

STATE REVIEW FRAMEWORK

Alabama

Jefferson County

**Clean Air Act
Implementation in Federal Fiscal Year 2021**

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

**Final Report
May 11, 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 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 22, 2022, kick-off letter sent to the local program

June 1, 2022, data metric analysis and file selection documents sent to the local program

August 15, 2022, opening meeting and the virtual file review for CAA began

October 5, 2022, closing meeting with the local program

October 11, 2022, file review checklist summary spreadsheet sent to the local program

Local Agency and the EPA key contacts for review:

	Jefferson County Department of Health (JCDH)	EPA Region 4
SRF Contact	Jason Howanitz, P.E. Principal Air Pollution Control Engineer Air and Radiation Division JCDH	Reginald Barrino, SRF Coordinator
CAA	Jason Howanitz, P.E. Principal Air Pollution Control Engineer Air and Radiation Division JCDH	Denis Kler, Policy, Oversight & Liaison Office Steven Rieck, Air 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)

Jefferson County Department of Health (JCDH) met the negotiated frequency for inspection of Title V sources and SM-80 sources, completed the reviews of the Title V annual compliance certifications, and provided the necessary documentation for Full Compliance Evaluations (FCEs) and Compliance Monitoring Reports (CMRs).

JCDH was timely in identifying HPVs and made accurate compliance determinations.

JCDH issued formal enforcement actions that returned facilities to compliance and appropriately addressed HPVs consistent with the HPV Policy.

JCDH provided the 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

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 information in the facility files and the data that was entered in ICIS-Air, and some high priority violations (HPVs) and compliance monitoring minimum data requirements (MDRs) were not entered in ICIS-Air within the required timeframes.

Discrepancies were identified in the accuracy of high priority violation determinations. JCDH frequently misidentified violations as non-HPV when they met the HPV criteria set forth in the HPV Policy.

An HPV was not addressed in a timely manner or alternatively have a Case Development Resolution Timeline (CDRT) in accordance with the HPV policy.

Clean Air Act Findings

CAA Element 1 - Data

Finding 1-1

Area for Attention

Recurring Issue:

No

Summary:

Stack test and stack test results were not always entered in ICIS-Air within the required timeframes.

Explanation:

Data metric 3b2 (84.2%) indicated that Jefferson County Department of Health (JCDH) was timely in the reporting of 16 out of 19 stack tests and stack test results in ICIS-Air. Three facilities had stack tests and stack test results that were not reported and reviewed in ICIS-Air within 120 days.

Data metric 3b3 indicated that no enforcement minimum data requirements were reported in ICIS-Air during the review period, so data metric 3b3 does not apply.

Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State Total
3b2 Timely reporting of stack test dates and results [GOAL]	100%	51.1%	16	19	84.2%
3b3 Timely reporting of enforcement MDRs [GOAL]	100%	74.2%	0	0	0

State Response:

Missing tests are due to ICIS and JCDH communication issues as noted during the review. JCDH is still awaiting EPA to address these issues and has since 2020.

EPA Response:

EPA Region 4 is working with JCDH and OECA and will continue to do so to address the ICIS-Air communication issues.

CAA Element 1 - Data

Finding 1-2

Area for Improvement

Recurring Issue:

Recurring from Round 3

Summary:

Discrepancies were identified between the information in the facility files and the data that was entered in ICIS-Air, and some high priority violations (HPVs) and compliance monitoring minimum data requirements (MDRs) were not entered in ICIS-Air within the required timeframes.

Explanation:

File review metric 2b indicated that 42.3% of the files reviewed reflected accurate entry of all MDRs in ICIS-Air. The identified discrepancies consisted of stack test results, informal and formal enforcement actions and federally reportable violations not entered in ICIS-Air. In addition, discrepancies also consisted of inaccurate dates associated with Title V annual compliance certifications, inaccurate full compliance evaluation information, and air programs and subparts not entered in ICIS-Air. 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.

Data metrics 3a2 (0%) and 3b1(63.3%) indicated that JCDH was not timely in reporting of HPVs, and compliance monitoring MDRs in ICIS-Air. Data metric 3a2 had one HPV that was not timely entered in ICIS-Air. Data metric 3b1 had 36 discrepancies that were associated with either the late entry of title V annual compliance certification dates or the late entry of full compliance evaluation dates in ICIS-Air. Incorrect data or data not entered in ICIS-Air 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%		11	26	42.3%
3a2 Timely reporting of HPV determinations [GOAL]	100%	35.6%	0	1	0%
3b1 Timely reporting of compliance monitoring MDRs [GOAL]	100%	79.2%	62	98	63.3%

State Response:

All JCDH Files including enforcement activity are available online for public consumption. The lack of data reflected in ICIS was the result of ICIS issues starting in 2020 during COVID. JCDH discovered the issue late in July of 2020 and asked EPA for assistance and to this date EPA and its contractors have been unable to correct communication issue. It should be noted that in 2019 JCDH had near perfect metrics in ECHO demonstrating that when the communication link EPA provided worked JCDH was meeting requirements. It's unfortunate that EPA hasn't been able to help JCDH on correcting the issue. Fortunately, the SRF brought it up again and JCDH is hopeful a resolution is near. JCDH is attempting to work with EPA's contractors to correct the communication issue.

Recommendation:

Rec #	Due Date	Recommendation
1	05/01/2024	File metric 2b: By August 1, 2023, JCDH will provide to the EPA a written description of the root causes for the inaccurate data entry in ICIS-Air, and a written description of what measures and/or procedures have been implemented to ensure accurate entry of data in ICIS-Air. By May 1, 2024, 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.
2	05/01/2024	Data metrics 3a2 and 3b1: By August 1, 2023, JCDH will provide to the EPA a written description of what measures and/or procedures have been implemented to ensure the timely reporting of HPV determinations, and the timely reporting of compliance monitoring MDRs in ICIS-Air. By May 1, 2024, the EPA will review FY 2022 data for metrics 3a2 and 3b1 to ensure information is timely reported in ICIS-Air. Once data metrics 3a2 and 3b1 indicates a 71.0% or greater of data entry, then this recommendation will be considered complete.

CAA Element 2 - Inspections

Finding 2-1

Meets or Exceeds Expectations

Recurring Issue:

No

Summary:

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

Explanation:

Data metrics 5a (95.7%) and 5b (91.4%) indicated that JCDH provided adequate inspection coverage for Title V sources and SM-80 sources during the FY 2021 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.

Data metric 5e (87.0%) indicated that JCDH completed the reviews of the Title V annual compliance certifications.

File review metrics 6a (100%) and 6b (100%) indicated that JCDH 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 status 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%	86.2%	22	23	95.7%
5b FCE coverage: SM-80s [GOAL]	100%	92.9%	32	35	91.4%
5e Reviews of Title V annual compliance certifications completed [GOAL]	100%	81.1%	20	23	87%
6a Documentation of FCE elements [GOAL]	100%		26	26	100%
6b Compliance monitoring reports (CMRs) or facility files reviewed that provide sufficient documentation to determine compliance of the facility [GOAL]	100%		26	26	100%

State Response:

It is worth noting that JCDH inspected all Title V sources every year and SMOPS every two years at a minimum which exceeded EPA’s minimum despite the pandemic in FY 2020 through FY 2021. The review period seems to not acknowledge this unprecedented time in our history when JCDH was addressing public health including transitioning Air staff to COVID related duties and off-site work. These complexities (receipt of reports or doing timely inspections) are apparent in the review and only complicated by the failures with ICIS. Some facilities didn’t meet the MDR due to the communication issue and some being reported late when it was unclear if the issue was fixed in FY 2021. It was discovered that the issue wasn’t fixed, and manual entry was started at that time.

CAA Element 2 - Inspections

Finding 2-2

Area for Attention

Recurring Issue:

No

Summary:

JCDH did not meet the negotiated frequency for inspections of minor and synthetic minor (non-SM-80) sources that are part of the CMS plan.

Explanation:

Data metric 5c (50.0%) indicated that JCDH provided adequate inspection coverage for one of the two minor and synthetic minor sources that are part of the CMS plan. A representative from JCDH indicated that the facilities identified under data metric 5c are not part of the CMS plan and that the information would be corrected in ICIS-Air. Since the facilities are not listed under the CMS plan and JCDH plans to correct this information in ICIS-Air, the EPA is recommending that this finding be considered an Area for Attention instead of an Area for Improvement as indicated by the metric value of 50%.

Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State Total
5c FCE coverage: minors and synthetic minors (non-SM 80s) that are part of CMS plan or alternative CMS Plan [GOAL]	100%	68.1%	1	2	50%

State Response:

JCDH is unclear how this even occurs since its database doesn't have a way to denote this type of source/plan. It appears ICIS created issue during AFS migration. JCDH was able to delete these in ICIS upon discovery during the review.

CAA Element 3 - Violations

Finding 3-1

Meets or Exceeds Expectations

Recurring Issue:

No

Summary:

JCDH was timely in identifying HPVs and made accurate compliance determinations.

Explanation:

Data metric 13 (100%) indicated that JCDH was timely in identifying HPVs.

File review metric 7a (100%) indicated that JCDH made accurate compliance determinations.

Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State Total
7a Accurate compliance determinations [GOAL]	100%		26	26	100%
13 Timeliness of HPV Identification [GOAL]	100%	81.4%	1	1	100%

State Response:

CAA Element 3 - Violations

Finding 3-2

Area for Improvement

Recurring Issue:

No

Summary:

Discrepancies were identified in the accuracy of high priority violation determinations. JCDH frequently misidentified violations as non-HPV when they met the HPV criteria set forth in the HPV Policy.

Explanation:

File review metric 8c (33.3%) indicated that two of the six files reviewed had accurate HPV determinations. The remaining four files indicated that Federally Reportable Violations (FRVs) were inaccurately determined as non-HPV.

Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State Total
8c Accuracy of HPV determinations [GOAL]	100%		2	6	33.3%

State Response:

EPA has chosen to look at some NOV's and HPV's that are outside FY 2021. Specifically, for 8c two NOV's from FY 2019 are listed as part of the metric for FY 2021. JCDH is aware of the SRF guidance referring to the next fiscal year for metrics however it has never experienced an SRF going back multiple fiscal years. With respect to HPV selection in FY 2019, JCDH doesn't agree with the HPV criteria for that violation as the late report didn't "substantially interfere" with enforcement or compliance. JCDH attributes the errors in FY 2020 and FY 2021 to ICIS (as previously discussed) and staffing issues during COVID. JCDH pulled staff off Air Pollution duties and funding in order to respond to COVID in FY 2020 and FY 2021. Following through with enforcement cases was difficult during COVID, however JCDH continued as best it could. FY 2023 staffing is close to Pre-COVID levels and JCDH should not have any issues in metric 8c. Because JCDH continues to have problems with HPV entry in ICIS (not allowing its selection currently), JCDH is requesting training for current and new staff on ICIS entry and specifically the case file component. JCDH has reached out to its Region IV contact.

EPA Response:

There were no formal enforcement actions nor civil penalties assessed during the review year of FY 2021. To address this issue, the EPA selected supplemental files from FY 2020 (two files) and FY 2019 (one file) that had formal enforcement actions and assessed civil penalties. The SRF Reviewer's Guide Round 4 (2018-2022) guidance document provides the option for the EPA to select supplemental files when the review period does not have a representative selection of compliance activities. (page 15, section III.C.4.). In addition, several activities during the review year were linked to activities from a previous or subsequent year. To address this issue, the EPA reviews the linked activities even if they are outside the review period. The SRF Reviewer's Guide Round 4 (2018-2022) guidance document states, "There may be activity from a previous or subsequent year linked to activity in the year reviewed. If so, EPA should review these activities." (page 18, section III.D.3.c.)

EPA Region 4 is coordinating with JCDH to schedule and provide the ICIS-Air training that was requested.

Recommendation:

Rec #	Due Date	Recommendation
1	05/01/2024	File metric 8c: By August 1, 2023, JCDH will provide to the EPA a written description of the root causes for the inaccurate HPV determinations, and a written description of what measures and/or procedures have been implemented to ensure accurate HPV determinations are made. By May 1, 2024, the EPA will review a random selection of facility files that contain informal enforcement actions and evaluate file metric 8c to ensure HPV determinations have improved. Once file metric 8c indicates a 71.0% or greater of HPV determinations, then this recommendation will be considered complete.

CAA Element 4 - Enforcement

Finding 4-1

Meets or Exceeds Expectations

Recurring Issue:

No

Summary:

JCDH issued formal enforcement actions that returned facilities to compliance and appropriately addressed HPVs consistent with the HPV Policy.

Explanation:

File review metrics 9a (100%) and 10b (100%) indicated that JCDH returned facilities to compliance and appropriately addressed HPVs consistent with the HPV policy.

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%		4	4	100%
10b Percent of HPVs that have been addressed or removed consistent with the HPV Policy [GOAL]	100%		1	1	100%

State Response:

CAA Element 4 - Enforcement

Finding 4-2

Area for Improvement

Recurring Issue:

No

Summary:

An HPV was not addressed in a timely manner or alternatively have a Case Development Resolution Timeline (CDRT) in accordance with the HPV policy.

Explanation:

File review metrics 10a (50.0%) and 14 (0%) indicated that one facility file contained an HPV that was not addressed in a timely manner or alternatively have a CDRT in accordance with the HPV policy. JCDH confirmed that a CDRT was not developed and indicated that the HPV was discussed during routine enforcement conference calls with the EPA. The CDRT was not developed due to referral of the HPV enforcement proceedings to JCDH attorneys for legal action.

Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State Total
10a Timeliness of addressing HPVs or alternatively having a case development and resolution timeline in place	100%		1	2	50%
14 HPV case development and resolution timeline in place when required that contains required policy elements [GOAL]	100%		0	1	0%

State Response:

JCDH could not address ongoing litigation for 10a, however JCDH did update its Enforcement contact as to the status of the case on calls. JCDH would like EPA to expressly give training or provide examples of how JCDH would do a CDRT without jeopardizing its litigation.

EPA Response:

Section V of the “Revision of U.S. Environmental Protection Agency's Enforcement Response Policy for High Priority Violations of the Clean Air Act: Timely and Appropriate Enforcement Response to High Priority Violations - 2014”, dated August 25, 2014, provides information on how to address HPVs if they are not addressed within 180 days of day zero. The policy allows programs the opportunity to provide their own assessment for addressing and resolving the HPVs that are not addressed within 180 days, known as a case development and resolution timeline (CDRT). The policy also provides the information that should be included in the CDRT. The EPA recognizes that the CDRT may need to be revised as new information comes to light. The EPA also recognizes the complexity of specific enforcement actions, so the program should not provide information in the CDRT that would negatively impact the investigation or settlement negotiations.

Recommendation:

Rec #	Due Date	Recommendation
1	05/01/2024	File metric 10a: By August 1, 2023, JCDH will provide to the EPA a written description of what measures and/or procedures have been implemented to ensure the timeliness in addressing HPVs. By May 1, 2024, the EPA will review a random selection of facility files that contain HPVs and evaluate file metrics 10a to ensure the timeliness in addressing the HPVs. Once file metric 10a indicates a 71.0% or greater, then this recommendation will be considered complete.
2	10/01/2023	File metric 14: By October 1, 2023, JCDH will provide to the EPA a written description of what measures and/or procedures have been implemented to ensure that HPV case development and resolution timelines are in place in accordance with the HPV Policy dated August 25, 2014. In addition, JCDH will develop and provide to the EPA a sample case development and resolution timeline, that contain the required elements outlined in Section V. items 3 through 7 of the HPV Policy. Once the EPA reviews the procedures and the sample timeline, then this recommendation will be considered complete.

CAA Element 5 - Penalties

Finding 5-1

Meets or Exceeds Expectations

Recurring Issue:

No

Summary:

JCDH provided the 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 JCDH considered gravity and economic benefit components in all penalty calculations, provided rationale for differences between the initial penalty calculated and the final assessed penalty, and documented that the penalties were collected. Due to confidentiality concerns, JCDH did not provide the EPA with copies for each penalty calculation worksheet, however JCDH and the EPA conducted conference calls to discuss each penalty calculation worksheet associated with the corresponding facility file.

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%		4	4	100%
12a Documentation of rationale for difference between initial penalty calculation and final penalty [GOAL]	100%		4	4	100%
12b Penalties collected [GOAL]	100%		4	4	100%

State Response:
