

STATE REVIEW FRAMEWORK

Alabama

**Clean Air Act, Clean Water Act & Resource Conservation &
Recovery Act Implementation in Federal Fiscal Year 2020**

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

**Final Report
January 3, 2023**

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 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 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:

- November 2, 202: kick off letter sent to State
- March 21, 2022: remote file review for CAA
- March 14, 2022: remote file review for CWA
- April 4, 2022: remote file review for RCRA

State and EPA key contacts for review:

	Alabama Department of Environment Management (ADEM)	EPA Region 4
SRF Contact	Marilyn G. Elliott, Deputy Director	Reginald Barrino, SRF Coordinator
CAA	Lisa B. Cole, Chief Natural Resources Section Chemical Branch	Denis Kler, Policy, Oversight & Liaison Office Stephen Rieck, Air Enforcement Branch
CWA	Christy Monk, Chief Office of Water Services	Andrea Zimmer, Policy, Oversight & Liaison Office Laurie Jones, Water Enforcement Branch
RCRA	Lynn T. Roper, Chief Office of Land Services	Reginald Barrino, Policy, Oversight & Liaison Office Brooke York, Chemical Safety & Land Enforcement Branch

Executive Summary

Areas of Strong Performance

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

Clean Air Act (CAA)

Alabama Department of Environmental Management (ADEM) met the negotiated frequency for inspection of Title V sources and SM-80 sources, completed the review of the Title V Annual Compliance Certifications, provided the necessary documentation for Full Compliance Evaluations (FCEs), and provided the necessary documentation for the Compliance Monitoring Reports (CMRs).

ADEM met the timely reporting of high priority violations (HPVs), the timely reporting of compliance monitoring activity minimum data requirements (MDRs), the timely reporting of stack tests and stack test results, and the timely reporting of enforcement MDRs into ICIS-Air.

ADEM made timely HPV identification, made accurate compliance determinations, and made accurate HPV determination.

ADEM had formal enforcement actions that required corrective action that would return the facility to compliance or compliance was achieved prior to the issuance of an order, addressed HPVs in a timely manner, and took appropriate enforcement actions for HPVs.

ADEM 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.

Clean Water Act (CWA)

ADEM exceeded the National Goals for the entry of key data into the national database for NPDES major and non-major facilities.

The accuracy of data between files reviewed and data reflected in the national data system meets expectations.

ADEM met or exceeded its FY20 CMS Plan and CWA §106 Workplan commitments.

ADEM's NPDES inspection reports were complete, provided sufficient documentation to determine compliance at the facility and were timely.

ADEM consistently documented accurate compliance determinations.

ADEM takes Enforcement Responses (ERs) which promote a Return to Compliance (RTC).

ADEM consistently documents adequate rationale for the economic benefit component in penalty calculations as well as documenting the rationale for difference between the initial and final assessed penalty in NPDES penalty calculations. The State also includes documentation in the files that all final assessed penalties were collected.

ADEM consistently documents adequate rationale for the economic benefit component in penalty calculations as well as documenting the rationale for difference between the initial and final assessed penalty in NPDES penalty calculations. The State also includes documentation in the files that all final assessed penalties were collected.

ADEM exceeded the national goals for the entry of key data into the national database for NPDES major and non-major facilities

Resource Conservation and Recovery Act (RCRA)

ADEM's RCRA Minimum Data Requirements for compliance monitoring and enforcement activities were complete in RCRA Info.

ADEM met national goals for both TSDF and LQG inspections.

ADEM's hazardous waste 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).

ADEM made accurate hazardous waste compliance determinations. In addition, significant noncompliance (SNC) determinations were timely and appropriate.

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

ADEM's RCRA Minimum Data Requirements for compliance monitoring and enforcement activities were complete in RCRA Info.

ADEM consistently considered gravity and economic benefit when calculating penalties and included documentation in files documenting collection of final assessed penalties.

Priority Issues to Address

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)

Discrepancies were identified between the data in the facility files and the data that was entered into ICIS-Air.

Clean Air Act Findings

CAA Element 1 - Data

Finding 1-1

Meets or Exceeds Expectations

Recurring Issue:

No

Summary:

Alabama Department of Environmental Management (ADEM) met the timely reporting of high priority violations (HPVs), the timely reporting of compliance monitoring activity minimum data requirements (MDRs), the timely reporting of stack tests and stack test results, and the timely reporting of enforcement MDRs into ICIS-Air.

Explanation:

Data metrics 3a2 (87.5%), 3b1 (98.6%), 3b2 (97.0%) and 3b3 (100%) indicated that ADEM was timely in reporting HPVs, timely in reporting the compliance monitoring MDRs, timely in reporting the stack tests and stack test results, and timely in reporting the enforcement MDRs into ICIS-Air.

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%	40.6%	7	8	87.5%
3b1 Timely reporting of compliance monitoring MDRs [GOAL]	100%	74.3%	795	806	98.6%
3b2 Timely reporting of stack test dates and results [GOAL]	100%	59.4%	559	576	97%
3b3 Timely reporting of enforcement MDRs [GOAL]	100%	76.6%	42	42	100%

State Response:

CAA Element 1 - Data

Finding 1-2

Area for Improvement

Recurring Issue:

No

Summary:

Discrepancies were identified between the data in the facility files and the data that was entered into ICIS-Air.

Explanation:

File review metric 2b indicated that only 68.8% of the files reviewed reflected accurate entry of all MDRs into ICIS-Air. Ten files contained discrepancies between the information in the file and the data that was entered into ICIS-Air. The discrepancies consisted of federal regulation subparts not listed in ICIS, stack tests not listed in ICIS, and incorrect dates entered in ICIS for enforcement activities and for federally reportable violations. 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.

Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State Total
2b Files reviewed where data are accurately reflected in the national data system [GOAL]	100%		22	32	68.8%

State Response:

In reviewing Metric 2b, 33 facilities with multiple minimum data requirements (MDRs) were examined. Only one incorrect MDR data point failed the entire facility. Using a percentage of correct to incorrect MDRs as the metric instead of an all-or-nothing approach, the data accuracy for the Air program would have been 97%. Additionally, most discrepancies between the information in the document file and the data entered in ICIS-air were deviations of one day in the received date of the required MDR.

In the future, such inconsistencies should not recur. ADEM is in the process of implementing the Alabama Environmental Permitting and Compliance System (AEPACS). Phase 3 of this implementation, which will bring the Air Division into the system, has recently been initiated. This system will allow electronic submittals of information from our regulated community and record the transactional data that is considered an MDR. It will also electronically manage our compliance and enforcement events, similarly, recording the required information. There will be very little staff-entered information. This data will then be uploaded to ICIS in a timely manner. Until such time as this system is fully implemented, staff have been retrained on the information they are required to enter into our current data system. Based on these efforts and commitments, no further action on this issue is necessary, including a February update from ADEM and further EPA follow-ups.

Recommendation:

Rec #	Due Date	Recommendation
1	09/30/2023	File metric 2b: By February 1, 2023, ADEM will provide to the EPA a written description of the root causes for the inaccurate data entry, and a written description of what measures and/or procedures have been implemented to ensure accurate entry of data into ICIS-Air. By September 30, 2023, 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.

CAA Element 2 - Inspections

Finding 2-1

Meets or Exceeds Expectations

Recurring Issue:

No

Summary:

ADEM met the negotiated frequency for inspection of Title V sources and SM-80 sources, completed the reviews of the Title V Annual Compliance Certifications, provided the necessary documentation for Full Compliance Evaluations (FCEs), and provided the necessary documentation for the Compliance Monitoring Reports (CMRs).

Explanation:

Data metrics 5a (100%) and 5b (100%) indicated that ADEM provided adequate inspection coverage for Title V sources and SM-80 sources during the FY 2020 review year by ensuring that each Title V source was 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 (98.3%) indicated that ADEM completed the reviews of the Title V annual compliance certifications.

File review metrics 6a (100%) and 6b (100%) indicated that ADEM 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%	272	272	100%
5b FCE coverage: SM-80s [GOAL]	100%	93.6%	207	207	100%
5e Reviews of Title V annual compliance certifications completed [GOAL]	100%	82.8%	287	292	98.3%
6a Documentation of FCE elements [GOAL]	100%		31	31	100%
6b Compliance monitoring reports (CMRs) or facility files reviewed that provide sufficient documentation to determine compliance of the facility [GOAL]	100%		31	31	100%

State Response:

CAA Element 3 - Violations

Finding 3-1

Meets or Exceeds Expectations

Recurring Issue:

No

Summary:

ADEM made timely HPV identification, accurate compliance determinations, and accurate HPV determinations.

Explanation:

Data metric 13 (100%) indicated that ADEM was timely in identifying HPVs. File review metrics 7a (100%) and 8c (100%) indicated that based on the information contained in the files, ADEM made accurate compliance determinations, and accurate HPV determinations.

Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State Total
7a Accurate compliance determinations [GOAL]	100%		32	32	100%
8c Accuracy of HPV determinations [GOAL]	100%		23	23	100%
13 Timeliness of HPV Identification [GOAL]	100%	83.8%	7	7	100%

State Response:

CAA Element 4 - Enforcement

Finding 4-1

Meets or Exceeds Expectations

Recurring Issue:

No

Summary:

ADEM issued formal enforcement actions that returned facilities to compliance, addressed HPVs in a timely manner, and appropriately addressed HPVs consistent with the HPV Policy.

Explanation:

File review metrics 9a (100%), 10a (91.7%), and 10b (100%) indicated that ADEM returned facilities to compliance, addressed HPVs in a timely manner, and appropriately addressed HPVs consistent with the HPV policy.

File review metric 14 (0%) indicated that ADEM had one enforcement case that took more than 180-days to resolve, and the file did not contain a case development and resolution timeline (CDRT).

For file review metrics 10a and 14, one enforcement case exceeded the 180-day timeframe to address the HPV, and the file did not contain a case development and resolution timeline (CDRT). An administrative order was executed on 1/8/2020, resulting in approximately 322 days to address the HPV.

ADEM and EPA enforcement personnel indicated that the HPV was discussed during routine enforcement conference calls and due to extenuating circumstances regarding planned enforcement proceedings, a CDRT was not developed. As noted above, file review metric 10a indicated that 91.7% of HPVs identified by ADEM were resolved within the 180-day time frame, confirming that ADEM is identifying violations and returning facilities to compliance consistent with the intent of the HPV policy. As a result, the EPA is recommending that metric 14 be identified as Meets or Exceeds Expectations and not an Area for Improvement as indicated by the metric value of 0%.

Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State Total
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%		22	22	100%
10a Timeliness of addressing HPVs or alternatively having a case development and resolution timeline in place	100%		11	12	91.7%
10b Percent of HPVs that have been addressed or removed consistent with the HPV Policy [GOAL]	100%		12	12	100%
14 HPV case development and resolution timeline in place when required that contains required policy elements [GOAL]	100%		0	1	0%

State Response:

CAA Element 5 - Penalties

Finding 5-1

Meets or Exceeds Expectations

Recurring Issue:

No

Summary:

ADEM 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 metric 11a (100%) indicated that ADEM considered gravity and economic benefit components in all penalty calculations. ADEM's penalty calculation methodology involves the use of a six-factor assessment which includes gravity and economic benefit factors, to determine final penalty amounts.

File review metrics 12a (100%) and 12b (100%) provided rationale for differences between the initial penalty calculated and the final assessed penalty and documented that the penalties were collected.

Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State Total
11a Penalty calculations reviewed that document gravity and economic benefit [GOAL]	100%		15	15	100%
12a Documentation of rationale for difference between initial penalty calculation and final penalty [GOAL]	100%		15	15	100%
12b Penalties collected [GOAL]	100%		15	15	100%

State Response:

Clean Water Act Findings

CWA Element 1 - Data

Finding 1-1

Meets or Exceeds Expectations

Recurring Issue:

No

Summary:

ADEM exceeded the national goals for the entry of key data into the national database for NPDES major and non-major facilities

Explanation:

For the FY 2020 period of review, ADEM entered 99.9% of their permit limits and 99.7% of DMRs for NPDES major and non-major facilities (Data Metrics 1b5 and 1b6).

Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State Total
1b5 Completeness of data entry on major and non-major permit limits. [GOAL]	95%	95.2%	1242	1243	99.9%
1b6 Completeness of data entry on major and non-major discharge monitoring reports. [GOAL]	95%	92.7%	43141	43290	99.7%

State Response:

CWA Element 1 - Data

Finding 1-2

Meets or Exceeds Expectations

Recurring Issue:

No

Summary:

The accuracy of data between files reviewed and data reflected in the national data system meets expectations.

Explanation:

Metric 2b indicated that 86.4% (38/44) of the files reviewed reflected accurate data entry of minimum data requirements (MDR) for NPDES facilities into the Integrated Compliance Information System (ICIS). Accuracy of data was an Area for Improvement in Round 3. ADEM is commended for its substantial progress.

Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State Total
2b Files reviewed where data are accurately reflected in the national data system [GOAL]	100%		38	44	86.4%

State Response:

CWA Element 2 - Inspections

Finding 2-1

Meets or Exceeds Expectations

Recurring Issue:

No

Summary:

ADEM met or exceeded its FY20 CMS Plan and CWA §106 Workplan 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 FY20 inspection results listed in the table below are from the CWA §106 Workplan end of year report (EOY). Based on review of the ADEM CWA §106 Workplan EOY, the State exceeded its CMS commitments in FY20 for industrial stormwater inspections (Metric 4a8), construction stormwater inspections (Metric 4a9), and CAFOs (Metric 4a10). The State met its CMS inspection commitments in FY20 for all other inspection metrics. The State met its commitment for inspection coverage and exceeded the national averages for major permitted facilities (Metric 5a), non-major facilities with individual permits (Metric 5b1), and non-major facilities with general permits (Metric 5b2).

Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State Total
4a2 Number of inspections at EPA or state Significant Industrial Users that are discharging to non-authorized POTWs. [GOAL]	100% of commitments%		301	301	100%
4a5 Number of SSO inspections. [GOAL]	100% of commitments%		24	24	100%
4a7 Number of Phase I and II MS4 audits or inspections. [GOAL]	100% of commitments%		16	16	100%
4a8 Number of industrial stormwater inspections. [GOAL]	100% of commitments%		389	277	140.4%
4a9 Number of Phase I and Phase II construction stormwater inspections. [GOAL]	100% of commitments%		1404	398	352.8%
4a10 Number of comprehensive inspections of large and medium concentrated animal feeding operations (CAFOs) [GOAL]	100% of commitments%		40	30	133.3%
5a1 Inspection coverage of NPDES majors. [GOAL]	100%	45.4%	177	177	100%
5b1 Inspection coverage of NPDES non-majors with individual permits [GOAL]	100%	23.6%	569	1457	39.1%
5b2 Inspection coverage of NPDES non-majors with general permits [GOAL]	100%	5.6%	1850	9893	18.7%

State Response:

CWA Element 2 - Inspections

Finding 2-2

Meets or Exceeds Expectations

Recurring Issue:

No

Summary:

ADEM's NPDES inspection reports were complete, provided sufficient documentation to determine compliance at the facility and were timely.

Explanation:

Metric 6a measures the percentage of on-site inspection reports reviewed that are complete and provide sufficient documentation to determine compliance. All forty-seven (47) onsite inspection reports reviewed were complete and provided sufficient documentation to determine compliance.

Metric 6b measures the percentage of inspection reports reviewed that are completed in a timely manner. ADEM's inspection timeframes are established by the Department's Quality Information Reporting Document: "Inspection reports are generally finalized within two weeks of the inspection, if no sampling analyses are required, or within 45 days of obtaining sampling analyses, but in no case more than 90 days after the inspection date." Metric 6b indicated 95.7% (45 of 47) of ADEM's inspection reports reviewed were completed in a timely manner. The average number of days to complete inspection reports was 32 days. Inspection report completion and adequate documentation of compliance were Areas for Improvement in Round 3. ADEM is commended for its substantial progress for these metrics.

Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State Total
6a Inspection reports complete and sufficient to determine compliance at the facility. [GOAL]	100%		47	47	100%
6b Timeliness of inspection report completion [GOAL]	100%		45	47	95.7%

State Response:

CWA Element 3 - Violations

Finding 3-1

Meets or Exceeds Expectations

Recurring Issue:

No

Summary:

ADEM consistently documented accurate compliance determinations.

Explanation:

Metric 7e measures whether accurate compliance determinations were made based on a file review of inspections reports and other compliance monitoring activity. The file review indicated that 100% (47 of 47) of the files reviewed consistently documented an accurate compliance determination. Each of the files reviewed had accurate and complete descriptions of the violations observed and adequate documentation to support ADEM's compliance determinations.

Review indicator Metric 7j1 measures the number of major and non-major facilities with single-event violations (SEVs) reported in the review year. Review indicator Metrics 7k1 and 8a3 measure facilities in noncompliance.

Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State Total
7e Accuracy of compliance determinations [GOAL]	100%		47	47	100%
7j1 Number of major and non-major facilities with single-event violations reported in the review year.			48		48
7k1 Major and non-major facilities in noncompliance.		17.9%	1434	11238	12.8%
8a3 Percentage of major facilities in SNC and non-major facilities Category I noncompliance during the reporting year.		7.4%	866	11237	7.7%

State Response:

CWA Element 4 - Enforcement

Finding 4-1

Meets or Exceeds Expectations

Recurring Issue:

No

Summary:

ADEM takes Enforcement Responses (ERs) which promote a Return to Compliance (RTC).

Explanation:

Metric 9a indicated that 91.7 % (33 of 36) ERs reviewed returned or were expected to return a facility to compliance. Review Metric 10a1 indicated that 0% (0 of 4) major facilities in SNC during FY20 received a timely formal ER. EPA's review of the four facilities indicated that one of the facilities is under a Settlement Agreement; two of the facilities were issued informal ERs in FY20 and the state provided compliance assistance at the fourth facility, all resulting in a return to compliance.

Metric 10b indicated that 100% (36 of 36) of the ERs reviewed addressed violations in an appropriate manner.

Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State Total
9a Percentage of enforcement responses that returned, or will return, a source in violation to compliance [GOAL]	100%		33	36	91.7%
10a1 Percentage of major NPDES facilities with formal enforcement action taken in a timely manner in response to SNC violations		17.2%	0	4	0%
10b Enforcement responses reviewed that address violations in an appropriate manner [GOAL]	100%		36	36	100%

State Response:

CWA Element 5 - Penalties

Finding 5-1

Meets or Exceeds Expectations

Recurring Issue:

No

Summary:

ADEM consistently documents adequate rationale for the economic benefit component in penalty calculations as well as documenting the rationale for difference between the initial and final assessed penalty in NPDES penalty calculations. The State also includes documentation in the files that all final assessed penalties were collected.

Explanation:

Metric 11a measures the percentage of penalty calculations reviewed that document, where appropriate, gravity and economic benefit. Metric 11a indicated that 100% (12 of 12) of the files reviewed contained either economic benefit (EB) calculations or documentation that it was considered, with an adequate rationale for not including EB.

Metric 12a measures the percentage of penalties reviewed that document the rationale for the final penalty assessed when it is lower than the initial calculated value. Metric 12a indicated that nine of nine (100%) files reviewed included adequate documentation of differences between the initial penalty calculation and the final assessed penalty.

Metric 12b measures the percentage of enforcement files reviewed that document the collection of the assessed penalty. Metric 12b indicated that nine of nine (100%) files reviewed included adequate documentation of penalty payment collection by ADEM.

Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State Total
11a Penalty calculations reviewed that document and include gravity and economic benefit [GOAL]	100%		12	12	100%
12a Documentation of rationale for difference between initial penalty calculation and final penalty [GOAL]	100%		9	9	100%
12b Penalties collected [GOAL]	100%		9	9	100%

State Response:

Resource Conservation and Recovery Act Findings

RCRA Element 1 - Data

Finding 1-1

Meets or Exceeds Expectations

Recurring Issue:

No

Summary:

ADEM's RCRA Minimum Data Requirements for compliance monitoring and enforcement activities were complete in RCRA Info.

Explanation:

Metric 2b measures the data accuracy and completeness in RCRA Info with information in the facility files. Thirty files were selected and reviewed to determine completeness of the minimum data requirements. The data was found to be accurate in 27 of the 30 files (90%).

Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State Total
2b Accurate entry of mandatory data [GOAL]	100%		27	30	90%

State Response:

ADEM concurs with EPA's findings. Program staff will continue to focus on the importance of complete and accurate mandatory data.

RCRA Element 2 - Inspections

Finding 2-1

Meets or Exceeds Expectations

Recurring Issue:

No

Summary:

ADEM met national goals for both TSDf and LQG inspections.

Explanation:

Metric 5a and 5b1 measure the percentage of the treatment, storage, and disposal facility (TSDf) and the percentage of large quantity generator (LQG) universes that had a Compliance Evaluation Inspection (CEI) during the two-year and one-year periods of review, respectively. ADEM met the national goal for two-year inspection coverage of TSDfs and the national goal for annual inspection coverage of LQGs.

Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State Total
5a Two-year inspection coverage of operating TSDfs [GOAL]	100%	84%	10	10	100%
5b1 Annual inspection coverage of LQGs using RCRAInfo universe [GOAL]	20%	6.8%	71	248	28.6%

State Response:**RCRA Element 2 - Inspections****Finding 2-2**

Meets or Exceeds Expectations

Recurring Issue:

No

Summary:

ADEM's hazardous waste 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).

Explanation:

Metric 6a measures the percentage of on-site inspection reports reviewed that are complete and provide sufficient documentation to determine compliance. All thirty (30) onsite inspection reports reviewed were complete and provided sufficient documentation to determine compliance. Metric 6b measures the percentage of inspection reports reviewed that are completed in a timely manner per the national standard. Metric 6b indicated 100% of ADEM's onsite inspection reports reviewed were completed in a timely manner per the national standard.

Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State Total
6a Inspection reports complete and sufficient to determine compliance [GOAL]	100%		30	30	100%
6b Timeliness of inspection report completion [GOAL]	100%		30	30	100%

State Response:

RCRA Element 3 - Violations

Finding 3-1

Meets or Exceeds Expectations

Recurring Issue:

No

Summary:

ADEM made accurate hazardous waste compliance determinations. In addition, significant noncompliance (SNC) determinations were timely and appropriate.

Explanation:

Metric 7a measures 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. Each of the files reviewed had accurate and complete descriptions of the violations observed during the inspection and had adequate documentation to support ADEM's compliance determinations. Metric 8b measures the percentage of SNC determinations made within 150 days of the first day of inspection (Day Zero). The data metric analysis (DMA) indicated that 100% of SNC determinations were made with within 150 days.

Metric 8c measures the percentage of files reviewed in which significant noncompliance (SNC) status was appropriately determined during the review period. The file review indicated that 100% of the files reviewed had appropriate SNC determinations.

Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State Total
7a Accurate compliance determinations [GOAL]	100%		30	30	100%
8b Timeliness of SNC determinations [GOAL]	100%	82.7%	14	14	100%
8c Appropriate SNC determinations [GOAL]	100%		27	27	100%

State Response:

RCRA Element 4 - Enforcement

Finding 4-1

Meets or Exceeds Expectations

Recurring Issue:

No

Summary:

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

Explanation:

Metric 9a measures the percentage of enforcement responses that have returned or will return sites in SNC or SV to compliance. A total of twenty-seven (27) files were reviewed that included informal or formal enforcement actions. 96.3% of the enforcement responses returned the facilities to compliance with the hazardous waste requirements.

Metric 10a measures the percentage of SNC violations addressed with a formal action or referral during the year reviewed and within 360 days of Day Zero. The data metric analysis (DMA) indicated that 100% of the FY 2020 enforcement actions met the Hazardous Waste Enforcement Response Policy (ERP) timeline of 360 days.

Metric 10b measures the percentage of files with enforcement responses that are appropriate to the violations. A total of twenty-seven (27) files were reviewed with concluded enforcement responses. 100% of the files reviewed contained enforcement responses that were appropriate to the violations.

Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State Total
9a Enforcement that returns sites to compliance [GOAL]	100%		26	27	96.3%
10a Timely enforcement taken to address SNC [GOAL]	80%	80.9%	16	16	100%
10b Appropriate enforcement taken to address violations [GOAL]	100%		27	27	100%

State Response:

RCRA Element 5 - Penalties

Finding 5-1

Meets or Exceeds Expectations

Recurring Issue:

No

Summary:

ADEM consistently considered gravity and economic benefit when calculating penalties and included documentation in files documenting collection of final assessed penalties.

Explanation:

Metric 11a measures the percentage of penalty calculations reviewed that document, where appropriate, gravity and economic benefit. Metric 11a indicated that ADEM considered gravity and economic benefit in 100% of the penalty calculations reviewed. ADEM's penalty calculation methodology involves the use of a six-factor assessment which includes gravity and economic benefit factors to determine final penalty amounts.

Metric 12a measures the percentage of penalties reviewed that document the rationale for the final value assessed when it is lower than the initial calculated value. For all of ADEM's penalties, the final assessed value was equal to the initial value calculated and therefore, Metric 12a does not apply and could not be evaluated.

Metric 12b measures the percentage of enforcement files reviewed that document the collection of a penalty. There was documentation verifying that TDEC had collected penalties assessed in 90.5% of the final enforcement actions reviewed.

Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State Total
11a Gravity and economic benefit [GOAL]	100%		21	21	100%
12a Documentation of rationale for difference between initial penalty calculation and final penalty [GOAL]	100%		0	0	0
12b Penalty collection [GOAL]	100%		19	21	90.5%

State Response:
