

# **STATE REVIEW FRAMEWORK**

## **Georgia**

**Clean Air Act, Clean Water Act, &  
Resource Conservation & Recovery Act  
Implementation in Federal Fiscal Year 2017**

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

**Final Report  
September 26, 2019**

# I. Introduction

## A. Overview of the State Review Framework

The State Review Framework (SRF) is a key mechanism for EPA oversight, providing a nationally consistent process for reviewing the performance of state delegated compliance and enforcement programs under three core federal statutes: Clean Air Act, Clean Water Act, and Resource Conservation and Recovery Act. Through SRF, EPA periodically reviews such programs using a standardized set of metrics to evaluate their performance against performance standards laid out in federal statute, EPA regulations, policy, and guidance. When states do not achieve standards, the EPA will work with them to improve performance.

Established in 2004, the review was developed jointly by EPA and Environmental Council of the States (ECOS) in response to calls both inside and outside the agency for improved, more consistent oversight of state delegated programs. The goals of the review that were agreed upon at its formation remain relevant and unchanged today:

1. Ensure delegated and EPA-run programs meet federal policy and baseline performance standards
2. Promote fair and consistent enforcement necessary to protect human health and the environment
3. Promote equitable treatment and level interstate playing field for business
4. Provide transparency with publicly available data and reports

## B. The Review Process

The review is conducted on a rolling five-year cycle such that all programs are reviewed approximately once every five years. The EPA evaluates programs on a one-year period of performance, typically the one-year prior to review, using a standard set of metrics to make findings on performance in five areas (elements) around which the report is organized: data, inspections, violations, enforcement, and penalties. Wherever program performance is found to deviate significantly from federal policy or standards, the EPA will issue recommendations for corrective action which are monitored by EPA until completed and program performance improves.

The SRF is currently in its 4th Round of reviews (FY2018-2022), preceded by Round 3 (FY2012-2017), Round 2 (2008-2011), and Round 1 (FY2004-2007). Additional information and final reports can be found at the EPA website under [State Review Framework](#).

# II. Navigating the Report

The final report contains the results and relevant information from the review including EPA and program contact information, metric values, performance findings and explanations, program responses, and EPA recommendations for corrective action where any significant deficiencies in performance were found.

## A. Metrics

There are two general types of metrics used to assess program performance. The first are **data metrics**, which reflect verified inspection and enforcement data from the national data systems of each media, or statute. The second, and generally more significant, are **file metrics**, which are derived from the review of individual facility files in order to determine if the program is performing their compliance and enforcement responsibilities adequately. In general, each metric is the ratio of the numerator (N) divided by the denominator (D), shown as a percentage in the “relevant metrics” tables below.

Other information considered by EPA to make performance findings in addition to the metrics includes results from previous SRF reviews, data metrics from the years in-between reviews, multi-year metric trends.

## B. Performance Findings

The EPA makes findings on performance in five program areas:

- **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, accuracy of compliance determinations, and determination of significant noncompliance (SNC) or high priority violators (HPV)
- **Enforcement** - timeliness and appropriateness of enforcement, returning facilities to compliance
- **Penalties** - calculation including gravity and economic benefit components, assessment, and collection

Though performance generally varies across a spectrum, for the purposes of conducting a standardized review, SRF categorizes performance into three findings levels:

**Meets or Exceeds:** No issues are found. Base standards of performance are met or exceeded.

**Area for Attention:** Minor issues are found. One or more metrics indicates performance issues related to quality, process, or policy. The implementing agency is considered able to correct the issue without additional EPA oversight.

**Area for Improvement:** Significant issues are found. One or more metrics indicates routine and/or widespread performance issues related to quality, process, or policy. A recommendation for corrective action is issued which contains specific actions and schedule for completion. The EPA monitors implementation until completion.

## C. Recommendations for Corrective Action

Whenever the EPA makes a finding on performance of *Area for Improvement*, the EPA will include a recommendation for corrective action, or recommendation, in the report. The purpose

of recommendations is to address significant performance issues and bring program performance back in line with federal policy and standards. All recommendations should include specific actions and a schedule for completion, and their implementation is monitored by the EPA until completion.

### III. Review Process Information

Key Dates:

- June 13, 2018: kick off letter sent to state
- August 13-17, 2018, on-site file review for CAA & CWA
- August 20-22, 2018, on-site file review for RCRA

State and EPA key contacts for review:

	Georgia Environmental Protection Division (EPD)	EPA Region 4
SRF Coordinator	Chuck Mueller, Director Cross Media Programs	William Bush, OEC SRF Coordinator
CAA	Karen Hays, Chief Air Protection Branch	Mark Fite, OEC Technical Authority Kevin Taylor & Jacob Carpenter, Air Enforcement & Toxics Branch
CWA	Lewis Hays, Program Manager, Watershed Compliance Program Watershed Protection Branch	Laurie Ireland, OEC Technical Authority Humberto Guzman & Ahmad Dromgoole, NPDES Permitting & Enforcement Branch
RCRA	Jane Hendricks, Program Manager, Hazardous Waste Management Program	Reggie Barrino, OEC Technical Authority David Champagne, RCRA Hazardous Waste Enforcement and Compliance Branch

# Executive Summary

## Introduction

### Areas of Strong Performance

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The following are aspects of the program that, according to the review, are being implemented at a high level:

#### **Clean Air Act (CAA)**

EPD met the negotiated frequency for inspection of sources, reviewed Title V Annual Compliance Certifications, and included all required elements in their Full Compliance Evaluations (FCEs) and Compliance Monitoring Reports (CMRs).

Enforcement actions bring sources back into compliance within a specified timeframe, and HPVs are addressed in a timely and appropriate manner.

Appropriate documentation was evident to demonstrate the following: consideration of gravity and economic benefit in initial penalty calculations; the rationale for differences between the initial and final penalty; and the collection of penalties.

#### **Clean Water Act (CWA)**

EPD met most of its FY2017 CMS Plan and CWA §106 Workplan inspection commitments.

The state consistently documented the collection of penalties.

#### **Resource Conservation and Recovery Act (RCRA)**

EPD's RCRA program inspection reports reviewed were complete, provided appropriate documentation to determine compliance at the facility and the timeliness of inspection report completion was well under the 150-day timeline outlined the Hazardous Waste Civil Enforcement Response Policy (ERP). Building off progress from previous SRF reviews, EPA observed significant improvements in the level of detail included in the inspection reports.

EPD made accurate RCRA compliance determinations. In addition, significant noncompliance (SNC) determinations were timely and appropriate.

## Priority Issues to Address

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The following are aspects of the program that, according to the review, are not meeting federal standards and should be prioritized for management attention:

### **Clean Air Act (CAA)**

None.

### **Clean Water Act (CWA)**

The accuracy of data between files reviewed and data reflected in the national data system needs improvement.

EPD inspection reports were not consistently completed in a timely manner.

The CWA program does not maintain any penalty calculations, so the adequacy of gravity and economic benefit calculations and penalty documentation could not be evaluated.

### **Resource Conservation and Recovery Act (RCRA)**

The RCRA program does not maintain any penalty calculations, so the adequacy of gravity and economic benefit calculations and penalty documentation could not be evaluated.

# Clean Air Act Findings

## CAA Element 1 - Data

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### Finding 1-1

Meets or Exceeds Expectations

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#### Summary:

Minimum Data Requirements (MDRs) are entered timely and accurately into ICIS-Air.

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#### Explanation:

File Review Metric 2b indicated that 88.6% (31 of 35) of the files reviewed reflected accurate entry of all MDRs into ICIS-Air. Metrics 3a2, 3b1, 3b2 and 3b3 indicated that EPD entered MDR data into ICIS-Air within the specified timeframe.

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#### State Response:

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#### Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State %
2b Files reviewed where data are accurately reflected in the national data system [GOAL]	100%	-	31	35	88.57%
3a2 Timely reporting of HPV determinations [GOAL]	100%	40.5%	12	12	100%
3b1 Timely reporting of compliance monitoring MDRs [GOAL]	100%	82.3%	795	815	97.55%
3b2 Timely reporting of stack test dates and results [GOAL]	100%	67.1%	1159	1342	86.36%
3b3 Timely reporting of enforcement MDRs [GOAL]	100%	77.6%	105	106	99.06%

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## CAA Element 2 - Inspections

### Finding 2-1

Meets or Exceeds Expectations

#### Summary:

EPD met the negotiated frequency for inspection of sources, reviewed Title V Annual Compliance Certifications, and included all required elements in their Full Compliance Evaluations (FCEs) and Compliance Monitoring Reports (CMRs).

#### Explanation:

Metrics 5a and 5b indicated that EPD provided adequate inspection coverage for major and SM-80 sources during FY2017 by ensuring that each major source was inspected at least every 2 years, and each SM-80 source was inspected at least every 5 years. In addition, Metric 5e documented that EPD reviewed Title V annual compliance certifications submitted by major sources. Finally, Metrics 6a and 6b confirmed that all elements of an FCE and CMR required by the Clean Air Act Stationary Source Compliance Monitoring Strategy (CMS Guidance) were addressed in facility files reviewed.

#### State Response:

#### Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State %
5a FCE coverage: majors and mega-sites [GOAL]	100%	88.7%	225	225	100%
5b FCE coverage: SM-80s [GOAL]	100%	93.7%	212	212	100%
5e Reviews of Title V annual compliance certifications completed [GOAL]	100%	76.7%	328	331	99.09%
6a Documentation of FCE elements [GOAL]	100%	-	22	23	95.65%
6b Compliance monitoring reports (CMRs) or facility files reviewed that provide sufficient documentation to determine compliance of the facility [GOAL]	100%	-	22	23	95.65%

## CAA Element 3 - Violations

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### Finding 3-1

Area for Attention

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#### Summary:

EPD made accurate compliance determinations for both HPV and non-HPV violations. Although a few HPVs determinations were not entered timely into ICIS-Air, these late entries were related to inaccurate reporting of the discovery date, which EPD has self-corrected.

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#### Explanation:

Metric 7a indicated that EPD made accurate compliance determinations in 36 of 37 files reviewed (97.3%). Metric 8c confirmed that EPD's HPV determinations were accurate for all 22 files reviewed (100%). Metric 13 indicated that 7 of 12 HPV determinations (58.3%) were timely (made within 90 days of the discovery action). The 5 HPVs that were untimely were associated with a single source with a day zero just two weeks beyond 90 days. The state advises that this was due to the wrong discovery date being reported into ICIS-Air. EPD has modified its data entry SOP to address this issue, so the problem has been self-corrected. Finally, EPA selected supplemental files to further evaluate the state's FRV and HPV discovery rates (reflected in indicator metrics 7a1 and 8a). The file review confirmed that the state was making accurate violation determinations.

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#### State Response:

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#### Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State %
13 Timeliness of HPV Identification [GOAL]	100%	87.7%	7	12	58.33%
7a Accurate compliance determinations [GOAL]	100%	-	36	37	97.3%
7a1 FRV "discovery rate" based on inspections at active CMS sources	-	6.2%	64	1081	5.92%
8a HPV discovery rate at majors	-	2.3%	6	374	1.6%
8c Accuracy of HPV determinations [GOAL]	100%	-	22	22	100%

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## CAA Element 4 – Enforcement

### Finding 4-1

Meets or Exceeds Expectations

#### Summary:

Enforcement actions bring sources back into compliance within a specified timeframe, and HPVs are addressed in a timely and appropriate manner.

#### Explanation:

Metric 9a indicated that all formal enforcement actions (100%) reviewed brought sources back into compliance through corrective actions in the order, or compliance was achieved prior to issuance of the order. Metric 10a indicated that 100% of the HPVs were addressed within 180 days. Metric 14 indicated that since all HPVs were addressed within the 180-day target timeframe, no case development and resolution timelines were developed or needed in FY2017. Metric 10b indicated that appropriate enforcement action was taken to address all HPVs (100%) evaluated during the file review.

#### State Response:

#### Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State %
10a Timeliness of addressing HPVs or alternatively having a case development and resolution timeline in place [GOAL]	100%	-	10	10	100%
10b Percent of HPVs that have been have been addressed or removed consistent with the HPV Policy [GOAL]	100%	-	10	10	100%
14 HPV case development and resolution timeline in place when required that contains required policy elements [GOAL]	100%	-	0	0	-
9a Formal enforcement responses that include required corrective action that will return the facility to compliance in a specified time frame or the facility fixed the problem without a compliance schedule [GOAL]	100%	-	21	21	100%

## CAA Element 5 - Penalties

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### Finding 5-1

Meets or Exceeds Expectations

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#### Summary:

Appropriate documentation was evident to demonstrate the following: consideration of gravity and economic benefit in initial penalty calculations; the rationale for differences between the initial and final penalty; and the collection of penalties.

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#### Explanation:

Metric 11a indicates that 19 of the 20 penalty actions reviewed (95%) provided adequate documentation of the state's consideration of gravity and economic benefit. Metric 12a indicated that 19 of 20 penalty calculations reviewed (95%) documented the rationale for any difference between the initial and final penalty. Finally, Metric 12b confirmed that documentation of all penalty payments made by sources was included in the file (100%).

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#### State Response:

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#### Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State %
11a Penalty calculations reviewed that document gravity and economic benefit [GOAL]	100%	-	19	20	95%
12a Documentation of rationale for difference between initial penalty calculation and final penalty [GOAL]	100%	-	19	20	95%
12b Penalties collected [GOAL]	100%	-	20	20	100%

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# Clean Water Act Findings

## CWA Element 1 - Data

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### Finding 1-1

Meets or Exceeds Expectations

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#### Summary:

EPD met or exceeded National Goals for the entry of key data metrics for major and non-major facilities.

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#### Explanation:

EPD met or exceeded National Goals for the entry of key Data Metrics (1b5 and 1b6) for major and non-major facilities. For the FY2017 period of review, EPD entered 100% of their permit limits and 93.7% of DMRs for NPDES major and non-major facilities. NPDES non-major facilities includes both NPDES minor individual and general permittees.

FY2017 was the first year DMR data entry for non-major facilities was required by the NPDES electronic reporting rule (NPDES e-Rule). EPD exceeded the national average of 90.6% for Metric 1b6 in FY2017 and exceeded the National Goal for Metric 1b6 in FY18. Because of these factors, the minor deviation observed for Metric 1b6 in FY2017 is not significant.

EPA commends EPD on the increased data entry of Single Event Violation (SEV) entry rates since SRF Round 3.

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#### State Response:

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#### Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State %
1b5 Completeness of data entry on major and non-major permit limits. [GOAL]	95%	88.1%	672	672	100%
1b6 Completeness of data entry on major and non-major discharge monitoring reports. [GOAL]	95%	90.6%	14641	15630	93.7%
7j1 Number of major and non-major facilities with single-event violations reported in the review year	-	-			204

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**Finding 1-2**Area for Improvement

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**Summary:**

The accuracy of data between files reviewed and data reflected in the national data system needs improvement.

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**Explanation:**

Metric 2b indicated that 40.5% (17/42) of the files reviewed reflected accurate data entry of minimum data requirements (MDR) for NPDES facilities into the Integrated Compliance Information System (ICIS). Discrepancies observed between ICIS and the State's files were related to duplicate entries of inspections and enforcement actions; missing enforcement actions, penalty amounts, or inspections; and inaccurate dates or penalty amounts. EPD promptly corrected these discrepancies once brought to the state's attention.

Discrepancies were also observed between the permit universes and the number of inspections entered into ICIS versus the permit universes and the number of Compliance Monitoring Strategy (CMS) inspections conducted as reported via the CWA § 106 Grant Workplan. Accurate data entry of permit universes and inspections into ICIS is required by the NPDES e-Rule and the NPDES Enforcement Management System (EMS).

Data Accuracy was raised in Round 3 as an Area for State Improvement. While substantial work has been done by GA to improve the state database for NPDES e-Rule implementation, additional work to ensure data accuracy is needed to meet the SRF national goal. Therefore, this remains an Area for State Improvement in SRF Round 4.

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**State Response:**

GA EPD agrees with the recommendation to reassess practices and procedures to ensure accurate and complete data entry into ICIS.

This SRF audit looked at data from 2017, the first full year of the Electronic Reporting Rule. As noted in the Explanation above, during the audit, GA EPD identified issues with data flow processes that were causing duplicate, inaccurate and/or missing entries of inspections, enforcement actions, penalty amounts, and permitted facilities. A significant data cleanup was initiated during 2017, addressing major/minor facility mismatches, permit terminations and flow errors, and GA EPD continues to address flow and data issues as new permits, facilities, inspections, and enforcement actions are added. For example, the expired Construction General Permits for stormwater (CGP) are listed as "administratively continued" in ICIS, instead of "expired," greatly overinflating the universe of construction stormwater permittees. GA EPD is currently working to address this issue.

Starting in 2017, the GA EPD Watershed Data Management Unit manager leads an annual internal data audit effort: the manager pulls permit universe, inspection, enforcement, violation, and penalty data prior to each annual ICIS data freeze and shares the information with appropriate Watershed Protection Branch and District Office staff for review. In FY20, GA EPD

will conduct the ICIS data pull 30 days after the end of the Federal Fiscal Year to allow additional time to address any discrepancies between the data available in ICIS and the data available in the State database (GAPDES). In addition to verifying the data, GA EPD will identify common issues, if any, and update relevant GAPDES data entry procedures to address these common issues.

Additionally, GA EPD seeks to minimize inconsistencies between ICIS and the CMS. As GA EPD implements online applications and NOIs, permit universe numbers will be more accurate, particularly for large and dynamic universes such as construction and industrial stormwater permittees. This means that the permittee universe at the time of the CMS commitment, which is set at the beginning of the year, and the CMS end of year report, may differ. To ensure consistency, GA EPD will utilize current quarterly SNC Enforcement meetings to communicate regularly with USEPA enforcement staff about current permittee universe numbers to meet 106 workplan requirements.

Finally, the CMS universe categories do not exactly line up with the ICIS categories, so a direct comparison of the two will necessarily produce a discrepancy. CMS numbers in the Workplan are adjusted to eliminate duplication among categories to avoid miscommunication of commitments.

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**Recommendation:**

Rec #	Due Date	Recommendation
1	03/31/2020	By December 31, 2019, EPD should reassess their practices and procedures to ensure accurate and complete data entry into ICIS. These practices should also include accurate entry of CMS inspections and facility universes into ICIS. Any revised procedures should be submitted to EPA for review. EPA will review these practices and procedures and monitor the state’s implementation efforts through existing oversight calls and an analysis of the CWA §106 grant workplan commitments. Following the FY19 data verification process, EPA will conduct a data review. If by March 31, 2020, these reviews indicate that the state is entering accurate and complete data into ICIS, the recommendation will be considered completed.

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**Relevant metrics:**

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<b>Metric ID Number and Description</b>	<b>Natl Goal</b>	<b>Natl Avg</b>	<b>State N</b>	<b>State D</b>	<b>State %</b>
2b Files reviewed where data are accurately reflected in the national data system [GOAL]	100%	-	17	42	40.5%

## **CWA Element 2 - Inspections**

### **Finding 2-1**

Meets or Exceeds Expectations

#### **Summary:**

EPD met most of its FY2017 CMS Plan and CWA §106 Workplan inspection commitments.

#### **Explanation:**

Element 2 includes metrics that measure planned inspections completed (Metrics 4a1 & 4a10) and inspection coverages (Metrics 5a1, 5b1, and 5b2) for NPDES majors and non-majors. The National Goal for these Metrics is for 100% of state specific CMS Plan commitments to be met. The FY2017 inspection commitments listed in the table below are from the CWA §106 Workplan end of year (EOY) report.

Based on review of the EPD CWA §106 Workplan EOY report, the state met most of its CMS inspection commitments in FY2017, except for its Pretreatment related commitments (Metrics 4a1 and 4a2) and NPDES minors (Metric 5b).

For Metric 4a1, the state met the Pretreatment audit commitments but missed the Pretreatment compliances inspections by one. For Metric 4a2, the state missed the SIU inspection commitments for non-sampling and sampling by two and five, respectively.

As highlighted under the Data Element, there are discrepancies between the CMS inspections and permit universes and those reported in ICIS. The Region also combined the NPDES minor individual and general permits inspections and universes into one commitment in FY2017. Therefore, separate inspection coverages for Metrics 5b1 and 5b2 could not be ascertained from the FY2017 CWA §106 Workplan EOY report.

While EPD missed the FY2017 inspection coverage for Metric 5a1 by one, it is noted that they met the overall multiyear frequency inspection coverages for NPDES majors (100% of the universe every two years).

The state had an alternative CMS for inspections of MS4s (18% vs. 20%), industrial stormwater facilities (3% vs. 10%), and construction stormwater facilities (8% vs. 10%). EPD met or exceeded those alternative CMS commitments.

In the subsequent FY18 EOY report, the state met or exceeded its commitments for Metrics 4a1, 4a2, and 5b. Because the state took steps to ensure inspection commitments were met in FY18, the missed FY2017 commitments are not a systemic issue.

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**State Response:**

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**Relevant metrics:**

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<b>Metric ID Number and Description</b>	<b>Natl Goal</b>	<b>Natl Avg</b>	<b>State N</b>	<b>State D</b>	<b>State %</b>
4a1 Number of pretreatment compliance inspections and audits at approved local pretreatment programs. [GOAL]	100% of commitments	-	35	36	97.2%
4a2 Number of inspections at EPA or state Significant Industrial Users that are discharging to non-authorized POTWs. [GOAL]	100% of commitments	-	127	134	94.8%
4a4 Number of CSO inspections. [GOAL]	100% of commitments	-	1	1	100%
4a5 Number of SSO inspections. [GOAL]	100% of commitments	-	33	8	412.5%
4a7 Number of Phase I and II MS4 audits or inspections. [GOAL]	100% of commitments	-	28	28	100%
4a8 Number of industrial stormwater inspections. [GOAL]	100% of commitments	-	80	75	106.7%
4a9 Number of Phase I and Phase II construction stormwater inspections. [GOAL]	100% of commitments	-	811	800	101.4%
4a10 Number of comprehensive inspections of large and medium concentrated animal feeding operations (CAFOs) [GOAL]	100% of commitments	-	12	4	300%
5a1 Inspection coverage of NPDES majors. [GOAL]	100% of commitments	-	89	91	97.8%
5b Inspections coverage of NPDES non-majors (individual and general permits) [GOAL]	100% of commitments	-	138	139	99.3%

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**Finding 2-2**

Area for Attention

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**Summary:**

Most of EPD's inspection reports were well written, complete and provided sufficient documentation to determine compliance.

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**Explanation:**

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Metric 6a requires that inspection reports are complete and sufficient to determine compliance at a facility. Approximately 77.4% (24/31) of GA EPD's inspection reports and the accompanying cover letter were found to be well written, complete, and sufficient. Field observations noting compliance issues were also included in inspection reports and/or cover letters, where appropriate.

Of the seven files without complete and sufficient inspection reports:

- None contained documentation of a finalized inspection report.
  - One file was for a follow-up inspection at a wastewater treatment plant. While there was a brief letter to the facility in the file, there was no documentation of an inspection report or trip report in the file.
  - One file contained a very well written and detailed memo documenting an industrial wastewater inspection. There was no documentation in the file that the manager reviewed and signed off on the memo or that an inspection report was finalized and sent to the facility.
  - One file contained a well written draft MS4 inspection report and the state indicated the inspector retired before the report was finalized.
  - Four files contained only an industrial stormwater inspection checklist with handwritten notes. No final inspection report was contained within the file.
    - While one of these files contained a letter to the facility with the inspection findings, it conflicted with the checklist (see Finding 3-1).

As noted in the EMS, Chapter 5, Section A, findings from inspections should be finalized, reviewed by the manager, and provided to the facility.

Additionally, while the inspection reports and cover letters were well-written and included the inspection checklist, many of the reports did not have a place for signatures from the inspector and manager as required by the EMS. It is suggested that GA EPD update their inspection report templates to include the inspector and manager signatures.

Because lack of documentation of a final report does not appear to be a systemic issue and most reviewed inspection reports contained sufficient documentation, this is an Area for State Attention for SRF Round 4.

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**State Response:**

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**Relevant metrics:**

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State %
6a Inspection reports complete and sufficient to determine compliance at the facility. [GOAL]	100%	-	24	31	77.4%

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**Finding 2-3**

Area for Improvement

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**Summary:**

EPD inspection reports were not consistently completed in a timely manner.

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**Explanation:**

File Metric 6b indicated that 64.5% (20/31) of EPD's inspection reports were completed in a timely manner. Because the state's Enforcement Manual does not prescribe timeframes for inspection report completion, EPA relied on its EMS which allows for 30 days and 45 days to complete non-sampling and sampling inspection reports, respectively.

Of the 31 files where an inspection was conducted, seven files did not contain any documentation of a final inspection report (see Finding 2-2). Because these seven files were not finalized, the average number and range of days needed to complete a report could not be appropriately determined.

Timeliness of inspection reports was an Area for State Attention in Rounds 2 and 3. This is an Area for State Improvement in Round 4.

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**State Response:**

The timeframes provided in the Enforcement Management System (EMS) are reasonable targets. Currently, inspection report timeframes and management review expectations are set in several internal documents, including performance management plans. By December 1, 2019, GA EPD will review and revise inspection procedures in all CWA program areas and the District offices to ensure that EMS timeframes and management review requirements for completing reports are properly and consistently defined and documented for the respective program areas. To meet this goal, GA EPD will hold internal meetings to review and revise inspection procedures. The meetings will allow the CWA program area and District Office staff to share their processes, identify what works, and update relevant procedures with timeframe and management review

expectations explicitly stated. GA EPD will provide the procedures that result from this process to EPA for review.

GA EPD will initiate quarterly internal reviews to track inspection report progress. Areas with deficiencies in timeliness will receive additional attention to identify and remove barriers to timely inspection report completion.

**Recommendation:**

<b>Rec #</b>	<b>Due Date</b>	<b>Recommendation</b>
1	03/31/2020	By December 31, 2019, EPD should reassess their practices and procedures to ensure the timely completion of inspection reports. EPD also has the ability to establish their own timeframes for inspection report completion. Any revised procedures should be submitted to EPA for review. EPA will review these practices and procedures and monitor the state’s implementation efforts through existing oversight calls and other periodic data reviews. EPA will also review a random sample of inspection reports for timeliness. If by March 31, 2020, these reviews indicate that the state is timely in completing inspection reports; the recommendation will be considered completed.

**Relevant metrics:**

<b>Metric ID Number and Description</b>	<b>Natl Goal</b>	<b>Natl Avg</b>	<b>State N</b>	<b>State D</b>	<b>State %</b>
6b Timeliness of inspection report completion [GOAL]	100%	-	20	31	64.5%

## CWA Element 3 - Violations

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### Finding 3-1

Area for Attention

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#### Summary:

The state's inspection reports generally documented accurate compliance determinations.

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#### Explanation:

Metric 7e indicated that 80.8% (21/26) of the inspection reports reviewed generally documented an accurate compliance determination for each facility. The five files without a final inspection report or letter to the facility regarding the inspection are excluded from this finding (see Findings 2-2 and 2-3).

Most of the state's inspection reports and accompanying cover letter were well written, complete, and included field observations and a compliance status that accurately documented compliance determinations. The state has developed an inspection report format that is used effectively for documenting inspection field observations and making compliance determinations. However, in the five files without an accurate compliance determination, deficiencies and/or violations were noted in the inspection report or checklist but were not conveyed as a deficiency and/or violation in the accompanying cover letter. To ensure that the facility understands the inspection results, it is suggested that the state clearly articulate the compliance determination along with any observed deficiencies and/or recommendations.

This is considered an Area for State Attention because inaccurate compliance determinations did not appear to be a widespread problem, and the state can self-correct the issue.

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#### State Response:

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#### Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State %
7e Accuracy of compliance determinations [GOAL]	100%	-	21	26	80.8%

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## CWA Element 4 - Enforcement

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### Finding 4-1

Area for Attention

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#### Summary:

The state generally takes timely and appropriate Enforcement Responses (ERs) which promote a Return to Compliance (RTC).

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#### Explanation:

Metric 9a indicated that 41 of the 53 ERs reviewed (77.4%) did return or were expected to return a facility to compliance. Of the 12 ERs which did not promote a RTC:

- There were seven instances where a facility was under a previous formal action or was issued one during FY2017, but noncompliance continued.
- Five files where numerous informal actions were issued, but RTC was not apparent during the file review.

Metric 10b indicated that 73.6% (39/53) of the ERs reviewed were appropriate to the violations. Of the 14 ERs which were not appropriate:

- Two files did not provide written justification for why a formal action was not taken for facilities in SNC.
- Three files did not follow the GA EMS or provide a written justification for why it was not followed.
- Nine files did not escalate the ER when violations persisted.

After the file review, the state provided additional documentation to show that several facilities later received an ER which returned or should return the facility to compliance. This documentation was not present in the files at the time of the on-site review.

In addition to a review of ERs, Data Metric 10a1 showed that five of eight (66.7%) major facilities in SNC during FY2017 received timely and formal ERs. This exceeds the FY2017 national average of 15.6%.

Timely and appropriate enforcement actions which promote a RTC was an Area for State Improvement in Round 3. While EPD has taken steps to address the previous finding, it is suggested that the state continue to refine its procedures to ensure adequate documentation of the chosen ER in the file. The state should also escalate the ER when warranted per the EMS. Therefore, this is an Area for State Attention in Round 4.

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#### State Response:

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#### Relevant metrics:

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<b>Metric ID Number and Description</b>	<b>Natl Goal</b>	<b>Natl Avg</b>	<b>State N</b>	<b>State D</b>	<b>State %</b>
10a1 Percentage of major NPDES facilities with formal enforcement action taken in a timely manner in response to SNC violations	98%	15.6%	5	8	62.5%
10b Enforcement responses reviewed that address violations in an appropriate manner [GOAL]	100%	-	39	53	73.6%
9a Percentage of enforcement responses that returned, or will return, a source in violation to compliance [GOAL]	100%	-	41	53	77.4%

## **CWA Element 5 - Penalties**

### **Finding 5-1**

Area for Improvement

#### **Summary:**

The CWA program does not maintain any penalty calculations, so the adequacy of gravity and economic benefit calculations and penalty documentation could not be evaluated.

#### **Explanation:**

Metric 11a indicated that none of the 22 files (0%) reviewed contained documentation of penalty calculations or gravity and economic benefit rationale. While the state's EMS does outline criteria to determine civil penalties, it does not address the consideration of EB in penalty calculations. Because penalty calculations are not maintained in the file, Metric 12a could not be evaluated.

As provided in the 1993 EPA "Oversight of State and Local Penalty Assessments: Revisions to the Policy Framework for State/EPA Enforcement Agreements," it is EPA policy not to settle for less than the amount of the economic benefit of noncompliance and a gravity portion of the penalty. The NPDES Memorandum of Agreement between EPD and EPA also states that EPD shall retain penalty calculations and/or penalty rationale in accordance with 40 C.F.R. §123.24(b)(3).

This is a continuing issue from Rounds 1, 2 and 3 of the SRF. This element will remain an Area for State Improvement in SRF Round 4 until the SRF recommendation below is fully implemented.

#### **State Response:**

By September 30, 2019, GA EPD will ensure that records of assessment of civil penalties will be maintained with executed orders as required in Section VI(A)(8) of the State's Memorandum of Agreement (MOA) with EPA Region 4 (October 24, 2007). These records will include penalty

calculations and/or penalty rationale demonstrating consideration of factors set forth in the State’s penalty policy, Section 309(g) of the Clean Water Act, and the MOA.

By December 31, 2019, GA EPD will review the penalty policy related to CWA enforcement for adequacy.

**Recommendation:**

<b>Rec #</b>	<b>Due Date</b>	<b>Recommendation</b>
1	12/31/2020	By December 31, 2019, EPD should develop and implement procedures to confirm the state's (1) appropriate documentation of both gravity and economic benefit in penalty calculations, and (2) appropriate documentation of the rationale for any difference between any initial and the final penalty. For verification purposes, one year following the implementation of the procedures, EPA will review EPD orders and penalty calculations, including the calculations for the economic benefit of noncompliance. If appropriate improvement is observed upon completion of EPA's review, this recommendation will be considered complete.

**Relevant metrics:**

<b>Metric ID Number and Description</b>	<b>Natl Goal</b>	<b>Natl Avg</b>	<b>State N</b>	<b>State D</b>	<b>State %</b>
11a Penalty calculations reviewed that document and include gravity and economic benefit [GOAL]	100%	-	0	22	0%
12a Documentation of rationale for difference between initial penalty calculation and final penalty [GOAL]	100%	-	0	22	0%

**Finding 5-2**

Meets or Exceeds Expectations

**Summary:**

The state consistently documented the collection of penalties.

**Explanation:**

Metric 12b indicated that all 22 files (100%) reviewed included adequate documentation of penalty payment collection by EPD.

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**State Response:**

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**Relevant metrics:**

<b>Metric ID Number and Description</b>	<b>Natl Goal</b>	<b>Natl Avg</b>	<b>State N</b>	<b>State D</b>	<b>State %</b>
12b Penalties collected [GOAL]	100%	-	22	22	100%

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# Resource Conservation and Recovery Act Findings

## RCRA Element 1 - Data

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### Finding 1-1

Meets or Exceeds Expectations

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#### Summary:

EPD's RCRA Minimum Data Requirements for compliance monitoring and enforcement activities were complete in RCRAInfo and ECHO.

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#### Explanation:

Metric 2b assesses the data accuracy and completeness in RCRAInfo with information in the facility files. 28 files were selected and reviewed to determine completeness of the minimum data requirements. 89.3% of the selected files were accurately represented in the national RCRA Info and ECHO databases.

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#### State Response:

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#### Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State %
2b Accurate entry of mandatory data [GOAL]	100%	-	25	28	89.3%

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## RCRA Element 2 - Inspections

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### Finding 2-1

Meets or Exceeds Expectations

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#### Summary:

EPD met national goals for both TSD and LQG inspections.

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#### Explanation:

Metric 5a and 5b1 assess the percentage of the treatment, storage, and disposal facility (TSDF) and the percentage of RCRAInfo active large quantity generator (LQG) universes that had a compliance evaluation inspection (CEI) during the two-year and one-year periods of review, respectively. EPD met the national goal and exceeded the national average for two-year inspection coverage of TSDFs and exceeded the national goal and national average for annual LQG

inspections in accordance with the FY2017 Grant Work Plan. EPD was scheduled to inspect 20% of the traditional LQG universe (368 facilities) and 2% of the non-traditional LQG universe (353 facilities). The target number of inspections was 74 traditional LQG inspections and 8 non-traditional LQG inspections. Per the Summary FY2017 Hazardous Waste Performance Measures document submitted to EPA on December 19, 2017, 85 traditional LQG and 9 non-traditional LQG inspections were conducted in FY2017. The FY2017 data metrics for LQG inspection coverage indicated that only 11.20% of the universe had been inspected (74 of 658 LQGs). The data discrepancy appears to be attributed to the FY2017 data metrics not excluding big box/pharmaceutical facilities (such as CVS, Walgreens, Walmart, etc.) from the LQG universe. As a result, the values on the FY2017 data metric includes a significantly larger universe, since they do not separate big box/pharmaceutical facilities. The corrected metric values are reflected below.

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**State Response:**

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**Relevant metrics:**

<b>Metric ID Number and Description</b>	<b>Natl Goal</b>	<b>Natl Avg</b>	<b>State N</b>	<b>State D</b>	<b>State %</b>
5a Two-year inspection coverage of operating TSDFs [GOAL]	100%	88.1%	18	18	100%
5b1 Annual inspection coverage of LQGs using RCRAinfo universe [GOAL] – <i>Corrected per 2017 Grant Workplan EOY Summary Report</i>	20%	10.7%	85	368	23.1%

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**Finding 2-2**

Meets or Exceeds Expectations

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**Summary:**

EPD’s RCRA program inspection reports reviewed were complete, provided appropriate documentation to determine compliance at the facility and the timeliness of inspection report completion was well under the 150- day timeline outlined the Hazardous Waste Civil Enforcement Response Policy (ERP). Building off progress from previous SRF reviews, EPA observed significant improvements in the level of detail included in the inspection reports.

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**Explanation:**

Twenty-eight (28) inspection reports were evaluated for completeness and sufficiency to determine compliance with RCRA requirements. All inspection reports contained the appropriate description of regulated activity, facility description, observations and potential violations. Positive attributes observed included: descriptions organized by facility/process inspection area; references to

applicable regulatory areas; descriptions of waste issues; and excellent documentation such as photographs, which provided observation dates and times.

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**State Response:**

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**Relevant metrics:**

<b>Metric ID Number and Description</b>	<b>Natl Goal</b>	<b>Natl Avg</b>	<b>State N</b>	<b>State D</b>	<b>State %</b>
6a Inspection reports complete and sufficient to determine compliance [GOAL]	100%	-	28	28	100%
6b Timeliness of inspection report completion [GOAL]	100%	-	26	28	92.9%

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**RCRA Element 3 - Violations**

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**Finding 3-1**

Meets or Exceeds Expectations

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**Summary:**

EPD made accurate RCRA compliance determinations. In addition, significant noncompliance (SNC) determinations were timely and appropriate.

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**Explanation:**

Metric 2a assesses the longstanding RCRA secondary violators with violations open for more than 240 days that have not returned to compliance or have not been designated as being a significant noncomplier (SNC). According to the RCRA Enforcement Response Policy (ERP), all secondary violators should be returned to compliance within 240 days or elevated to SNC status and addressed through formal enforcement. For Metric 2a, EPD had fourteen (14) facilities in SV greater than 240 days during FY2017. A review of RCRA Info revealed that twelve (12) of the fourteen (14) facilities have been elevated to SNC status, where appropriate, and addressed through informal or formal enforcement actions. The remaining two (2) facilities have been elevated to SNC status and have been issued a proposed consent order. As such, long standing violators is not a concern.

Metric 7a assesses whether accurate compliance determinations were made based on a file review of inspection reports and other compliance monitoring activity (i.e., record reviews). The file review indicated that 100% of the files reviewed had accurate compliance determinations (28 of 28 files). Each of the 28 files reviewed had accurate and complete descriptions of the violations observed during the inspection and had adequate documentation to support EPD compliance determinations.

Metric 8b assesses the percentage of SNC determinations made within 150 days of the first day of inspection (Day Zero). EPD met the national goal of 100% and exceeded the national average of 84.9%.

Metric 8c assesses the percentage of files reviewed in which significant noncompliance (SNC) status was appropriately determined during the review period. The file review indicated that 81.3% of the files reviewed had appropriate SNC determinations (13 of 16). EPA observed significant improvements in the appropriateness of SNC determinations compared to the SRF Round 3 Findings.

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**State Response:**

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**Relevant metrics:**

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State %
2a Long-standing secondary violators	%	%	14		14
7a Accurate compliance determinations [GOAL]	100%	-	28	28	100%
7b Violations found during CEI and FCI inspections	-	34.9%			45.4%
8a SNC identification rate at sites with CEI and FCI	-	1.1%			1.6%
8b Timeliness of SNC determinations [GOAL]	100%	84.9%	6	6	100%
8c Appropriate SNC determinations [GOAL]	100%	-	13	16	81.3%

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**RCRA Element 4 - Enforcement**

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**Finding 4-1**

Meets or Exceeds Expectations

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**Summary:**

EPD consistently issues enforcement responses that have returned or will return a facility in significant noncompliance (SNC) or secondary violation (SV) to compliance.

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**Explanation:**

Metric 9a assesses the percentage of enforcement responses that have returned or will return sites in SNC or SV to compliance. A total of 25 files were reviewed that included informal or formal enforcement actions. Twenty-one (21) of twenty-five (25) or 84% of the enforcement responses returned the facilities to compliance or were on a compliance schedule to return the facilities back into compliance with the RCRA requirements.

Metric 10a assesses the percentage of year reviewed and previous-year reviewed SNC violations addressed with a formal action or referral during the year reviewed and within 360 days of Day Zero. The data metric indicated that 72.73% of the FY2017 cases (8 of 11) met the ERP timeline of 360 days. The national goal is 80%. While the enforcement actions did contain compliance schedules, the facilities had not been designated as returned to compliance prior to the FY2017 data freeze.

Metric 10b assesses the percentage of files with enforcement responses that are appropriate to the violations. A total of 25 files were reviewed that included concluded enforcement responses. Twenty-three (23) of twenty-five (25) or 92% of the files reviewed contained enforcement responses that were appropriate to the violations.

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**State Response:**

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**Relevant metrics:**

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State %
9a Enforcement that returns sites to compliance [GOAL]	100%	-	21	25	84%
10a Timely enforcement taken to address SNC [GOAL]	80%	81.1%	8	11	72.73%
10b Appropriate enforcement taken to address violations [GOAL]	100%	-	23	25	92%

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**RCRA Element 5 - Penalties**

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**Finding 5-1**

Area for Improvement

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**Summary:**

The RCRA program does not maintain any penalty calculations, so the adequacy of economic benefit calculations and penalty documentation could not be evaluated.

**Explanation:**

One of the objectives of the SRF is to ensure equitable treatment of violators through national policy and guidance, including systematic methods of penalty calculations. Without the availability of state penalty calculations, EPA is unable to assess the quality of the state's overall enforcement program. As provided in the 1993 EPA "Oversight of State and Local Penalty Assessments: Revisions to the Policy Framework for State/EPA Enforcement Agreements" it is EPA policy not to settle for less than the amount of the economic benefit of noncompliance and a gravity portion of the penalty.

Because EPD does not retain penalty calculations from RCRA enforcement actions, EPA was unable to make these determinations in any of the sixteen (16) enforcement cases. This is a continuing issue from Rounds 1, 2 and 3 of the SRF. EPD has indicated its intention to develop consistent methods for penalty calculations. While this is an effort in the direction to resolve the issue, it does not fulfill requirements of national EPA policy. This element will remain an Area for State Improvement in SRF Round 4 until the SRF recommendation below is fully implemented.

**State Response:**

By September 30, 2019, GA EPD will ensure that records of assessment of civil penalties will be maintained with executed orders in accordance with the RCRA Civil Penalty Policy, June 2003. These records will include penalty calculations and/or penalty rationale demonstrating consideration of factors set forth in the policy.

**Recommendation:**

Rec #	Due Date	Recommendation
1	12/31/2020	By December 31, 2019, EPD should develop and implement procedures to confirm the state's (1) appropriate documentation of both gravity and economic benefit in penalty calculations, and (2) appropriate documentation of the rationale for any difference between any initial and the final penalty. For verification purposes, one year following the implementation of the procedures, EPA will review EPD orders and penalty calculations, including the calculations for the economic benefit of noncompliance. If appropriate improvement is observed upon completion of EPA's review, this recommendation will be considered complete.

**Relevant metrics:**

<b>Metric ID Number and Description</b>	<b>Natl Goal</b>	<b>Natl Avg</b>	<b>State N</b>	<b>State D</b>	<b>State %</b>
11a Gravity and economic benefit [GOAL]	100%	-	0	16	0%
12a Documentation of rationale for difference between initial penalty calculation and final penalty [GOAL]	100%	-	0	16	0%

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### **Finding 5-2**

Meets or Exceeds Expectations

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#### **Summary:**

EPD included documentation in the files that all final assessed penalties were collected.

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#### **Explanation:**

Metric 12b assesses the percentage of enforcement files reviewed that document the collection of a penalty. EPD documented the collection of penalties in 13 of 14 (92.9%) final enforcement actions. The one final enforcement action that excluded documentation of the collection of a penalty involved a motion for contempt brought by the Georgia Attorney General's Office ordering the facility to close and surrender the waste permit.

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#### **State Response:**

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#### **Relevant metrics:**

<b>Metric ID Number and Description</b>	<b>Natl Goal</b>	<b>Natl Avg</b>	<b>State N</b>	<b>State D</b>	<b>State %</b>
12b Penalty collection [GOAL]	100%	-	13	14	92.9%

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