

# **STATE REVIEW FRAMEWORK**

## **Kentucky**

### **Louisville Metro Air Pollution Control District**

#### **Clean Air Act Implementation in Federal Fiscal Year 2020**

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

**Final Report  
March 18, 2022**

# 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 (FY2018-2022) of reviews, 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.

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 are 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

#### Clean Air Act (CAA)

Key dates:

- March 15, 2021 round 4 kick-off letter sent to the local program
- April 21, 2021 data metric analysis (DMA) and file selection sent to the local program
- June 21 – August 17, 2021 SRF evaluation
- August 20, 2021 file review checklist summary spreadsheet provided to the local program

Local Agency and EPA key contacts for review:

	<b>Louisville Air Pollution Control District (LAPCD)</b>	<b>EPA Region 4</b>
SRF Coordinator	Steven Gravatte, P.E. Compliance & Enforcement Manager Louisville Air Pollution Control	Reginald Barrino, SRF Coordinator Policy, Oversight & Liaison Office
CAA	Donald (DJ) Fountain Louisville Air Pollution Control	Denis Kler, Policy, Oversight & Liaison Office Andrew Mills, Air Enforcement Branch

# Executive Summary

## 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)

Louisville Air Pollution Control District (LAPCD) met the timely reporting of high priority violation (HPV) determinations into ICIS-Air, and the timely reporting of compliance monitoring minimum data requirements (MDRs) into ICIS-Air.

LAPCD met the negotiated frequency for inspections of Title V and SM-80 sources, met the goal for reviewing Title V Annual Compliance Certifications, and fulfilled the documentation requirements for Full Compliance Evaluations (FCEs) and Compliance Monitoring Reports (CMRs).

LAPCD had both formal enforcement actions that required corrective action that would return the facility to compliance and formal enforcement actions in which compliance was achieved prior to the issuance of an order. LAPCD also addressed HPVs in a timely manner and took appropriate enforcement actions to address the HPVs and therefore no HPV addressing actions required LAPCD to develop case development and resolution timelines.

LAPCD provided penalty calculation worksheets that addressed both gravity and economic benefit components, provided rationale for the difference between the initial penalty calculation and the final penalty amount, and provided documentation that the penalties were collected.

## 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)

LAPCD did not meet the timely reporting of the minimum data requirements (MDR) for stack tests and stack test results and for enforcement actions into ICIS-Air. In addition, the file review identified data discrepancies between the documents in the file and the data entered in ICIS-Air.

# Clean Air Act Findings

## CAA Element 1 - Data

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### Finding 1-1

Meets or Exceeds Expectations

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### Recurring Issue:

No

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### Summary:

Louisville Air Pollution Control District (LAPCD) met the timely reporting of high priority violation (HPV) determinations into ICIS-Air, and the timely reporting of compliance monitoring minimum data requirements (MDRs) into ICIS-Air.

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### Explanation:

Data metrics 3a2 (100%) and 3b1 (95.2%) indicated that LAPCD was timely in reporting of the HPV determinations and the MDRs for compliance monitoring activities into ICIS-Air. LAPCD met the national goal and was above the national average.

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### Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State Total
3a2 Timely reporting of HPV determinations [GOAL]	100%		2	2	100%
3b1 Timely reporting of compliance monitoring MDRs [GOAL]	100%	74.3%	59	62	95.2%

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### State Response:

The Louisville Metro Air Pollution Control District (District) appreciates EPA's State Review Framework (SRF) Audit of the District's Clean Air Act (CAA) Stationary Source program based on inspection and enforcement activities within federal fiscal year 2020 (October 1, 2019 to September 30, 2020) and agrees with EPA's finding that our program meets or exceeds expectations for Element 1-1 Data.

## CAA Element 1 - Data

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### **Finding 1-2**

Area for Improvement

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### **Recurring Issue:**

No

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### **Summary:**

LAPCD did not meet the timely reporting of the minimum data requirements (MDR) for stack tests and stack test results and for enforcement actions into ICIS-Air. In addition, the file review identified data discrepancies between the documents in the file and the data entered in ICIS-Air.

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### **Explanation:**

Data metric 3b2 (55%) indicated that LAPCD was not timely in reporting the stack test dates and the stack test results into ICIS-Air.

Data metric 3b3 (70%) indicated that LAPCD was not timely in reporting of the enforcement MDRs into ICIS-Air.

File review metric 2b indicated that 41.4% of the files reviewed reflected accurate entry of all MDRs into ICIS-Air. The remaining files had one or more discrepancies between the information contained in the file and the data entered into ICIS-Air. The discrepancies consisted of the dates for compliance monitoring activities being different than the dates entered into ICIS-Air, the facility information being incorrect and the enforcement action MDRs were missing. Incorrect data has the potential to hinder the EPA's oversight and targeting efforts and may result in inaccurate information being released to the public.

A review of the FY2021 ICIS-Air data indicates LAPCD has shown improvement in data metrics 3b2 (62.9%) and 3b3 (100%).

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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 Total</b>
2b Files reviewed where data are accurately reflected in the national data system [GOAL]	100%		12	29	41.4%
3b2 Timely reporting of stack test dates and results [GOAL]	100%	59.4%	22	40	55%
3b3 Timely reporting of enforcement MDRs [GOAL]	100%	76.3%	7	10	70%

**State Response:**

With respect to Element 1-2 Data, the District appreciates this opportunity to improve the timeliness of reporting data identified in File Metric 3b2 for stack tests and stack test results and File Metric 3b3 related to enforcement actions and the accuracy of data identified in File Metric 2b based on FY2020 data. The District agrees with EPA’s recommendation to reevaluate File Metric 3b3 by September 30, 2022. As an update, the District’s current compliance with File Metric 3b3 is 100 percent based on our review of FY2021 data. The District agrees with EPA’s finding with respect to File Metric 3b2, but respectfully asks that either calendar year data or FY2022 data be used to reevaluate File Metric 3b2. During EPA’s SRF evaluation, which began on June 21, 2021 and ended on August 17, 2021, the District discovered a weakness in its internal tracking database, Accela, which was periodically failing to notify the appropriate person to timely enter a completed stack test review into ICIS-Air. Even though the District quickly established a process going forward to mitigate the Accela system weakness, this finding impacted the District’s data through its discovery in August of FY2021. Since then, the District has continued working to find and correct other instances where FY2021 data has not been timely entered into ICIS-Air. For Calendar Year 2021, the District’s current compliance with this File Metric is 79 percent based on our review. Extending the timeframe for reevaluating File Metric 3b2 to FY2022 or changing it to a calendar year basis will allow EPA to more accurately assess the District’s solution to address and fully resolve the problem identified during the SRF evaluation. For File Metric 2b, the District has initiated a project to verify the accuracy of data entered into ICIS -Air. In addition to making any needed corrections, the District will track what changes were needed and use this information to determine where errors in the system are occurring. The District will track needed changes and use that information to prevent the reoccurrence of these errors. The goal for this project is to complete the needed corrections by May 31, 2022, which would allow EPA to perform the recommended review prior to September 30, 2022.

**EPA Response:**

The EPA agrees with the District and will review FY2022 ICIS-Air data to assess the timely reporting of stack tests and enforcement MDRs into ICIS-Air.

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**Recommendation:**

Rec #	Due Date	Recommendation
1	04/30/2023	To verify continuous improvement, by April 30, 2023, following the FY 2022 data verification, the EPA will review data metrics 3b2 and 3b3 to ensure timely reporting of data into ICIS-Air. Once data metrics 3b2 and 3b3 indicates a 71.0% or greater of timely entry of data, then this recommendation will be considered complete.
2	09/30/2022	File metric 2b: By September 30, 2022, the EPA will review a random selection of facility files and evaluate file metric 2b to ensure data entry has improved. Once file metric 2b indicates a 71.0% or greater of data entry accuracy, then this recommendation will be considered complete.

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**CAA Element 2 - Inspections**

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**Finding 2-1**

Meets or Exceeds Expectations

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**Recurring Issue:**

No

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**Summary:**

LAPCD met the negotiated frequency for inspections of Title V and SM-80 sources, met the goal for reviewing Title V Annual Compliance Certifications, and fulfilled the documentation requirements for Full Compliance Evaluations (FCEs) and Compliance Monitoring Reports (CMRs).

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**Explanation:**

Data metrics 5a (100%) and 5b (100%) indicated that LAPCD provided adequate inspection coverage for Title V and SM-80 sources during the FY2020 review year by ensuring that all major sources were inspected at least once every 2 years, and each SM-80 source was inspected at least once every 5 years. In addition, Data metric 5e (97.1%) indicated that LAPCD completed reviews of the Title V annual compliance certifications.

File review metrics 6a (100%) and 6b (100%) indicated that LAPCD provided adequate documentation of the FCE elements identified in the CAA Stationary Source Compliance

Monitoring Strategy (CMS Guidance), and provided adequate documentation in the CMRs to determine the compliance of the facility.

**Relevant metrics:**

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State Total
5a FCE coverage: majors and mega-sites [GOAL]	100%	85.7%	18	18	100%
5b FCE coverage: SM-80s [GOAL]	100%	93.6%	6	6	100%
5e Reviews of Title V annual compliance certifications completed [GOAL]	100%	82.8%	33	34	97.1%
6a Documentation of FCE elements [GOAL]	100%		28	28	100%
6b Compliance monitoring reports (CMRs) or facility files reviewed that provide sufficient documentation to determine compliance of the facility [GOAL]	100%		28	28	100%

**State Response:**

The Louisville Metro Air Pollution Control District (District) appreciates EPA’s State Review Framework (SRF) Audit of the District’s Clean Air Act (CAA) Stationary Source program based on inspection and enforcement activities within federal fiscal year 2020 (October 1, 2019 to September 30, 2020) and agrees with EPA’s finding that our program meets or exceeds expectations for Element 2-1 Inspections.

**CAA Element 3 - Violations**

**Finding 3-1**

Meets or Exceeds Expectations

**Recurring Issue:**

No

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**Summary:**

LAPCD made timely identification of HPVs, accurate compliance determinations and accurate HPV determinations.

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**Explanation:**

Data metric 13 (100%) indicated LAPCD entered the HPVs information into ICIS-Air within the 90-day time requirement. File review metrics 7a (100%) and 8c (100%) indicated that based on the information contained in the files LAPCD made accurate compliance and HPV determinations.

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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 Total</b>
7a Accurate compliance determinations [GOAL]	100%		29	29	100%
8c Accuracy of HPV determinations [GOAL]	100%		6	6	100%
13 Timeliness of HPV Identification [GOAL]	100%	83.8%	1	1	100%

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**State Response:**

The Louisville Metro Air Pollution Control District (District) appreciates EPA’s State Review Framework (SRF) Audit of the District’s Clean Air Act (CAA) Stationary Source program based on inspection and enforcement activities within federal fiscal year 2020 (October 1, 2019 to September 30, 2020) and agrees with EPA’s finding that our program meets or exceeds expectations for Element 3-1 Violations.

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**CAA Element 4 - Enforcement**

**Finding 4-1**

Meets or Exceeds Expectations

**Recurring Issue:**

No

**Summary:**

LAPCD had both formal enforcement actions that required corrective action that would return the facility to compliance and formal enforcement actions in which compliance was achieved prior to the issuance of an order. LAPCD also addressed HPVs in a timely manner and took appropriate enforcement actions to address the HPVs and therefore no HPV addressing actions required LAPCD to develop case development and resolution timelines.

**Explanation:**

File review metrics 9a (100%), 10a (100%), and 10b (100%) indicated that LAPCD was able to return facilities to compliance, to address HPVs in a timely manner, and took appropriate enforcement actions for HPVs. In addition, all HPV actions were addressed within the 180-day timeframe required by the HPV Policy, and therefore File review metric 14 requiring case development and resolution timelines does not apply.

**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 Total</b>
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%		6	6	100%
10a Timeliness of addressing HPVs or alternatively having a case development and resolution timeline in place	100%		2	2	100%
10b Percent of HPVs that have been addressed or removed consistent with the HPV Policy [GOAL]	100%		2	2	100%

**State Response:**

The Louisville Metro Air Pollution Control District (District) appreciates EPA’s State Review Framework (SRF) Audit of the District’s Clean Air Act (CAA) Stationary Source program based on inspection and enforcement activities within federal fiscal year 2020 (October 1, 2019 to September 30, 2020) and agrees with EPA’s finding that our program meets or exceeds expectations for Element 4-1 Enforcement.

**CAA Element 5 - Penalties**

**Finding 5-1**

Meets or Exceeds Expectations

**Recurring Issue:**

No

**Summary:**

LAPCD provided penalty calculation worksheets that addressed both gravity and economic benefit components, provided rationale for the difference between the initial penalty calculation and the final penalty amount, and provided documentation that the penalties were collected.

**Explanation:**

File review metrics 11a (100%), 12a (100%) and 12b (100%) indicated that LAPCD considered gravity and economic benefit components in the penalty calculations, provided rationale for differences between the initial penalty calculation and the final penalty, and provided documentation that the penalties were collected.

**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 Total</b>
11a Penalty calculations reviewed that document gravity and economic benefit [GOAL]	100%		6	6	100%
12a Documentation of rationale for difference between initial penalty calculation and final penalty [GOAL]	100%		5	5	100%
12b Penalties collected [GOAL]	100%		5	5	100%

**State Response:**

The Louisville Metro Air Pollution Control District (District) appreciates EPA's State Review Framework (SRF) Audit of the District's Clean Air Act (CAA) Stationary Source program based on inspection and enforcement activities within federal fiscal year 2020 (October 1, 2019 to September 30, 2020) and agrees with EPA's finding that our program meets or exceeds expectations for Element 5-1 Penalties.

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