entered into ICIS. EPA’s review of RB8 files revealed that SEVs documented in inspection and enforcement files at major facilities were not reported consistently in ICIS as required under EPA’s data management policy. The Santa Ana Regional Board did not report SEVs into ICIS; instead violations that arose from inspections were noted in CIWQS. SEVs are required to be entered into ICIS for major facilities and minor facilities that are pretreatment control authorities as indicated in the December 28, 2007 EPA memorandum, <i>ICIS Addendum to the Appendix of the 1985 Permit Compliance System Statement</i> (p.9).</p> <p>Although California is not entering SEVs in EPA’s ICIS database, California is currently entering SEVs into the main permitted discharger portion and the SSO portion of their CIWQS state database. The California State Water Board reviewed state-wide inspections to determine that at least 16 violations were the direct result of inspections and entered as SEVs in ICIS.</p> <p>Metric 8b measures the percentage of SEVs accurately identified as SNC or non-SNC by the state. California generally does not record SEVs in ICIS and does not flag SEVs as SNC. EPA has established automated and discretionary criteria for flagging discharger violations as SNC. California relies on the automated DMR-based criteria to flag effluent limits and reporting violations as SNC, but does not normally make discretionary labeling of SEV violations as SNC.</p> <p>Metric 8c requires timely reporting of SEVs identified as SNC at major facilities. Regional Board 8 did not record any SEVs identified at majors as SNC, so the numerator and denominator of this metric were both zero, and as such the timeliness of such reports could not be gauged. The state is not meeting the requirements of this metric.</p> <p>EPA will provide to the State Board guidance materials covering SEV codes and the minimum data entry requirements for non-DMR violations identified at major facilities. EPA suggests these materials be disseminated to staff to encourage proper identification and entry of the codes and proper application of SNC criteria. In the meantime, EPA encourages the State to continue use of the SEV codes to track noncompliance at minors, where</p>

helpful. The State Board should implement a quality assurance review for all inspection reports to ensure SEV codes are identified and entered for majors per the minimum national standards, and to ensure that basic facility data is present in both inspection reports and their accompanying entries into CIWQS and ICIS.

For non-major facilities, approximately 28 (12.3%) were in Category 1 noncompliance while three (1.2%) were in Category 2 noncompliance. These numbers are likely incomplete and more indicative of further data issues between CIWQS and ICIS, as discussed above.

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 (state-wide)				16	271
7f1 Non-major facilities in Category 1 noncompliance (state-wide)				28	227	12.3%
7g1 Non-major facilities in Category 2 noncompliance (state-wide)				3	227	1.3%
8b Single-event violations accurately identified as SNC or non-SNC (Santa Ana)	100%					unknown
8c Percentage of SEVs identified as SNC reported timely at major facilities (Santa Ana)	100%			0		0%

State response

Recommendation None Required.

CWA Element 3 — Violations
Metric 7e: Accuracy of compliance determinations

Finding 3-2	Meets or Exceeds Expectations
Summary	Inspection reports generally provide sufficient information to ascertain compliance determinations on violations found during inspections.
Explanation	Metric 7e measures the percentage of inspection reports reviewed that led to an accurate compliance determination. The number of inspection reports that led to accurate compliance determinations (87.9%) is within the acceptable range of the national goal of 100%. Stormwater program inspection reports included a detailed narrative component that succinctly described compliance findings based on site observations.

	The reports that did not provide sufficient information were either missing or did not include a narrative format. Water Board staff should verify that their inspection reports have been properly uploaded into CIWQS, in their entirety.					
Relevant metrics	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 (Santa Ana)	100%		29	33	87.9%
State response						
Recommendation	None.					

CWA Element 3 — Violations

Metrics 7d1 and 8a2: Major facilities in significant non-compliance.

Finding 3-3	Meets or Exceeds Expectations
Summary	The rate of SNC at major facilities is lower than the national average.
Explanation	<p>Metric 7d1 measures the percent of major facilities in non-compliance reported in ICIS. State-wide noncompliance at major facilities in California is 74.5% according to information available in data metric 7d1. Noncompliance at major facilities in the Santa Ana Regional Board is lower than the state-wide rate with 63.2% of major facilities in noncompliance. Considering that major facilities in California have stringent effluent limits, a high frequency of effluent monitoring, many effluent limit parameters, and that only a single effluent violation places a major facility in noncompliance, California's rates of noncompliance, which appear high, are consistent with the national average noncompliance rate of 73%.</p> <p>Metric 8a2 measures the percentage of major facilities in significant noncompliance. Thirty-four of the 271 major facilities in California were in SNC for one or more quarters during FY2016. The rate of SNC in California (12.5%) is better than the national average of 20%. Only two facilities at RB8 were in SNC (10.5%).</p>

Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
	7d1 Major facilities in noncompliance (state-wide)			73%	202	271
7d1 Major facilities in noncompliance (Santa Ana)				12	19	63.2%
8a2 Percentage of major facilities in SNC (state-wide)			20%	34	271	12.5%
8a2 Percentage of major facilities in SNC (Santa Ana)				2	19	10.5%
State response						
Recommendation	None required.					

CWA Element 4 — Enforcement
Metric 9a: Enforcement actions promoting return to compliance

Finding 4-1	Meets or Exceeds Expectations
Summary	Enforcement actions reviewed generally promote return to compliance.
Explanation	<p>Metric 9a measures the percent of enforcement responses that return or will return the source to compliance. Fourteen of 17 enforcement actions reviewed at RB8 resulted in a return to compliance specific to the relevant NPDES requirement. The finding level is identified as Meets or Exceeds Expectations because only three enforcement actions did not promote return to compliance.</p> <p>In 14 of the 17 enforcement actions reviewed, the EPA reviewers found either that the enforcement action mandated a return to compliance or found other documentation in the file indicating that the facility actually returned to compliance as a result of the RB8 enforcement action. The actions included a variety of informal (NOVs or notices of noncompliance) and formal (administrative civil liability actions) enforcement actions, most often with documented returns to compliance. In three of the 17 actions evaluated, the EPA reviewers found that the action did not promote a return to compliance. Each of these cases were either penalty actions or informal actions (i.e. verbal warning) where the action did not include a requirement to return to compliance. Although some of these facilities may have returned to compliance, the EPA reviewers did not find documentation in the file of return to compliance.</p>

	Stormwater enforcement electronic files (i.e. SMARTS) contained additional information useful in verifying facilities return to compliance. Specifically, enforcement case files contained copies of required reports, sampling results, and/or permit application documents developed or submitted to address the deficiency/violation resulting in the enforcement action. The Regional Board should include injunctive relief or follow-up actions in most enforcement actions to ensure facilities have indeed returned to compliance. Any follow-up actions should to be included as records in case files.					
Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
	9a Percentage of enforcement responses that return or will return source in violation to compliance (Santa Ana)	100%		14	17	82.4%
State response						
Recommendation	None Required.					

CWA Element 4 — Enforcement
Metrics 10a1 and 10b: Timely and appropriate enforcement actions

Finding 4-2	Area for State Improvement
Summary	Enforcement actions taken at major and non-major facilities are often not timely or appropriate. This is a recurring issue from the SRF Round 2 of California’s NPDES program.
Explanation	<p>For this finding, EPA used two metrics (metrics 10a1 and 10b) to evaluate whether California is addressing violations with appropriate enforcement actions and whether California’s enforcement responses were taken in a timely manner.</p> <p>Metric 10a1 was used to assess California’s response to SNC level violations at major facilities. To evaluate metric 10a1, the EPA reviewers examined each of the 34 major facilities that were in SNC for one or more quarters during FY16. The reviewers determined whether or not California took enforcement action against each of the SNC facilities and whether the action was timely and appropriate. According to EPA’s policy, appropriate actions for SNC violations are formal enforcement actions that require a</p>

return to compliance. The following California enforcement mechanisms are considered appropriate enforcement: Cease and Desist Orders, Time Schedule Orders, and Cleanup and Abatement Orders. EPA policy further dictates that an enforcement action is considered timely if it is issued within 5 ½ months at the end of the quarter when the SNC level violations initially occurred.

EPA's review found that only four of the 34 statewide SNC facilities were addressed with enforcement actions that were both timely and appropriate. Neither of the two SNC facilities in the Santa Ana Regional Board were addressed with enforcement that was both timely and appropriate.

Nearly all the 34 SNC facilities were addressed with some type of enforcement, but the actions did not meet EPA's policy for appropriate actions. Some of the SNC facilities were addressed with penalty actions such as administrative civil liability actions (ACL) or mandatory minimum penalties (MMP) and others were addressed with informal actions such as staff enforcement letters. Penalty actions alone are not considered appropriate as these actions typically do not mandate a return to compliance.

There were several of the 34 SNC facilities that the reviewers judged as lacking appropriate action even though the state had elected for good reason to forgo enforcement. Four of the 34 facilities were in SNC for one-time late submittal of DMRs submittal or do not have violations listed in CIWQS. EPA understands that the state would not take an enforcement action in these cases. In addition, there were two facilities on the SNC list which the State believes were listed as SNC because of DMR reporting errors.

Finally, the state explained that its enforcement rules and policies make it nearly impossible for the state to meet EPA's timeliness deadlines. The State's 2010 *Water Quality Enforcement Policy* requires escalating enforcement responses and Regional Water Board hearings for formal enforcement actions such as a Cleanup and Abatement Order (CAO), Cease and Desist Order (CDO), or Time Schedule Order (TSO). As a result, it is difficult for California to issue a formal enforcement action within the 5 ½ month deadline established by EPA for timely response to SNC violations.

Metric 10b was used to assess California's enforcement response to any type of violation (SNC or lower level violations) at any type of facility (major, minor or general permit discharger). EPA's evaluation of metric 10b was based on review of 28 enforcement responses selected from the Santa Ana Regional Boards files. Each of the 28 enforcement responses

were reviewed to determine if they met EPA expectations for enforcement response as provided in EPA’s Enforcement Management System (EMS). The EMS includes the strict expectations cited above for enforcement response to major facility SNC violations as well as the somewhat more subjective guidelines for responses to non-SNC violations.

EPA found that 18 of the 28 enforcement responses were appropriate for the type of violation. These responses included NOV’s for minor deficiencies, with documented follow-up and a return to compliance, or formal enforcement (ACLs, compliance orders, etc.) for more serious violations. In ten of the files, however, the EPA reviewers concluded that the RB8 action was not appropriate for the circumstances. For example, some facilities had effluent violations from toxic pollutants and the corresponding enforcement actions were informal, or the enforcement action did not return the facility to compliance or prevent the facility from returning to noncompliance (recidivism).

Relevant metrics

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
10a1 Major facilities with timely action as appropriate (state-wide)	98%		4	34	11.8%
10a1 Major facilities with timely action as appropriate (Santa Ana)	98%		0	2	0%
10b Enforcement responses reviewed that address violations in an appropriate manner (Santa Ana)	98%		18	28	64.3%

State response

Water Board NPDES program staff and Office of Enforcement Staff are currently working closely with U.S. EPA to reduce the number of permitted facilities in Significant Non-Compliance. This effort includes reviewing data procedures and data transfer into ICIS. In addition, the Water Boards will develop and implement a plan by June 30, 2019 to improve its enforcement response to be consistent with the EPA’s Enforcement Management System.

Recommendation

EPA R9 currently works with the State to ensure facilities in SNC are brought back into compliance with appropriate and timely enforcement actions. EPA is prepared to take enforcement if the State is not able to take enforcement or requests assistance. EPA will continue discussion of major facilities in SNC as a standing agenda topic during regular meetings with the state to ensure they are prioritized for swift enforcement.

The State Board will identify cases in which violations have not been adequately addressed with an enforcement action and will timely refer them to EPA for enforcement as necessary.

By June 30, 2019, California will adopt and implement a plan to improve its enforcement response procedures to provide for swift, appropriate enforcement against facilities in SNC.

CWA Element 5 — Penalties
Metrics 11a, 12, and 12b: Penalty calculation and collection

Finding 5-1 **Meets or Exceeds Expectations**

Summary Consideration of economic benefit and gravity is well documented in files reviewed.

Explanation Metric 11a assesses the state’s method for calculating penalties and whether it properly documents the economic benefit and gravity components in its penalty calculations. The Santa Ana Regional Board has five of six penalties (83%) with adequate documentation in the files supporting evidence on the calculation methodology for both economic benefit and gravity.

Metric 12a assesses whether the state documents the rationale for changing penalty amounts when the final value is less than the initial calculated value. Documents reviewed in the RB8 files consistently documented changes between the initial penalty calculations and final assessed penalties. All but one of the penalty calculations reviewed had documentation of the rationale for a change between the initial and the final penalty. The only penalty action that did not meet metrics 11a and 12a was for an illegal discharge to water by an unpermitted facility where the EPA reviewers could not find the penalty calculations in CIWQS.

Metric 12b assesses whether the state documents collection of penalty payments. RB8 files had documentation indicating collection of assessed penalties in each of the 6 actions reviewed.

Supplemental Environmental Projects (SEPs) were included in several penalty actions taken by RB8, especially for those cases issued as Mandatory Minimum Penalties. The SEP value was typically half of the total penalty settlement and went directly towards an environmental project within the community impacted by the violations.

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 for Santa Ana Regional Board	100%		5	6	83.3%
	12a Documentation of the difference between initial and final penalty and rationale for Santa Ana Regional Board	100%		5	6	83.3%
	12b Penalties collected for Santa Ana Regional Board	100%		6	6	100%
State response						
Recommendation	None.					

STATE REVIEW FRAMEWORK

California
Department of Toxic Substances Control

Resource Conservation and Recovery Act
Implementation in Federal Fiscal Year 2016

U.S. Environmental Protection Agency
Region 9, San Francisco

Final Report
March 11, 2019

Executive Summary

Introduction

EPA Region 9 enforcement staff conducted a State Review Framework (SRF) enforcement program oversight review of the California Department of Toxics Substances Control (DTSC). Data metrics from the Department as a whole were used in preparation of this report, while in-field file reviews were conducted at three DTSC regional offices (CalCenter, Chatsworth, and Berkeley).

The California Department of Toxic Substances Control (DTSC) is authorized by EPA to implement the federal RCRA program. DTSC is located in Sacramento, with field offices in Berkeley, Clovis, Cypress, Chatsworth, El Centro and San Diego. DTSC employs over 1,000 staff and has an operating budget of approximately \$217 million (Region 9's RCRA grant is \$7M).

DTSC's RCRA compliance and enforcement program has been focused on permitted TSDFs since the 1990's, when California state law established a "unified hazardous waste and hazardous materials management" program ("Unified Program"). By 1996, the state had authorized all counties and numerous cities to implement six existing state regulatory programs, including the Hazardous Waste Generators program.

There are 83 Certified Unified Program Agencies, or CUPAs, fielding over 700 inspectors conducting approximately 80,000 inspections per year. CUPA agencies are almost all county or city health or fire departments. Once certified, CUPAs support their activities through local fees. No EPA grant funds are provided to CUPAs to implement the RCRA program.

As required by state law, each CUPA is evaluated every 3 years by CalEPA and the respective state program agencies (e.g., DTSC for hazardous waste). Region 9 believes the oversight program is thorough in identifying CUPA deficiencies and areas of concern.

California's RCRA compliance and enforcement data is migrated to RCRAInfo from DTSC's EnviroStor database monthly.

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:

- The quality of DTSC's written inspection reports is above average.

Most Significant RCRA Subtitle C Program Issues:

- Completion dates for inspection reports (with violations) are not being coded correctly in RCRAInfo. Summaries of Violations are issued on site by the DTSC inspector and are being coded as completed inspection reports. DTSC is in the process of upgrading its EnviroStor database to address this issue.

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: Federal Fiscal Year 2016

Key dates: RCRA File Review: 7/20/17 (CalCenter office), 7/28/17 (Chatsworth office), and 9/19/17 (Berkeley office)

Draft Report: September 2018

Final Report: March 2019

State and EPA key contacts for review:

DTSC: Denise Tsuji, Kristine Green, Roberto Kou, and Maria Soria.

EPA: John Schofield

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.

Resource Conservation and Recovery Act Findings

RCRA Element 1 — Data							
Finding 1-1	Area for State Improvement						
Summary	Dates inspection reports are completed are not entered into RCRAInfo for inspections with violations.						
Explanation	<p>At the end of an inspection, DTSC issues a Summary of Violations (SOV) if a violation(s) was observed during the inspection. The date the SOV is issued in the field is the date entered into RCRAInfo as an informal written enforcement action (coded “120 Written Informal”). Subsequently, a written inspection report is prepared. The date the written inspection report is completed and sent to the facility is not being entered into RCRAInfo.</p> <p>All DTSC data entry into RCRAInfo is through the agency’s EnviroStor database. The EnviroStor database translates the SOV date as a 120 Written Informal RCRAInfo data entry. Even though the enforcement code is not correct in RCRAInfo, the RCRAInfo listed date for the SOV is consistent with the file information.</p> <p>At the end of the SRF file review, EPA provided DTSC with preliminary results of the data entry issue observed. As result of EPA’s finding and other internal issues with the EnviroStor database, the agency is in the process of upgrading the EnviroStor database to address the above finding.</p>						
Relevant metrics	Metric ID Number and Description		Natl Goal	Natl Avg	State N	State D	State % or #
	2b Complete and accurate entry of mandatory data		100%	N/A	8	33	24.2%
State response	DTSC has been using the “120 Written Informal” defined value for issuance of a summary of violations. The “120 Written Informal” is used by EPA to identify when a violator has been notified of a violation in writing. EPA typically provides written notifications by delivery of the written inspection report. DTSC is required by California statute to provide a written summary of violations to a violator within 65 days of the date of the inspection. This is typically a separate written notification. The federal program has no corresponding requirement.						

	<p>DTSC is working with Region 9 staff to identify a more appropriate defined value to use when reporting this event. DTSC is finishing the upgrade to DTSC’s EnviroStor database to transfer all existing summary of violation dates to a different defined value and all existing inspection report dates to “120 Written Informal.” The upgrade will be completed after EPA Region 9 staff identify an acceptable alternative defined value for the summary of violation. DTSC anticipates this transfer will be completed within 120 days of the final State Review Framework report.</p>
Recommendation	<p>DTSC has been using the “120 Written Informal” defined value for issuance of a summary of violations. The “120 Written Informal” is used by EPA to identify when a violator has been notified of a violation in writing. EPA typically provides written notifications by delivery of the written inspection report. DTSC is required by California statute to provide a written summary of violations to a violator within 65 days of the date of the inspection. This is typically a separate written notification. The federal program has no corresponding requirement. DTSC is working with Region 9 staff to identify a more appropriate defined value to use when reporting this event. DTSC is finishing the upgrade to DTSC’s EnviroStor database to transfer all existing summary of violation dates to a different defined value and all existing inspection report dates to “120 Written Informal.” The upgrade will be completed after EPA Region 9 staff identify an acceptable alternative defined value for the summary of violation. DTSC anticipates this transfer will be completed within 120 days of the final State Review Framework report</p>

RCRA Element 2 — Inspections

Finding 2-1	Meets or Exceeds Expectations
Summary	DTSC inspection coverage for Treatment, Storage and Disposal Facilities (TSDFs) exceeded the national average.
Explanation	In California, DTSC is responsible for inspection/enforcement of TSDFs, used oil recyclers, hazardous waste transporters, and e-waste management facilities. Hazardous waste generator inspection and enforcement responsibilities have been delegated by the state legislature to 81 Certified Unified Program Agencies (CUPAs), such as city or county fire departments or environmental health departments. DTSC performs a limited number of generator inspections as part of its CUPA oversight program or in response to a tip/complaint received by the facility.

Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
	5a Two-year inspection coverage of operating TSDFs		100%	90.3%	52	56
State response	DTSC appreciates EPA’s acknowledgement that it exceeded the national average for performing inspections at operating TSDFs at least every two years. The national goal is 100%. As part of DTSC’s efforts to improve the inspection and enforcement program, in December 2017, DTSC added an annual work plan report in EnviroStor. The report will assist in identifying the facilities’ inspection due date based on inspection frequency for the facilities’ workplan type (Treatment, Storage, Disposal, Post Closure, Transporter, etc). DTSC will use the annual work plan report to monitor the progress of inspections during the state fiscal year.					
Recommendation	No further action is recommended.					

RCRA Element 2 — Inspections

Finding 2-2	Meets or Exceeds Expectations
Summary	RCRA inspection reports prepared by DTSC were generally well written and contained adequate supporting documentation.
Explanation	<p>All the inspection reports reviewed were completed in accordance with DTSC Policy for Conducting Inspections, DTSC-OP-0005 (January 30, 2009). Each report contains facility information, inspection participants, description of facility operations, description of permitted areas (if applicable), files reviewed, observations/violations and appropriate attachments and photographs to document the observation/violation.</p> <p>Due to the fact DTSC issues an SOV at the conclusion of the inspection where violations were observed, the facility is required to address the violation(s) prior to completion of the inspection report. If the facility has satisfactorily addressed the violation(s), a return to compliance (RTC) statement will be included in the inspection report and the RTC date entered into RCRAInfo.</p> <p>There were some exceptional inspection reports reviewed. For example, inspection reports prepared for Aerojet, Quemetco and Phibro-Tech exceeded minimal requirements specified in Policy, DTSC-OP-0005.</p>

	However, there were a few reports that contained typos or wrong dates, which indicates these reports did not receive adequate quality assurance/quality control review: Travis AFB, Vandenberg AFB (incomplete EPA ID number), and GEM Rancho Cordova.					
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%	N/A	33	33	100%
State response	DTSC appreciates EPA’s acknowledgment that it met the national goal of 100% of inspection reports prepared that are complete and sufficient to determine compliance. The Inspection Policy for Conducting Inspections (DTSC-OP-0005) requires the inspector to submit draft inspection reports to their supervisor and backup inspector for review. In addition, DTSC has developed a Supervisor’s Report Review Guidance for EERD supervisors to follow when reviewing staff’s inspection reports. Also, as of July 1, 2018, DTSC has implemented a new Inspection Report template which streamlines the report writing process. As a result, DTSC will assure that all the inspection reports receive the adequate quality assurance/quality control review.					
Recommendation	No further action is recommended.					

RCRA Element 2 — Inspections

Finding 2-3	Area for State Attention
Summary	Timeliness of completed inspection reports could be improved.
Explanation	<p>In accordance with California Health and Safety Code Section 25185(c)(2)(A), DTSC is required to provide a copy of the written inspection report to the facility within 65 days of the inspection.</p> <p>Metric 6b measures the timeliness of inspection reports. Of the 33 inspection reports reviewed, 24 (72.7%) inspection reports were completed within the 65-day requirement.</p> <p>At the conclusion of an inspection, DTSC issues an SOV if a violation(s) is observed or a Summary of Observation (SOO) if no violations are observed or more investigation of an observation is required. The SOV provides a concise summary of the violation(s) identified during the inspection and is issued at the conclusion of the inspection. There are</p>

times when an SOV will be issued shortly after the inspection. This is done only when an inspector may require additional time to determine if an observation should be classified as a violation. The SOV is signed by the inspector and by the facility representative receiving the SOV. The SOV requires the facility to address the observed violation(s) within a certain number of days (typically 30 days). If no violations are observed a signed SOO is left instead.

Note: In 2017, DTSC conducted a LEAN process review of inspection policies and procedures. One of the goals of the review process was to improve timeliness of written inspection reports. EPA will discuss the progress of this LEAN review during routine coordination meetings/calls with DTSC in FY2018-FY2019.

Relevant metrics

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
6b Timeliness of inspection report completion	100%	N/A	24	33	72.7%

State response

DTSC acknowledges that it has a state statutory mandate to provide completed inspection reports in most cases within 65 days of the inspection (*note: CA Health and Safety code section 25185 subdivision (c) paragraph (2)(B) states: The **time period required** by subparagraph (a) **may be extended** as a result of a natural disaster, inspector illness, or other circumstances beyond the control of the department, or the local officer or agency, **if the department or the local officer or agency so notifies the operator within 70 days from the date of the inspection and provides the inspection report to the operator in a timely manner after the reason for the delay is ended.**) However, the data set that EPA reviewed for FY2016 (24 of 33 inspections or 72.7%) provide a less accurate picture of DTSC’s performance at meeting our statutory mandate. For FY 2016, DTSC conducted a total number of 431 inspections. During this period, 402 inspection reports were completed within 65 days. This reflects a percentage of 93.2%.*

During 2017, DTSC performed a Lean Six Sigma (L6S) project to streamline the inspection report process. The performance goal for this project is to issue 95% of inspection reports within 30 days. Before initiating the L6S project, 67% of the inspection reports were completed within 30 days. DTSC started implementing the new process in September 2017. By September 2018, DTSC has reached a rate of 87% of inspection reports issued within 30 days and 88.7% within 65 days. DTSC expects to achieve 100% compliance with the statutorily mandated 65-day inspection report issuance time frame.

	<p>In December 2017, DTSC added an inspection report project management tool to EnviroStor. This project management tool will assist DTSC inspectors with completing inspection reports by tracking inspection report milestones identified in DTSC’s policy on inspections (Conducting Inspections [DTSC-OP-0005], dated 6/29/17).</p>
Recommendation	No further action is recommended.

RCRA Element 3 — Violations

Finding 3-1	Meets or Exceeds Expectations																														
Summary	Files reviewed included accurate compliance determinations and SNC (significant noncomplier) determinations, when applicable.																														
Explanation	<p>Of the 33 files reviewed with inspection reports, 24 (72.7%) of the reports identified violations (Class 1 (SNC), secondary, and/or minor). Of the 24 facilities with violations, 9 (37.5%) of the inspection reports identified Class 1 (SNC) violations.</p> <p>All Class 1 (SNC) determinations were made at the conclusion of the inspection, as listed in the SOV, (i.e. within 150 days). Except for the Quemetco Class 1 (SNC) determination, all SNY (significant violation(s) found) and/or SNN (significant violation(s) has been addressed) findings were entered correctly into RCRAInfo. There was no SNY or SNN for Quemetco listed for the Class 1 (SNC) violation(s) observed during the reporting period.</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>7b Violations found during inspections</td> <td>N/A</td> <td>35.9%</td> <td>223</td> <td>607</td> <td>36.7%</td> </tr> <tr> <td>8a SNC identification rate</td> <td>N/A</td> <td>2.1%</td> <td>30</td> <td>607</td> <td>4.9%</td> </tr> <tr> <td>8b Timeliness of SNC determinations</td> <td>100%</td> <td>N/A</td> <td>9</td> <td>9</td> <td>100%</td> </tr> <tr> <td>8c Appropriate SNC determinations</td> <td>100%</td> <td>N/A</td> <td>24</td> <td>24</td> <td>100%</td> </tr> </tbody> </table>	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #	7b Violations found during inspections	N/A	35.9%	223	607	36.7%	8a SNC identification rate	N/A	2.1%	30	607	4.9%	8b Timeliness of SNC determinations	100%	N/A	9	9	100%	8c Appropriate SNC determinations	100%	N/A	24	24	100%
Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #																										
7b Violations found during inspections	N/A	35.9%	223	607	36.7%																										
8a SNC identification rate	N/A	2.1%	30	607	4.9%																										
8b Timeliness of SNC determinations	100%	N/A	9	9	100%																										
8c Appropriate SNC determinations	100%	N/A	24	24	100%																										
State response	<p>DTSC appreciates EPA’s acknowledgement that it meets either the national goal or exceeds the national average of metrics identified that measure accuracy of compliance determinations and significant non-complier determinations. In December 2017, DTSC added a new violations report for data managers, inspectors, and supervisors in EnviroStor. The violations report assists users in identifying facilities with violations that have not been returned to compliance, including those facilities that are significant noncompliers.</p> <p>Regarding the designation of a Class 1 violation at Quemetco that has not returned to compliance (significant violation has been addressed) or SNN. Quemetco has disputed the violation. DTSC has filed a civil action against Quemetco for this and other significant violations. DTSC and Quemetco are in discussions to resolve the violation and settle the enforcement action. It was DTSC’s understanding that these violations should retain the SNY (significant violation found) designation until</p>																														

	these violations have returned to compliance. If EPA would like DTSC to apply the SNY/SNN designations differently, please let DTSC know.
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Recommendation	No further action is necessary.
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RCRA Element 4 — Enforcement

Finding 4-1	Meets or Exceeds Expectations
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Summary	DTSC effectively manages noncompliant facilities with appropriate enforcement responses.
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Explanation	<p>For inspections where violations are identified, DTSC issues an SOV at the conclusion of the inspection. The SOV includes a time period for the facility to address the listed violation(s). DTSC has 65-days to complete an inspection report. During this period, the facility will submit a response to the SOV. DTSC includes a summary of the SOV response in the inspection report and whether or not the identified violation(s) has been satisfactorily addressed by the facility. If all the violations are satisfactorily addressed by the facility, there is no required response by the facility upon receipt of the inspection report.</p> <p>For formal enforcement actions that have a calculated penalty of less than \$75,000, DTSC will pursue the enforcement action administratively. For formal enforcement actions with a calculated penalty greater than \$75,000, the action will be referred to the Office of Attorney General (AG).</p> <p>Twenty-four of the files reviewed during the period had violations with either Class 1 (SNC), secondary, and/or minor violations. Only one enforcement action initiated by DTSC had not been addressed via informal or formal enforcement (Acme Fill Corporation).</p> <p>In accordance with EPA’s December 2003 Hazardous Waste Civil Response Policy, enforcement actions with SNC determinations should be concluded within 360 days of the first date of the inspection. Metric 10a measures timeliness of returning to compliance for violations where SNC is identified. According to the FY2016 frozen data, there were 19 inspections with SNY determination. Seventeen of the SNY determinations (89.5%) were concluded within 360 days of first date of the inspection. The national goal is 80%. The national average is 84.2%. California exceeded the national average.</p>
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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	N/A	27	28	96.4%
	10a Timely enforcement taken to address SNC	80	86.4%	17	19	89.5%
State response	DTSC appreciates EPA’s acknowledgement that it exceeds (89.5%) both the national goal (80%) and the national average (86.4%) for timely enforcement actions to address significant non-compliers and fell just short (96.4%) of the national goal (100%) for enforcement that returns violators to compliance. DTSC is adding enhancements to EnviroStor that will help DTSC inspectors efficiently and timely complete administrative and civil enforcement actions. The project management tool will track enforcement milestones set in DTSC’s policy on enforcement [Enforcement Response (DTSC-OP-0006), dated 6/29/17].					
Recommendation	No further action is required.					

RCRA Element 5 — Penalties

Finding 5-1	Meets or Exceeds Expectations					
Summary	California includes gravity-based, multiday and economic benefit components in their penalty calculation procedures.					
Explanation	Penalty related files are kept separately from the inspection and enforcement files. Three formal penalty actions were reviewed. Each of the penalty actions included a worksheet and justification memorandum that applied each of the penalty components to each violation listed. Files included differences between initial and final penalty, and also included documentation that the penalties had been paid.					
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	N/A	3	3	100%
	12a Documentation on difference between initial and final penalty	100	N/A	3	3	100%
	12b Penalties collected	100	N/A	3	3	100%

<p>State response</p>	<p>DTSC appreciates EPA’s acknowledgment that it met the national goal of 100% of enforcement cases with penalties calculated, documented and collected.</p> <p>During 2016/17, DTSC performed a Lean Six Sigma (L6S) project to streamline the issuance of enforcement actions with administrative penalties under \$75,000. The performance goal for this project is to assess and approve 95% of penalties at \$75,000 or less for administrative cases within 14 days of sending the inspection report to the operator (44 days after the first day of inspection). Before initiating the L6S project, it took DTSC an average of 259 days to assess a proposed penalty. DTSC started implementing the new process in September 2017. As DTSC implemented this L6S project, DTSC did not achieve the desired improvements and identified process issues that resulted in delays in issuing penalties. DTSC began an additional penalty assessment L6S project in 2017/18 to address some of these process issues. This most recent L6S project resulted in major changes in the way DTSC calculates, reviews and approves administrative and civil penalties. Starting in October 2018, DTSC began implementation of the new processes and anticipates further improvements in calculation of penalties.</p>
<p>Recommendation</p>	<p>No further action is necessary.</p>