

# **STATE REVIEW FRAMEWORK**

## **California**

**Clean Water Act Implementation in Federal Fiscal Year  
2019, Clean Air Act & Resource Conservation & Recovery  
Act Implementation in Federal Fiscal Year 2020**

**U.S. Environmental Protection Agency  
Region 9**

**Final Report  
October 6, 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 Water Act (CWA)**

**Review period:** *FY 2019. California's inspection coverage, enforcement information, and data metrics were evaluated over Federal Fiscal Year 2019 (October 1, 2018 to September 30, 2019). The review period was chosen because it was the most recent year of complete state monitoring and enforcement uninterrupted by the COVID-19 pandemic.*

Key dates:   File Review-- August 2021  
                  Draft Report-- October 2021  
                  Final Report – April 2022

State and EPA key contacts for review:

CWA EPA Contacts: *Michael Weiss (EPA Region 9), Kristine Karlson (EPA Region 9)*

CWA State Contact: *Matthew Buffleben (State Water Resources Control Board)*

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

Review Year: FY 2020.

File Review dates: August 18-September 1, 2021.

San Joaquin Valley Air Pollution Control District Key Contact: John Stagnaro, Director of Compliance; Ryan Hayashi, Deputy Air Pollution Control Officer.

EPA Reviewers: Scott Connolly, Heather Haro, and Tyler Holybee.

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

##### **Key dates:**

- SRF kickoff meeting with San Joaquin County Environmental Health Department (SJCEHD): May 17, 2021
- File selection list sent to SJCEHD: June 4, 2021
- Meeting with SJCEHD and the California Department of Toxic Substances Control (DTSC) to review SJCEHD's inspection and enforcement policies and procedures: June 23, 2021
- Teams SJCEHD SRF folder set-up by Region 9 to transfer the selected inspection and enforcement files: June 9, 2021
- Three additional formal enforcement files requested to review: June 23, 2021
- File review conducted: June 9, 2021 to July 30, 2021.
- Preliminary SRF findings provided to SJCEHD and DTSC: August 13, 2021
- Draft report sent to SJCEHD and DTSC: February 7, 2022

- Meeting with SJCEHD, DTSC, and California Environmental Protection Agency (CalEPA) to discuss SRF data findings: March 22, 2022
- Final report sent to SJCEHD and DTSC: TBD

**County, State and EPA key contacts for review:**

- Meredith Williams, Ph.D, Director, DTSC
- Jasjit Kang, Director, SJCEHD
- Maria Soria, Chief, DTSC, Enforcement and Emergency Response Division (EERD)
- Muniappa Naidu, Assistance Director, SJCEHD
- Diana Peebler, Manager, DTSC EERD
- April Ranney, Manager, DTSC EERD
- Kevin Abriol, Senior Environmental Scientist, DTSC EERD
- Erika Michelotti, Unified Program, CalEPA
- Melissa Nissim, Program Coordinator, SJCEHD
- Michelle Henry, Program Coordinator, SJCEHD
- Garrett Backus, Lead Senior REHS, SJCEHD
- Joel Jones, USEPA Region 9, Deputy Director, Enforcement and Compliance Assurance Division (ECAD)
- Kaoru Morimoto, USEPA Region 9, Manager, Waste and Chemical Section, ECAD
- John Schofield, USEPA Region 9, Environmental Scientist, ECAD
- Christopher Rollins, USEPA Region 9, RCRA Compliance Officer, ECAD

# 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 Water Act (CWA)

- Completeness of permit limits and discharge data in EPA's database.
- California met its commitments for major and minor facilities and most stormwater facilities. Inspection reports included sufficient information supporting compliance determinations found during inspections.
- Enforcement actions reviewed generally promote return to compliance.

### Clean Air Act (CAA)

- SJVAPCD evaluates Air Compliance Monitoring Strategy (CMS) sources more frequently than the national average.
- SJVAPCD took appropriate enforcement action for HPVs, to include timeline for a return to compliance.
- SJVAPCD conducts thorough and complete compliance evaluation inspections.
- SJVAPCD accurately identified HPVs.

### Resource Conservation and Recovery Act (RCRA)

- San Joaquin County Environmental Health Department's (SJCEHD's) hazardous waste program inspection reports reviewed were complete, consistent, and provided appropriate documentation to determine compliance at the facility.
- Timeliness of issuing an official inspection report averages three days from the first day of the inspection.
- San Joaquin County effectively manages noncompliant facilities with appropriate enforcement responses.

## 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 Water Act (CWA)

- The incompleteness and inaccuracy of inspections and enforcement action data in EPA's database. Stormwater data often had missing inspection reports, incorrect facility information, and was missing violations and enforcement actions.
- Stormwater inspection reports often lacked a detailed narrative, or the reports lacked the documentation necessary to capture conditions at the time of inspection.
- The State fell short of its commitments for pretreatment and SSO inspections.

**Clean Air Act (CAA)**

- SJVAPCD consistently reports information in ICIS-Air, but the some of the information entered was inaccurate.
- SJVAPCD did not consistently include information on how violations were resolved or if corrective actions had been taken to return to compliance.
- SJVAPCD did not consistently produce the minimum level of documentation for penalty calculations nor justifications for penalty reductions. SJVAPCD did not document appropriate follow-up measures for penalties not yet collected.

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

- Zero of 33 of SJCEHD's inspection/enforcement files reviewed contained all the required data that was accurately reflected in the RCRAInfo database. Twenty-three inspections were not listed in RCRAInfo, and no enforcement actions were listed. All inspection files reviewed identified violations (i.e., corresponding enforcement actions) that should have been but were not listed in RCRAInfo.
- The California Environmental Reporting System (CERS) compiles and translates to RCRAInfo only a subset of RCRA C CM&E activities conducted by the CUPAs. Obstacles include limited CUPA source data, complex data validation rules and a lack of attention to data mapping by DTSC and CalEPA.
- Data translation from the California Department of Toxics Control Substance (DTSC) EnviroStor database and Certified Unified Program Agency (CUPAs) (via the CalEPA CERS application) does not accurately portray state and CUPA compliance monitoring efforts.
- SJCEHD penalties do not document economic benefit components in their penalty calculation procedures.

# Clean Water Act Findings

## CWA Element 1 - Data

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### Finding 1-1

Area for Improvement

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### Recurring Issue:

Recurring from Rounds 2 and 3

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### Summary:

Fifty-one percent of files reviewed had complete information reported to EPA's ICIS database, below the national goal of 100%.

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### Explanation:

Under Metric 2b, EPA reviewers compared inspection reports and enforcement actions found in selected files at the Lahontan and Central Valley Regional Boards to determine if the inspections, inspection findings and enforcement actions were accurately entered into ICIS. The analysis was limited to data elements mandated in EPA's ICIS data management policies. States are not required to enter inspections or enforcement actions for certain classes of facilities.

EPA found only 23 of the 45 files reviewed (51.1%) had all the required information (facility location, inspection dates, violations, and enforcement action information) accurately entered into ICIS when compared with data in California's Integrated Water Quality System (CIWQS) or the Stormwater Multiple Application and Report Tracking System (SMARTS) database. CIWQS is a computer system used by the State and Regional Water Quality Control Boards to track inspections, manage permits, and oversee enforcement activities. California also uses CIWQS as its electronic file for storage of inspection reports and enforcement documents. Most of the NPDES individually permitted facility (i.e. POTWs) files that were reviewed had complete information reported to EPA's ICIS database (76%) in comparison to the stormwater files that were reviewed (29%) and covered by general NPDES permits.

SMARTS is a stormwater only database within CIWQS where dischargers and regulators, can enter and track stormwater data including NOIs, NOTs, NECs, Annual Reports, compliance, and monitoring data. Most of the industrial or construction stormwater inspections reviewed in SMARTS were recorded in ICIS as viewed through ECHO. Enforcement and Compliance History Online (ECHO) is EPA's public and internal portal to compliance and enforcement data from various databases including ICIS.

Failure to record inspections, incorrect addresses, basic facility information, missing violations, and enforcement actions in ICIS were among the most frequently cited data accuracy issues for stormwater files. This was also an issue in the California Round 3 and Round 2 SRFs, that had yet to be fully resolved at the time of this file review.

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### Relevant metrics:

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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%		23	45	51.1%

**State Response:**

There are both programmatic and technical issues behind the discrepancies between the State databases (SMARTS and CIWQS) and ICIS. ICIS is intentionally programmed to reject new enrollees under an expired general permit and the associated compliance and enforcement data. California’s Construction General Stormwater Permit has been administratively continued. However, we continue to enroll new entities. Given that our permits are complicated and contentious, this practice will likely continue as will discrepancies between data systems unless ICIS is modified to accommodate California’s situation.

State Water Board staff did identify two technical issues impacting data transfer. For some stormwater data, compliance flow was held up for a while due to a problematic character (i.e., letter or symbol). This issue was resolved, and a large amount of data was transferred from SMARTS to ICIS the week of March 14, 2022. The other technical issue is still being evaluated. The State Water Board agrees with the recommendation of developing an audit framework to ensure that the records in CIWQS and SMARTS are consistent with those in ICIS and have already began developing this framework.

**Recommendation:**

Rec #	Due Date	Recommendation
1	03/31/2023	<p>By May 31, 2022, EPA and the State Board will initiate regular meetings focused on data management to track progress and harmonize ICIS and CIWQS data to ensure California is meeting its CWA section 106 grant work plan commitments for data management.</p> <p>By December 31, 2022, State Board will develop an audit framework to ensure that the records in CIWQS and SMARTS are: (1) consistent with records in ICIS, or (2) identified and purposefully excluded due to business rule differences. As part of the audit, the State Board will investigate, address, or create a plan to address the data flow problems contributing to missing data in ICIS.</p> <p>By March 31, 2023, State Board will share the results of the audit with EPA Region 9.</p>

**CWA Element 2 - Inspections**

**Finding 2-1**

Area for Improvement

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**Recurring Issue:**

No

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**Summary:**

The State fell short of its commitments for pretreatment and SSO inspections.

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**Explanation:**

EPA Region 9 established 106 Work Plan inspection commitments for California consistent with the inspection frequency goals outlined in EPA's 2014 CWA NPDES Compliance Monitoring Strategy (CMS). The 4a metrics measure the number of inspections completed by the State overall in the FY19 compared to the CMS commitments which are the same as California's Clean Water Act section 106 grant Work Plan.

Metric 4a1 measures pretreatment compliance inspections and audits. California generally relies on an EPA-managed in-kind-services contract to complete pretreatment program audits, inspections, and inspections of Industrial Users. During FY19, California's Regional Boards did not meet their Work Plan commitments, only completing 14 Pretreatment Compliance Inspections (PCIs) and 6 Pretreatment Compliance Audits (PCAs) at the 102 publicly owned treatment works (POTW) pretreatment programs in California. The State has a goal of conducting one PCA in each five-year permit term of all approved active POTW Pretreatment programs, and at least two PCIs during each five-year permit term on all approved active POTW Pretreatment programs. Metric 4a2 measures inspections of Significant Industrial Users (SIUs). However, the data needed for Metric 4a2 is segmented among the separate Regional Water Boards and non-authorized POTWs and was not accessible for the SRF review. The Regional Boards typically delegate this responsibility to the non-authorized receiving POTW as a requirement of their NPDES Permit/Waste Discharge Requirement (WDR) (as a "POTW Mini-Program" as described in the EPA Memorandum Oversight of SIUs Discharging to POTWs without Approved Pretreatment Programs).

Under metric 4a5, California is expected to annually inspect at least five percent of sanitary sewage collection systems subject to its general Waste Discharge Requirement (WDR) for sewage collection systems (Order No. 2006-0003-DWQ). During State FY19, California inspected 20 (1.8%) of its 1,099 sanitary sewer systems.

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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%		14	102	13.7%
4a5 Number of SSO inspections. [GOAL]	100% of commitments%		20	1099	1.8%
4a10 Number of comprehensive inspections of large and medium concentrated animal feeding operations (CAFOs) [GOAL]	100% of commitments%		6	102	5.9%

**State Response:**

Regarding Metric 4a1: The report notes that California has 102 pretreatment facilities. However, we have 92 NPDES approved Pretreatment Programs. The Water Boards concur that we have not met the compliance inspection and audit metrics (i.e., 2 compliance inspections and 1 compliance audit per five-year permit cycle). A recent workload and needs assessment for the entire California Pretreatment Program determined that the California Pretreatment Program is significantly understaffed to meet pretreatment compliance inspections and audit requirements set forth in the Compliance Monitoring Strategy. However, the Water Boards are committed to improving management of the California Pretreatment Program and working on establishing an effective compliance pretreatment program.

Regarding Metric 4a2: Developing a process to eventually come into compliance with this metric will take resources and more time than recommended in the SRF. Implementing a new process could take two to three years before we could possibly meet the recommended action to inspect each CIU annually, and to track the information. Our ability to meet this at 100% compliance would depend on how many SIUs are identified, available resources, and funding to meet any associated monitoring requirements (e.g., SIU discharge monitoring).

Regarding Metric 4a5: The State Water Board's Office of Enforcement (OE) has developed a collection system prioritization tool using data available in CIWQS. The tool takes data that has been submitted by the collection system operators and applies specific criteria (# of SSOs, large volume SSOs reaching surface waters, % recovery of spills, % of spills reaching surface waters, high peaking factor, submittal of timely information, and age of infrastructure) and creates a prioritized list. In federal 3rd quarter 2022, OE staff will partner with staff at the Central Coast Regional Board to pilot test the tool. They will focus on two systems that impact Environmental Justice (EJ) and/or disadvantaged communities and two systems where the criteria heavily apply. In the near term, OE staff will continue using the tool with other regions, with the Los Angeles Regional Board and the Central Valley Regional Board being tentatively scheduled for this calendar year.

While this tool may not ensure that we meet fully our CMS commitments for SSO inspections, it will help us identify the systems that are most troublesome in the areas that are most vulnerable.

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**Recommendation:**

<b>Rec #</b>	<b>Due Date</b>	<b>Recommendation</b>
1	11/30/2022	<p>California failed to meet the CMS commitments for pretreatment and SSO inspections during SRF Round 3 and regularly failed to satisfy annual commitments for these same inspection categories, including during the most recent review of the CWA 106 Work Plan for FY20/21.</p> <p>By November 1, 2022, State Board shall submit a work plan to EPA Region 9 for review and approval on how California plans to meet these SSO and pretreatment CMS commitments. As part of that work plan, State Board shall include an inventory of SIUs discharging to non-authorized POTWs, develop a process for identifying new and previously unknown SIUs discharging to non-authorized POTWs, and develop a plan to inspect each SIU annually, as well as track that information.</p>

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**CWA Element 2 - Inspections**

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**Finding 2-2**

Meets or Exceeds Expectations

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**Recurring Issue:**

No

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**Summary:**

Statewide, California met or exceeded inspections of its Clean Water Act CMS commitments for major and minor facilities and most stormwater facilities.

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**Explanation:**

Metrics 5a and 5b measure the number of inspections at major and minor (non-major) facilities in FY19 compared to CMS commitments. EPA Region 9 has established 106 Work Plan inspection commitments for California consistent with the inspection frequency goals outlined in EPA's 2014 CWA NPDES Compliance Monitoring Strategy.

Metric 5a1 measures the inspection coverage of NPDES majors, while metric 5b1 measures inspection coverage of NPDES non-majors with individual permits (also called minors), and metric 5b2 measures inspection coverage of NPDES non-majors with general permits. California inspected 148 (66%) major facilities and 64 (33.5%) minor facilities during the fiscal year, meeting the CMS based 106 Work Plan commitment to inspect major permittees at least once every two years and each minor facility at least once during its five-year permit term. Because there are only two Combined Sewer Systems in California, Metric 4a4 has a high percent of completion.

California met its 106 Work Plan inspection commitments for most stormwater inspection categories. According to the 106 Work Plan, the Regional Water Boards must perform an on-site audit or inspection for all Phase I and II MS4 permittees at least once every ten years, or 10% per year. The State reported completing 84 audits out of 325 Phase I MS4s permittees (25%), and 21 audits out of 279 of Phase II MS4s permittees (7.5%) for a total of 105 audits (17%). However, the CMS states that each MS4 permittee and co-permittee should receive an on-site audit or inspection at least once every seven years. Currently, California does not have an alternative CMS. The 106 Work Plan should be amended to reflect the CMS requirements for MS4s or California should reach out to EPA to consider applying for an alternative CMS for MS4s. According to the 106 Work Plan, the Regional Water Boards are expected to inspect at least 10% of industrial stormwater permittees, 10% of permitted Phase I construction sites, and at least 5% of permitted Phase II construction sites each year. The State reported completing 1,941 industrial stormwater inspections out of 11,583 permittees (17%), and 1,838 construction stormwater inspections out of 8,629 permittees (21%). Construction site category (i.e. Phase I v. Phase II) was not provided during this reporting period.

There are 125 medium and large CAFOs throughout California (covered by NPDES permits and not WDRs). Regional Boards inspected 59% of the CAFOs, which met the CMS goal of inspecting large and medium CAFOs at least once every five years (20% per year).

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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>
4a5 Number of SSO inspections. [GOAL]	100% of commitments%		1	2	50%
4a7 Number of Phase I and II MS4 audits or inspections. [GOAL]	100% of commitments%		105	604	17.4%
4a8 Number of industrial stormwater inspections. [GOAL]	100% of commitments%		2018	11434	17.6%
4a9 Number of Phase I and Phase II construction stormwater inspections. [GOAL]	100% of commitments%		2251	7443	30.2%
4a10 Number of comprehensive inspections of large and medium concentrated animal feeding operations (CAFOs) [GOAL]	100% of commitments%		74	125	59.2%
5a1 Inspection coverage of NPDES majors. [GOAL]	100%		148	223	66.4%
5b1 Inspections coverage of NPDES non-majors with individual permits [GOAL]	100%		64	191	33.5%
5b2 Inspections coverage of NPDES non-majors with general permits [GOAL]	100%		1176	14693	8%

**State Response:**

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## **CWA Element 2 - Inspections**

### **Finding 2-3**

Area for Improvement

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**Recurring Issue:**

No

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**Summary:**

Forty-seven percent of inspection reports reviewed were sufficient to determine compliance. Most of the reports that were inadequate were stormwater inspections that lacked adequate documentation of the findings.

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**Explanation:**

Metric 6a assesses the quality of inspection reports including whether the inspection reports provide sufficient documentation to determine the compliance status of inspected facilities. 17 out of 36 inspection reports reviewed from the Lahontan and Central Valley Regional Boards were complete and sufficient to determine compliance in accordance with EPA's 2017 NPDES Compliance Inspection Manual guidelines. The EPA file reviewers evaluated the inspection reports electronically through CIWQS and SMARTS.

The EPA reviewers found that the most common deficiency was that the reports were either missing enough detailed narrative to explain the findings, or that the report was missing documentation necessary to "freeze" conditions at the time of inspection such that compliance personnel could objectively examine evidence. Most of the NPDES individually permitted (i.e. POTWs) inspection reports that were reviewed were sufficient to determine compliance (84%) in comparison to the stormwater inspection reports that were reviewed (26%).

This was also a finding in the SRF Round 3 Review. As part of that finding the Water Boards updated inspection report guidance and the administrative procedures manual (APM), and developed staff training. This was originally planned to be completed by June 30, 2019 but was not completed by the time of the SRF review. The updated APM should include guidance for inspectors to develop clearly written narratives, including requirements to upload the reports into the proper databases and processes to track report completion. It should be noted that due to COVID-19, the inspection reports reviewed during SRF Round 4 were completed (October 1, 2018 – September 30, 2019) before the improvements from Round 3 could go into effect.

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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 at the facility. [GOAL]	100%		17	36	47.2%

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**State Response:**

Since the last round of SRF, the Water Boards updated and finalized the inspection Administration Procedures Manual (APM). However, the inspection reports reviewed as part of this round of SRF were written before the recommended improvements from Round 3 were fully

implemented. This timeframe was chosen due to COVID-19 and its impact on inspection rates for Fiscal Year 2020. The Water Boards’ inspection reports have been improving since the inception of our new procedures and implementation and training on those procedures will continue. Further, we have provided an inspection template from CIWQS to EPA Region 9 staff for review. This template or something similar could be implemented in the SMARTS database as well.

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**Recommendation:**

<b>Rec #</b>	<b>Due Date</b>	<b>Recommendation</b>
1	09/30/2022	<p>By June 30, 2022, the State Board will develop minimum inspection requirements, including a stormwater inspection template that will include areas to be filled out that will provide sufficient information to document compliance status of inspected facilities. The template will include basic facility information, narrative, photograph log, and be consistent with the EPA NPDES Inspector’s Manual and the California APM.</p> <p>By September 30, 2022, the State Board and the Regional Boards will submit a report to EPA documenting findings regarding whether state inspectors are properly following the updated inspection report guidance and APM and verify that all state inspectors have completed training on this guidance. This will include State Board reviewing a selection of inspection reports from each of the Regional Boards to determine if they satisfy the updated guidance. The report will highlight areas in need of improvement and how the state intends to rectify any deficiencies regarding inspection report quality.</p>

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**CWA Element 2 - Inspections**

**Finding 2-4**

Meets or Exceeds Expectations

**Recurring Issue:**

No

**Summary:**

Inspection reports reviewed by EPA were dated or completed within EPA’s recommended timeline for completing an inspection report.

**Explanation:**

Metric 6b measures the state’s timeliness on completing inspection reports within the EPA recommended deadlines of 45 days for sampling inspection reports and 30 days for non-sampling types of inspections. California has implemented a policy of tracking inspection report completion times against state or EPA timeliness recommendations. Inspection reports lacking completion dates, inspection reports bearing dates beyond the recommended timeliness deadlines, and facility files that have at least one inspection entered into ICIS with no corresponding inspection report in the file were all considered as not meeting EPA’s guidelines for timely on completion of inspection reports. Stormwater inspection reports consisting only of an entry into SMARTS were credited with timely completion but counted against inspection report quality expectations in Metric 6a.

Based on review of 32 files, EPA found that 28 inspection reports met the timeliness goals with an average report completion of 24.5 days. Included in the review, were PCIs and PCAs completed by contractors that were finalized well after the 30-day requirement. If these reports were excluded, California would exceed the goal for this metric.

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**Relevant metrics:**

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State %
6b Timeliness of inspection report completion [GOAL]	100%		28	32	87.5%

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**State Response:**

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**CWA Element 3 - Violations**

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**Finding 3-1**

Meets or Exceeds Expectations

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**Recurring Issue:**

No

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**Summary:**

Inspection reports generally provide adequate information supporting the compliance determinations found during inspection.

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**Explanation:**

Metric 7e measures the percentage of inspection reports reviewed that led to an accurate compliance determination, based on information available in the file. The number of inspection reports that led to accurate compliance determinations (85.3%) was below the national goal of 100% but does not necessitate a corrective recommendation.

Stormwater program inspection reports generally consisted of broad conclusions regarding facility compliance status with little documentation supporting the findings. More detailed inspection reports and documentation corroborating findings is necessary as discussed in Finding 2-3 regarding metric 6a. For stormwater inspection reports with sufficient documentation, there were a few instances in which findings directly conflicted with the description of site conditions in the report, however not enough instances to merit formal follow-up and oversight by EPA.

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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%		29	34	85.3%

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**State Response:**

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**CWA Element 3 - Violations**

**Finding 3-2**

Area for Attention

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**Recurring Issue:**

No

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**Summary:**

The SNC rate is comparable to the national average.

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**Explanation:**

SEVs are violations discovered by means other than the ICIS automated screening of DMRs for effluent limit and reporting violations. Violations documented in inspection reports or from DMR reviews are typically classified as SEVs. Metric 7j1 measures whether SEVs are entered into ICIS. Violations that arose from inspections and from DMRs were noted in CIWQS. In SRF Round 3, SEVs were not transferring from CIWQS into EPA’s ICIS database, but based on the current review that SEV data is now showing up in ECHO. California enters SEVs into the main permitted discharger portion and the SSO portion of their CIWQS state database.

Metric 7k1 measures the percent of major and non-major facilities in non-compliance reported in ICIS. State-wide noncompliance at these facilities in California is 80% according to information available in data metric 7k1. Considering that NPDES facilities in California have stringent effluent limits, a high frequency of effluent monitoring, many effluent limit parameters, numerous compliance orders already in place, and that only a single effluent violation places a major facility in noncompliance, California’s rates of noncompliance, which appear high, are consistent with the national average noncompliance rate of 18.4%.

Metric 8a3 measures the percentage of major and minor facilities in significant noncompliance. 112 of the 410 major and minor facilities in California were in SNC for one or more quarters during FY19. The rate of SNC in California (27%) is higher than the national average of 8%. Again, California has especially stringent effluent limits (and other factors mentioned above) that may have contributed to the higher-than-average SNC rate. There were 30 facilities in RB5 and 2 facilities in RB6 that were in SNC during FY19.

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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>
7j1 Number of major and non-major facilities with single-event violations reported in the review year.			1694	14693	11.5%
7k1 Major and non-major facilities in noncompliance.			327	410	79.8%
8a3 Percentage of major facilities in SNC and non-major facilities Category I noncompliance during the reporting year.		8.1%	121	410	29.5%

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**State Response:**

We contend that these numbers are simply inaccurate. In fact, California has been held as an example of a state that has dramatically decreased its SNC rate within the last 4 years. We have provided screenshots to EPA Region 9 staff of the Quarterly SNC/Category 1 Rate dashboard from the ECHO website. These screenshots included both the quarterly rate and the rolling average rate for all quarters in Fiscal Year 2019 and for current quarter. We understand and appreciate that EPA Region 9 staff are looking into the discrepancy. Also note that due to data quality issues that could not be remedied, the SNC National Compliance Initiative Workgroup decided to move away from the rolling average and use the quarterly average.

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**CWA Element 4 - Enforcement**

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**Finding 4-1**

Meets or Exceeds Expectations

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**Recurring Issue:**

No

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**Summary:**

Enforcement actions reviewed generally promote return to compliance.

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**Explanation:**

Metric 9a measures the percent of enforcement responses that return or will return the source to compliance. There were 25 of 29 enforcement actions reviewed that resulted in a return to compliance specific to the relevant NPDES requirement. The finding level is identified as Meets or Exceeds Expectations because only four enforcement actions did not promote return to compliance.

In 86.2% of enforcement actions reviewed, the EPA reviewers found either that the enforcement action mandated a return to compliance or found other documentation in the file indicating that the facility actually returned to compliance as a result of the enforcement action. The actions included a variety of informal (NOVs or notices of noncompliance) and formal (administrative civil liability actions) enforcement actions, most often with documented returns to compliance. In four of the actions evaluated, the EPA reviewers found that the action did not promote a return to compliance. Each of these cases were either penalty actions or informal actions (i.e. verbal warning) where the action did not include a requirement to return to compliance. Although some of these facilities may have returned to compliance, the EPA reviewers did not find documentation in the file of return to compliance.

Stormwater enforcement electronic files (i.e. SMARTS) contained additional information useful in verifying facilities return to compliance. Specifically, enforcement case files contained copies of required reports, sampling results, and/or permit application documents developed or submitted to address the deficiency/violation resulting in the enforcement action. The Regional Board should include injunctive relief or follow-up actions in most enforcement actions to ensure facilities have indeed returned to compliance. Any follow-up actions should to be included as records in case files.

**Relevant metrics:**

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State %
9a Percentage of enforcement responses that returned, or will return, a source in violation to compliance [GOAL]	100%		25	29	86.2%

**State Response:****CWA Element 4 - Enforcement****Finding 4-2**

Area for Attention

**Recurring Issue:**

No

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**Summary:**

Enforcement actions taken at major and non-major facilities are often timely but are not always appropriate.

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**Explanation:**

For this finding, EPA used two metrics (metrics 10a1 and 10b) to evaluate whether California is addressing violations with appropriate enforcement actions and whether California's enforcement responses were taken in a timely manner.

Metric 10a1 was used to assess California's response to SNC level violations at major facilities. To evaluate metric 10a1, the EPA reviewers examined each of the 13 major facilities that were in SNC for two or more quarters FY19 (October 1, 2018 – September 30, 2019). The reviewers determined whether or not California took enforcement action against each of the SNC facilities and whether the action was timely and appropriate. According to EPA's policy, appropriate actions for SNC violations are formal enforcement actions that require a return to compliance. The following California enforcement mechanisms are considered appropriate enforcement: Cease and Desist Orders, Time Schedule Orders, and Cleanup and Abatement Orders. EPA policy further dictates that an enforcement action is considered timely if it is issued within 5 ½ months at the end of the quarter when the SNC level violations initially occurred. EPA's review found that five of the 13 (38.5%) statewide SNC facilities were addressed with enforcement actions that were both timely and appropriate. This is well above the national average of 14.4%.

Nearly all the 13 SNC facilities were addressed with some type of enforcement, but the actions did not meet EPA's policy for appropriate or timely actions. Some of the SNC facilities were addressed with penalty actions such as administrative civil liability actions (ACL) or mandatory minimum penalties (MMP) and others were addressed with informal actions such as staff enforcement letters. Penalty actions alone are not considered appropriate as these actions typically do not mandate a return to compliance.

Several of the 13 SNC facilities that the reviewers judged as lacking appropriate action even though the state had elected to forgo enforcement. EPA understands that the state would not take an enforcement action in these cases. In addition, there were possibly some facilities on the SNC list which the State believes were listed as SNC because of DMR reporting errors.

Under the state's enforcement rules and policies, it is very difficult for the state to meet EPA's timeliness deadlines. The State's 2017 *Water Quality Enforcement Policy* requires escalating enforcement responses and Regional Water Board hearings for formal enforcement actions such as a Cleanup and Abatement Order (CAO), Cease and Desist Order (CDO), or Time Schedule Order (TSO). As a result, it is difficult for California to issue a formal enforcement action within the 5 ½ month deadline established by EPA for timely response to SNC violations.

Metric 10b was used to assess California's enforcement response to any type of violation (SNC or lower-level violations) at any type of facility (major, minor or general permit discharger). EPA's evaluation of metric 10b was based on review of 30 enforcement responses selected from the Central Valley and Lahontan Regional Boards files. Each of the 30 enforcement responses

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

EPA found that 22 of the 30 enforcement responses were appropriate for the type of violation. These responses included NOV’s for minor deficiencies, with documented follow-up and a return to compliance, or formal enforcement (ACLs, compliance orders, etc.) for more serious violations. In eight of the files, however, the EPA reviewers concluded that the enforcement action was not appropriate for the circumstances. For example, some facilities had effluent violations from toxic pollutants and the corresponding enforcement actions were informal, or the enforcement action did not return the facility to compliance or prevent the facility from returning to noncompliance.

**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>
10a1 Percentage of major NPDES facilities with formal enforcement action taken in a timely manner in response to SNC violations		14.4%	5	13	38.5%
10b Enforcement responses reviewed that address violations in an appropriate manner [GOAL]	100%		22	30	73.3%

**State Response:**

The evaluation of this metric notes that nearly all the 13 SNC facilities were addressed with some type of enforcement, but the actions did not meet EPA’s policy for appropriate or timely actions. We would like to note that two of the facilities in SNC were due to late reports and were noted as not having been addressed in an appropriate manner. However, the Enforcement Management System (EMS) guidance regarding timely and appropriate action for NPDES facilities with significant noncompliance was written in 1989 and requires the issuance of formal enforcement to address SNC. According to the EMS, a formal enforcement is one “that requires actions to achieve compliance, specifies a timetable, contains consequences for noncompliance that are independently enforceable without having to prove the original violation, and subjects the person to adverse legal consequences for noncompliance.”

The Water Boards do not issue time schedule orders or cease and desist orders for late reporting violations. California has been issuing informal notices of violation with the requirement to submit standard operating procedures for electronic DMR reporting that includes steps to ensure timeliness of submittal.

Additionally, penalty actions that include a compliance project meet definition of formal enforcement actions that require a return to compliance and should be included in the list of enforcement mechanisms that are considered appropriate enforcement.

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## CWA Element 5 - Penalties

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### Finding 5-1

Meets or Exceeds Expectations

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### Recurring Issue:

No

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### Summary:

Consideration of economic benefit and gravity is not applicable the in files reviewed.

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### Explanation:

Metric 11a assesses the state's method for calculating penalties and whether it properly documents the economic benefit and gravity components in its penalty calculations. This metric was not applicable as mandatory penalty provisions are required by California Water Code section 13385, subdivisions (h) and (i), for specified violations of NPDES permits. For violations that are subject to mandatory minimum penalties (MMPs), the Water Boards must assess an ACL for the MMP or for a greater amount. California Water Code section 13385(h) requires that a MMP of \$3,000 be assessed by the Regional Water Boards for each serious violation. Water Boards may issue discretionary liabilities depending on the nature of the violations. It should also be noted that the Porter-Cologne Water Quality Control Act requires that certain civil liabilities be set at a level that accounts for any "economic benefit or savings" violators gained through their violations.

Metric 12a assesses whether the state documents the rationale for changing penalty amounts when the final value is less than the initial calculated value. Documents reviewed showed that the Central Valley Regional Board permanently suspended administrative civil liabilities twice as each facility submitted proof that the money spent toward the compliance project was equal to or greater than the suspended administrative liability.

Metric 12b assesses whether the state documents collection of penalty payments. The RB5 files had documentation indicating collection of assessed penalties in each of the penalty actions reviewed.

There were no penalty actions to review for the Lahontan Regional Board.

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### Relevant metrics:

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Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State %
12a Documentation of rationale for difference between initial penalty calculation and final penalty [GOAL]	100%		2	2	100%
12b Penalties collected [GOAL]	100%		2	2	100%

**State Response:**

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# Clean Air Act Findings

## CAA Element 1 - Data

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### Finding 1-1

Area for Improvement

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### Recurring Issue:

No

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### Summary:

The file review indicated that there was consistent reporting of information reported into ICIS-Air, but that the way the information was entered caused inaccuracies.

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### Explanation:

Metric 2b evaluates the completeness and accuracy of reported Minimum Data Requirements (MDRs) in ICIS-Air. The national goal is to accurately report 100% of data in ICIS-Air. To evaluate metric 2b we reviewed 30 files for data accuracy. We found that only 10 (33%) of the reviewed files were accurately reported. Generally, the inaccuracies were a result of over reporting of activities which created many duplicate entries. Nearly all compliance activities reported had instances of duplicate entries including six files with duplicate stack tests, eleven files with duplicate Title V Annual Compliance Certifications (ACC), six files with duplicate inspection entries, and seven files with duplicate enforcement penalty entries. There were also two of facilities with incorrect addresses, two cases with no address reported into ICIS-Air, and two cases with incorrect facility names. One file contained a stack test entered with the incorrect pollutant.

While information and activity data such as Full Compliance Evaluations (FCEs), stack tests, Title V ACCs were completed, SJVAPCD reported the information into ICIS-Air inaccurately and caused duplication of entries. EPA's review indicated that ICIS-Air fields that would have correctly designated the activity data were not completed.

Incorrect and missing data in ICIS-Air potentially hinders targeting efforts, and results in inaccurate and incomplete information being released to the public.

EPA uses several metrics to determine whether information is entered into ICIS-Air in a timely manner with the goal of achieving 100% percent of activities entered into ICIS-Air within certain time frames. Four metrics are used, and timeliness statistics are calculated when data is frozen immediately prior to the start of the SRF review period. During the SRF period data freeze SJVAPCD was in the process of working with EPA to update their reporting system and caused a delay in upload timeliness at the time of metric generation.

- Metric 3a2 measures whether HPV determinations are entered into ICIS-Air in a timely manner (within 60 days) in accordance with the FY2020 ICIS-Air requirements.
- Metric 3b1 measures the timeliness (within 60 days) for reporting compliance-related MDRs (FCEs and Reviews of Title V Annual ACCs). Metric 3b1 measures the timeliness for reporting compliance-related MDRs (FCEs and Reviews of Title V Annual ACCs).

- Metric 3b2 evaluates whether stack test dates and results are reported within 120 days of the stack test. The national goal for reporting results of stack tests is to report 100% of all stack tests within 120 days.
- Metric 3b3 measures timeliness for reporting enforcement related MDRs within 60 days of the action.

At the time of the FY2020 data freeze and metric generation, timeliness statistics were calculated at:

- 3a2: Timely HPV Determinations at 6.3%
- 3b1: Timely compliance related MDR Reporting at 55.6%
- 3b2: Timely Stack Test Reporting at 18%; and
- 3b3: Timely Enforcement-related MDR reporting 43.9%.

Metrics likely do not accurately reflect the true timeliness of SJVAPCD's activity reporting because of the known update to reporting processes. SJVAPCD staff and management explained that there were issues syncing data between SJVAPCD's system and EPA's database, ICIS-Air. After discussions between SJVAPCD and EPA staff the issue was resolved, but the data freeze generated metrics that resulted in lower than they would have otherwise. During the review of program files, it appears that the issue has been resolved and ICIS-Air now correctly contains HPV, MDR and stack test data, but the timeliness of the reporting could not be determined in this SRF. Because of these known issues the percentages calculated for this metric did affect the Finding 1-1 rating.

SJVAPCD has indicated that the air district employs an automatic system to upload activities to the ICIS-Air database daily. This system should, and according to SJVAPCD has historically, report activities in a timely manner. SJVAPCD should continue to ensure that activity reporting is uploaded in a timely matter.

SJCAPCD has indicated that duplicate records are likely a result of upload feedback loops creating addition records. The upload feedback loops are designed to ensure that all records are uploaded to ICIS-Air were miss timed with the way records were synced and saved, likely resulting in duplicate records.

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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%		10	30	33.3%
3a2 Timely reporting of HPV determinations [GOAL]	100%	40.6%	16	256	6.3%
3b1 Timely reporting of compliance monitoring MDRs [GOAL]	100%	74.3%	414	745	55.6%
3b2 Timely reporting of stack test dates and results [GOAL]	100%	59.4%	1449	8050	18%
3b3 Timely reporting of enforcement MDRs [GOAL]	100%	76.3%	254	579	43.9%

**State Response:**

Finding 1-1 evaluates the completeness and accuracy of reported Minimum Data Requirements (MDR) in ICIS-Air, and was given a rating of Area for Improvement. The Report aims to support that rating by citing the following issues:

“The Report inaccurately states that duplicative stack testing data had been submitted by the District. As jointly decided by EPA and District staff when the District first began submitting stack test data automatically into ICIS-Air, it was determined that the source testing data was to be uploaded with separate records made for each Air Program, pollutant, emission unit, and pollutant unit of measure. In response to the Report’s claim that duplicative stack tests were observed, the District reviewed the records noted in the Report with the EPA Region 9 SRF review team, and illustrated that each of those records could be differentiated within ICIS-Air by the those parameters. Unfortunately the Report maintains that those records are duplicates. It is unfortunate that the inaccuracy remains in the report despite provided clarification and demonstration that no duplicate source test records were uploaded. Nonetheless, the District has agreed to work with EPA to make changes to automatic data upload processes to incorporate their preferences.

As highlighted previously by EPA, the District was the first in the nation to develop methodology to directly upload electronic data daily into EPA’s ICIS-Air program and through that development, worked extensively with EPA staff on the data submission process and methodology. In regards to the data not being uploaded to ICIS-Air in a timely manner, it should be noted that significant changes were made to EPA’s upload network during 2020. After being notified of the forthcoming changes, the District realized the impact it would have on the timeliness of uploaded records, and proactively communicated these compatibility issues to EPA. Nonetheless, the changes were implemented in August of 2020 before EPA addressed the compatibility issues, leading to records held in standby until December of 2020 when EPA’s issues were resolved. This resulted in no records being successfully uploaded to ICIS-Air from August until December. When the issue was resolved, the uploaded records showed an upload date of December, meaning a significant portion of the records submitted between August and

December showed they were submitted beyond the 60 day expectation. When the SRF review team indicated that the year 2020 was selected for review in this round, the District relayed concerns regarding the above compatibility problems during that time and the resulting impacts on timeliness. Unfortunately, the final draft Report omitted the above sequence of events, which outline that the timeliness issues were a direct result of EPA-implemented changes and their lack of coordination with the District to understand and account for these impacts that led to this issue.”

“At the time that the District and EPA were developing the methodology to automatically upload District records to ICIS-Air, EPA established a specific time period that District data would be retrieved by their system, and so the District set a protocol for data to be transferred within that period. As a quality assurance measure to ensure the data was uploaded properly, the District programmed a feedback loop to occur several hours afterward to check if the data had been uploaded. The ACC duplication issue noted by the EPA review team was promptly investigated, and it was found that “ACC Received” records in ICIS-Air were being duplicated due to changes to EPA’s established data retrieval time period. The District has since adapted by rescheduling our ICIS-Air upload verification to occur right before data would be uploaded on the following day. Once again, this demonstrates a lack of coordination from EPA when implementing changes to the ICIS-Air program to ensure the changes to the program do not impact the ability to upload data, or to give the District the opportunity to make necessary changes to continue uploading data properly. Unfortunately, the final draft Report omitted the above sequence of events, which explains that the duplication issues were the result of unannounced changes EPA made to the ICIS-Air data retrieval period, and shows a lack of accountability by EPA for their actions which resulted in these issues.”

“The District has requested, through this process as a lesson learned, that EPA proactively communicate to our Information and Technology Services and Compliance departments well in advance of proposed changes to ICIS-Air that may impact our automatic data upload, and manage any such changes in a way that ensures SRF-compliant compatibility testing before putting program changes into production. As illustrated throughout the SRF process, the District is committed to continuously improving communication and coordination with EPA. Toward that aim, quarterly meetings between District and EPA staff are proposed to, among other topics, evaluate data uploaded to ICIS-Air and communicate any forthcoming patches or changes to the system as an additional action to ensure accuracy and timeliness of data upload.”

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**Recommendation:**

Rec #	Due Date	Recommendation
1	06/01/2024	By June 31, 2024, EPA will review frozen FY22 data through a data metric analysis (DMA). If the results for metrics 3a2, 3b1, 3b2 and 3b3 are above 71% this recommendation will be closed.

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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:

SJVAPCD has conducted almost all FCEs of the CMS source universe, exceeding the national average, but not meeting the national goal of 100% for all sources.

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### Explanation:

This element evaluates whether the negotiated frequency for compliance evaluations is being met for each source. SJVAPCD met the negotiated frequency for conducting compliance evaluations for all facility types including FCE coverage of majors and mega sites Synthetic Minors 80% (SM-80s), and of minor and synthetic minor (non-SM80s) sources that are part of a CMS Plan and Alternative CMS Facilities. SJVAPCD has exceeded the national average for all three metrics listed, and the national goal for SM-80s.

SJVAPCD is on track to meet the national goal of 100% FCE coverage, and already exceeds the national average.

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### 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%	85.7%	243	261	93.1%
5b FCE coverage: SM-80s [GOAL]	100%	93.6%	45	45	100%
5c FCE coverage: minors and synthetic minors (non-SM 80s) that are part of CMS plan or alternative CMS Plan [GOAL]	100%	55.3%	74	76	97.4%

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### State Response:

Finding 2-1 evaluates whether the frequency for compliance evaluations is being met for each source, and received a rating of “Meets or Exceeds”. The District thanks EPA and their SRF review team for the comprehensive review leading to this rating, and the additional acknowledgment that the District’s performance exceeds the national average for all three metrics.

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## CAA Element 2 - Inspections

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### Finding 2-2

Area for Attention

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### Recurring Issue:

No

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### Summary:

SJVAPCD has completed 78.5% of the required reviews for each Title V ACC.

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### Explanation:

This element evaluates whether the delegated agency has completed the required review for Title V ACC. Based on the files reviewed, SJVAPCD has completed the required reviews for each of the Title V ACC as part of bi-annual FCEs for 78.5% of their facilities.

SJVAPCD is slightly below the national average for metric 5e, however, this is likely underreported due to technical issues described in CAA Element 1 - Data. The district aims to conduct FCE's annually, twice as frequent as the national standard, and reviews ACCs in the process. EPA does acknowledge that the district is completing ACC reviews at a level close to the national average.

Therefore, SJVAPCD is on track to meet the national goal of 100% ACC reviews.

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### Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State %
5e Reviews of Title V annual compliance certifications completed [GOAL]	100%	82.8%	179	228	78.5%

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### State Response:

Finding 2-2 evaluates metric 5e, which assesses the completeness of the District's Annual Compliance Certification review process and received a rating of Area for Attention, though the 2022 Report arrived at a rating of Meets or Exceeds. An Area for Attention rating does not give weight to the final draft Report's own assessment, which includes that the underreporting of ACC reviews is likely due to the same EPA issue outlined above in Element 1 – Data. Another factor is that the District completes Full Compliance Evaluations once per year which must include an ACC review, and so metric 5e must be 100%. As mentioned, the frozen 2020 data evaluated in this SRF was impacted by EPA-initiated changes to ICIS-Air. Unfortunately, the current Area for Attention rating undermines a core concept of the SRF communicated in the Round 4 SRF Reviewers Guide, that externalities impacting metrics may be, and we strongly believe should be, considered when establishing an appropriate rating.

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## CAA Element 2 - Inspections

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### Finding 2-3

Meets or Exceeds Expectations

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#### Recurring Issue:

No

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#### Summary:

While SJVAPCD's on-site inspection Compliance Monitoring Reports (CMR) usually determine enough information to determine compliance some key MDR elements are missing. Modification of the inspection report template to include the missing elements would improve documentation of compliance monitoring activities.

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#### Explanation:

In order to streamline the compliance monitoring process, SJVAPCD's inspection report template should include all MDR parameters including facility information, compliance monitoring activities, applicable requirements, violation determinations and enforcement actions. The onsite inspection report template is missing the following elements: Facility Title V designation, mega site description, and information of previous enforcement actions. Additionally, some reports are missing applicable regulatory requirements that the reports are evaluating, and some inspection reports did not list all of the onsite emission units that the inspection evaluated for compliance. Overall, these deficiencies appear to not have hindered the compliance monitoring processes implemented by SJVAPCD, but additional information is important and worth including.

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#### Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State %
6a Documentation of FCE elements [GOAL]	100%		18	19	94.7%
6b Compliance monitoring reports (CMRs) or facility files reviewed that provide sufficient documentation to determine compliance of the facility [GOAL]	100%		26	30	86.7%

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#### State Response:

Finding 2-3 received a rating of *Meets or Exceeds*, and evaluates metrics 6a and 6b. Metric 6a measures the inclusion of MDRs in Compliance Monitoring Reports (CMR), and metric 6b evaluates if CMRs sufficiently document source compliance. The District appreciates EPA's suggestions to further optimize the District's CMR with helpful details, which were promptly implemented.

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**CAA Element 3 - Violations**

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**Finding 3-1**

Meets or Exceeds Expectations

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**Recurring Issue:**

No

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**Summary:**

SJVAPCD conducted appropriate FCE compliance determinations for FY2020 and reported violations into ICIS-Air as HPVs.

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**Explanation:**

Metric 7a is designed to evaluate the overall accuracy of compliance determinations. In 25 out of 30 FY2020 files reviewed, SJVAPCD provided an adequate level of detail in inspection reports for an FCE. The inspection reports usually noted violations based on the FCE itself, but one of the reports appeared to have omitted violations identified in the FCE. Two facility inspections reports were missing applicable requirements that the FCE used to determine compliance.

Metric 8c focuses on the accurate identification of violations that are determined to be HPVs. In 19 of the 21 files that had reported HPVs or FRVs in ICIS-Air in FY 2020, SJVAPCD accurately made such determinations based on the facility's self-reporting and FCE inspection reports. It does appear that SJVAPCD reports all FRVs as HPVs in ICIS-Air. All reviewed files containing violations were reported as HPVs. Two of the files contained violations that may not warrant HPV classification.

SJVAPCD staff stated that the district policy is to take an overly conservative approach to HPV determinations and regularly reports all federally reportable violations as HPVs. In some or most cases overly conservative HPV classifications preferable to under classification of HPVs, although SJVAPCD should make sure it is carefully considering which violations are reported as HPVs.

SJVAPCD's attendance at a recent EPA HPV policy training should assist in ensuring that the district is correctly classifying and reporting HPV violations in accordance with the HPV policy.

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**Relevant metrics:**

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Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State %
7a Accurate compliance determinations [GOAL]	100%		25	30	83.3%
8c Accuracy of HPV determinations [GOAL]	100%		19	21	90.5%

**State Response:**

Finding 3-1 evaluates the overall accuracy of compliance determinations, and the accurate classification of High Priority Violations. In evaluating these metrics, the Report concludes that the District *Meets or Exceeds* performance expectations. This rating reflects the high degree of training and specialization that the District’s Compliance Department provides its field inspectors and support staff, and the health-protective classification of High Priority Violations in accordance with established EPA criteria.

**CAA Element 4 - Enforcement**

**Finding 4-1**

Area for Improvement

**Recurring Issue:**

No

**Summary:**

EPA review found that a few of SJVAPCD’s enforcement actions of HPVs or FRVs did not identify corrective actions and return to compliance and some HPVs were not reported as resolved in a timely manner.

**Explanation:**

EPA found that some formal enforcement actions were missing documentation as to how HPVs were resolved, and some were not resolved in a timely manner.

Metric 10a is designed to evaluate the extent to which the agency takes timely action to address HPVs. EPA reviewed files from FY2020 to understand how SJVAPCD addressed HPVs. In 14 of the 21 files reviewed, EPA found SJVAPCD either did not resolve HPVs in a timely manner in accordance with the HPV policy’s resolution timeline of 180 days or still had an unresolved case in place for the HPV.

Metric 14 is designed to evaluate the timeliness of case development and resolution involving HPVs according to the HPV Policy. The Policy measures HPVs that are not addressed, or otherwise have had a case completion within 180 days from the time of violation. According to the policy, the case development and resolution timeline is 180 days. Five out of nine files reviewed met that requirement.

**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>
10a Timeliness of addressing HPVs or alternatively having a case development and resolution timeline in place	100%	44.2%	14	21	66.7%
14 HPV case development and resolution timeline in place when required that contains required policy elements [GOAL]	100%		5	9	55.6%

**State Response:**

This Element includes Finding 4-1, which assesses metrics 10a and 14 intended to measure the timeliness in which the District addresses and resolves High Priority Violations, received an Area for Improvement rating, though the 2022 Report arrived at a rating of Area for Attention. When EPA published the August 25, 2014 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, the District made the necessary changes to High Priority Violation criteria. However, internal tracking programs inadvertently maintained the original 270 day expectation to take addressing actions. The District has since implemented a recurring report to alert compliance staff when cases approach the 180 day deadline, and through this report, administrative timeframes will be satisfied to address EPA recommendations in this area. It should also be noted that in the 2007 SRF, EPA noted the District’s effectiveness in issuing NOVs in the field and taking immediate steps to support the facility’s return to compliance, which in all cases during this SRF occurred within the 180 days and often times the same day as discovery or shortly thereafter. These health-protective practices continue in 2023 to ensure corrective actions are immediately undertaken by non-compliant facilities.

**Recommendation:**

<b>Rec #</b>	<b>Due Date</b>	<b>Recommendation</b>
1	12/31/2023	By December 31, 2023, EPA will review three HPV violations to ensure they comply with the policy and adhere to the 180-day timeframe.

**CAA Element 4 - Enforcement**

**Finding 4-2**

Meets or Exceeds Expectations

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**Recurring Issue:**

No

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**Summary:**

EPA review found SVAPCD's enforcement actions returned facilities to compliance and took appropriate enforcement response to HPVs.

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**Explanation:**

Metric 9a is designed to evaluate whether the agency takes formal enforcement actions that return facilities to compliance. In 18 out of 20 files reviewed (90%), SJVAPCD included information regarding a corrective action that would return the facility to compliance. EPA found that most files did include details as to when or how the facility would return to compliance, but several files were missing files used to determine return to compliance.

Metric 10b is designed to evaluate the extent to which the agency takes appropriate enforcement responses for HPVs. In 15 of the 17 files reviewed, SJVAPCD properly identified HPVs and had appropriate enforcement responses and resolutions for them.

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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>
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%		18	20	90%
10b Percent of HPVs that have been addressed or removed consistent with the HPV Policy [GOAL]	100%		15	17	88.2%

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**State Response:**

This Element also includes Finding 4-2 which assess metrics 9a and 10b, measuring the District's expeditiousness and effectiveness in enforcing the return to compliance when non-compliance is discovered. The District appreciates the EPA's consideration of all factors surrounding this finding that led to a rating of Meets or Exceeds, showing that these critical situations are efficiently managed and prioritized to minimize emissions impacts to Valley residents.

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**CAA Element 5 - Penalties**

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**Finding 5-1**

## Area for Improvement

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### Recurring Issue:

No

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### Summary:

SJVAPCD did not provide documentation of penalty gravity and economic benefit components in case files, nor did it provide documentation supporting the lowering of penalties following negotiations. The district instead explained that it uses California Health and Safety Code (CH&S) Sections 42400-42403 and District Policy COM-1165, to determine penalties and reach mutual settlements. However, EPA does not consider the use of COM-1165 to be an adequate alternative to documenting the required penalty calculation and modification elements in the case file.

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### Explanation:

Metric 11a is designed to discuss the penalty calculations and whether gravity and economic benefit is documented in the case file. All instances where penalties were used in formal enforcement actions did not contain sufficient documentation of gravity and economic benefit calculations or justifications. The district provided the penalty policy COM1165, and while it does provide guidance to calculating penalties on a variety of elements, it does not explicitly state or explain the process for calculating economic benefit.

Metric 12a is designed to evaluate the extent to which the agency documents the rationale for the difference between the initial and final penalty. In most instances where penalties were used in a formal enforcement action and were subsequently lowered, the file did not document a rationale. The district provided penalty policy COM-1165, which states: “Reductions may only be granted where the source demonstrates that factors specified in state law and District policy apply.” and “A mitigation letter is required for a penalty reduction if the violation was for excess emissions in excess of one-ton. All other penalty reductions need to be documented in the NOV/NTC program and a letter is not required.” Documentation of these penalty modifications were not consistently included in the case files that EPA reviewed.

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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%		1	15	6.7%
12a Documentation of rationale for difference between initial penalty calculation and final penalty [GOAL]	100%		4	7	57.1%

---

**State Response:**

Finding 5-1 considered metrics that evaluate how gravity and economic benefit are determined when calculating penalties, as well as the adjustment of penalties, and Finding 5-2 evaluated the documentation that penalties were collected or that measures to collect a delinquent penalty were documented. As was done in the 2007 SRF, District staff explained the authority to take enforcement action and to assess penalties in accordance with California Health and Safety Code (CH&SC) Sections 42400-42403. The District strictly follows the penalty assessment criteria as set forth in California Health and Safety Code Section 42403 (Civil Actions; Determination of a Penalty) and this process is described within District Policy COM-1165 (Mutual Settlement Policy). The Mutual Settlement Policy also explains how penalty gravity, economic benefit, and the lowering of penalties are considered in the initial penalty assessment and resolution of violation cases, as well as the transfer of cases to legal counsel. Understanding this, the 2022 Report concluded with an Area for Attention rating for Element 5; however, the final draft Report has since selectively downgraded metrics 11a and 12a to an Area for Improvement. We are not sure how this rating can be reached when the same processes have been consistently followed since the 2007 SRF, at which time EPA stated that economic benefit and ability to pay were accounted for, and the relevant EPA guidance documents cited in the State Review Framework Round 4 Clean Air Act Metrics Plain Language Guide have not changed.

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**Recommendation:**

Rec #	Due Date	Recommendation
1	01/31/2024	SJVAPCD to begin including the documentation of gravity and the economic benefit the violator has gained from avoiding or delaying installation of pollution control measures in their transaction reports. The documentation should also include a more detailed justification. SJVAPCD will advise staff on execution of the documentation of gravity, economic benefit and its justification. They will provide evidence of the stated implementation, such as NOV transaction reports that include improvements to EPA by 2/31/2024.

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**CAA Element 5 - Penalties**

**Finding 5-2**

Area for Attention

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**Recurring Issue:**

No

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**Summary:**

SJVAPCD didn't have documentation of final penalty collection in all instances.

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**Explanation:**

Metric 12b is designed to evaluate whether there is documentation that the final penalty was collected. Transaction reports reviewed showed that the documentation of final penalty collection was mostly consistently reported. For all finalized penalties not documented that they were collected, no appropriate follow-up measures were documented, nor any rationale for delay in collection noted. District penalty policy COM-1165 does mention a process to transfer the collection to the legal department, but no timeline is specified, and no evidence of this process being used was identified by EPA.

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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%		14	18	77.8%

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**State Response:**

# Resource Conservation and Recovery Act Findings

## RCRA Element 1 - Data

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### Finding 1-1

Area for Improvement

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### Recurring Issue:

No

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### Summary:

Zero of 33 of SJCEHD inspection/enforcement files reviewed contained all the required data that was accurately reflected in the RCRAInfo database. Twenty-three inspections were not listed in RCRAInfo and no enforcement actions were listed. All inspection files reviewed identified violations (i.e., corresponding enforcement actions) that should have been but were not listed in RCRAInfo.

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### Explanation:

In California, inspection and enforcement of hazardous waste generators has been delegated by the State Legislature to approximately 81 local agencies identified as CUPAs. Typically, the CUPA is associated with a County or City Fire Department or a County Health Department. CalEPA performs the CUPA certifications and oversight of the CUPA program. CalEPA has developed a statewide web-based system, known as CERS, that supports the electronic exchange of required CUPA program information among businesses, local governments, and the U.S. Environmental Protection Agency (EPA). CME data is entered into CERS by the CUPAs. From CERS, CME data are uploaded to EPA's RCRAInfo database. This review primarily focused on a single CUPA, SJCEHD. SJCEHD provided to EPA electronic copies of the CME selected files for review. Review of enforcement files considered by SJCEHD to be confidential was performed at their offices. EPA assessed CERS SJCEHD CME data and compared this data to the CME data found in RCRAInfo. EPA staff reviewed 30 complete inspection/enforcement files and three additional enforcement files for a total 33 files as part of the review process. All the inspection files analyzed during the review period (October 1, 2019 to September 30, 2020) identified one or more violations. The following is a summary of the data review portion of this review:

- Facility names, addresses and identification numbers in the CERS and RCRAInfo databases for each of the reviewed files were the same as listed on inspection reports.
- Facility inspection dates listed in CERS, reports and follow-up correspondence were consistent.
- Each violation identified during an inspection was listed in CERS and a detailed description of the violation was contained in the CERS database. Additionally, Return to Compliance (RTC) dates listed in the CERS database match those corrected during the inspection (observed) or documented post-inspection.
- Seven of 30 inspection files reviewed were listed in RCRAInfo. The seven facility inspections listed in RCRAInfo were Large Quantity Generators (LQGs). The violations found in RCRAInfo for the seven inspections match those listed in CERS. However, the

level of detail of the violations listed in CERS is significantly more detailed than listed in RCRAInfo.

- RCRAInfo contains a number of defined informal and formal enforcement numeric enforcement codes that are used by EPA Regions and States to code specific enforcement actions when a violation(s) has been identified (e.g., 120 = Written Informal, 430 = Referral to District Attorney/City Attorney/County Attorney/State Attorney). All of the SJCEHD files reviewed contained violations. None of the informal or formal enforcement actions taken by SJCEHD were listed in either the CERS or RCRAInfo databases. Note: SJCEHD has since corrected this data entry deficiency in CERS.

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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%		0	33	0%

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**State Response:**

**SJCEHD Response:**

SJCEHD is currently entering enforcement data into CERS.

SJCEHD has no control of how inspection/enforcement data is transferred from CERS into RCRAInfo database.

SJCEHD has started a process of developing a policy and procedure to ensure inspection and enforcement data is entered into CERS on a periodic basis. The policy and procedure will be completed by the due date of May 2, 2022.

**State Response:**

CalEPA is addressing the upload of data from CERS to RCRAInfo. See the response to 1-2 recommendations for more information. DTSC will inform the CUPAs of the need for consistent data entry for formal enforcement into CERS.

See SJCEHD independent response that addresses the recommendation below.

For the recommendation below, California Code of Regulations, Title 27, requires quarterly uploads from CUPAs to CERS. The proposed revisions to Title 27, expected to be finalized by January 2023, include a change from quarterly to monthly uploads.

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**Recommendation:**

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Rec #	Due Date	Recommendation
2	05/02/2022	SCJEHD should enter enforcement data into CERS. While SJCEHD, working with CalEPA, has already started entering enforcement data into CERS, SJCEHD should develop a policy and procedure or action plan to ensure inspection and enforcement data that has undergone a quality assurance/quality control review is entered into CERS on a monthly basis.

## RCRA Element 1 - Data

### Finding 1-2

Area for Improvement

### Recurring Issue:

No

### Summary:

The California Environmental Reporting System (CERS) compiles and translates to RCRAInfo only a subset of RCRA C CM&E activities conducted by the CUPAs. Obstacles include limited CUPA source data, complex data validation rules and a lack of attention to data mapping by DTSC and CalEPA.

### Explanation:

While the focus of this review was primarily of SJCEHD generator inspection and enforcement program, EPA also included a review of the CME data transfer process developed and administered by CalEPA. As an authorized state, this data is critical in demonstrating that California is meeting EPA's national goals of inspection of the universe of hazardous waste generators, transporters, and treatment/storage/disposal facilities (TSDFs). Additionally, the data is needed for other important purposes to include by not limited to: 1) program improvement, 2) regulation development, 3) inspection targeting (e.g., facilities potentially impacting disadvantaged communities), and 4) program transparency.

Beginning January 1, 2013; CUPA CME data were required to be uploaded to CERS. From CERS, CalEPA's goal is to at least monthly upload CME data to RCRAInfo. However, in the federal fiscal year 2021 to date only five data uploads have been performed by CalEPA.

Currently, CalEPA is only uploading CUPA LQG CME data into CERS.

Seven of 30 inspection SJCEHD files reviewed were listed in RCRAInfo. The seven facility inspections listed in RCRAInfo were LQGs. The CERS database identified all the SJCEHD 30 facility files, as part of this review, as LQGs. CalEPA is not loading all LQG CME data as currently included in their CERS operations plan.

### Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State %
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**State Response:**

**Recommendation 1:**

California Code of Regulations, Title 27, requires quarterly uploads to CERS. The proposed revisions to Title 27, expected to be finalized by January 2023, include a change from quarterly to monthly uploads.

CalEPA is currently working on a critical technology modernization project for CERS. The first phase of the update is expected to occur in April of 2022 and all enhancements have been placed on hold until the technology update has been implemented. These include enhancements that will improve the quality of the CERS to RCRAInfo data uploads.

CalEPA can develop and submit a plan for the monthly uploads of LQG data. This will allow CalEPA to better assess readiness to move forward with the enhancement projects after the technology update has been stabilized.

CalEPA and DTSC understand that USEPA is asking for a complete data set of all hazardous waste generators in California. As this data set would be a much larger data set than the current RCRA LQG universe, the process and data need to be thoroughly evaluated. Uploading the data without evaluation may result in significant increases in data quality issues and data transfer logic errors. The path forward would be a phased process to reduce data errors and resources needed to correct the data errors. CalEPA is exploring the steps needed to transfer generator data, regardless of generator classification, to RCRAInfo, including possible integration of the data set flow into the CERS NextGen project that will be an enhancement of the current CERS platform.

**Recommendation 2:**

CalEPA and DTSC will work collaboratively to identify the appropriate reports and documentation for DTSC to better track and understand any translation issues.

With respect to qualitative comparison of hazardous waste data in CERS, CalEPA has limited control over the data accuracy/quality at the data intake point. The regulated businesses are responsible for reporting the data accurately. The CUPAs then validate the data during inspections.

DTSC will inform the CUPAs of the need for accurate data entry for into CERS.

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**Recommendation:**

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Rec #	Due Date	Recommendation
1	03/31/2022	CalEPA should develop a plan to improve the frequency of CUPA CME CERS data uploads to RCRAInfo and to include all generator data regardless of generator classification.

## RCRA Element 1 - Data

### Finding 1-3

Area for Improvement

### Recurring Issue:

No

### Summary:

Data translation from the California Department of Toxics Control Substance EnviroStor database and CUPAs (via CalEPA CERS application) does not accurately portray state and CUPA compliance monitoring efforts.

### Explanation:

California translates CME data from two sources: CERS, (compiling data from approximately 81 local agencies) and EnviroStor, reporting on activities performed by DTSC. CERS CME data currently represents a subset of RCRA LQG CME actions performed by local agencies. While progress has been made over the last several years to ensure that California's universe of hazardous waste handlers is adequately represented in RCRAInfo, data translation from the two California regulatory agencies to the RCRAInfo CME module remains a work in progress: (1) EnviroStor translates data for work done by DTSC staff, but the translation is not fully documented, hindering troubleshooting. (2) CERS translates a portion of CME data performed by CUPAs, but this translation: (a) is not well documented, (b) nor does it conform to the same business rules as the EnviroStor translation, (c) nor does it represent 100% of the level of effort made by CUPA inspection and enforcement staff. More robust collaboration between IT and program staff at both agencies is needed to ensure that each is aware of the scope and limitations of what is translated. RCRAInfo is the sole platform where RCRA implementation by all three levels of government and its data can be viewed and is available to the public via ECHO. Incomplete data misrepresents the program and creates liability concerns for facilities and involved agencies (i.e., the compliance status of the facility is not accurately reflected in RCRAInfo/ECHO).

### Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State %
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**State Response:**

CalEPA created mapping logic in 2016 and will update the documentation to reflect the current logic. Due to current enhancement in progress that will impact the data flow processes, CalEPA recommends that the documentation be updated after the projects have been implemented and a stabilization period has passed. CalEPA is prioritizing enhancements that will improve the data quality and system reliability. CalEPA will include this as part of the plan for transitioning to monthly RCRAInfo uploads when Title 27 is updated in January 2023 to allow for monthly uploads.

DTSC and CalEPA have a documented process in place for error correction of data transmitted. Correction to data that existed prior to CERS is addressed by DTSC. Data that is in CERS will be corrected during the dataflow process.

CalEPA logical mapping for CERS data to RCRAInfo:

CalEPA is working on a three-phase process to develop and provide logic mapping to USEPA. The three phases include system enhancements, stabilization and testing of enhancements, and update of documentation.

The data quality leads for CalEPA are Erika Michelotti (Program) and Schumin Wong (IT Tech).

DTSC logical mapping for Envirostor data to RCRAInfo:

DTSC's Office of Environmental Information Management is developing a data flow map with EcoInteractive, the Envirostor developer.

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**Recommendation:**

Rec #	Due Date	Recommendation
1	12/31/2022	CalEPA and DTSC to provide EPA with documentation of the data flow and identified data quality lead for each agency. Documentation should minimally include logical mapping of source data to target RCRAInfo tables; criteria for transmittal; and mutually accepted methods for QC and error correction of data transmitted.

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**RCRA Element 2 - Inspections**

**Finding 2-1**

Area for Attention

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**Recurring Issue:**

No

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**Summary:**

DTSC inspection coverage for Treatment, Storage and Disposal Facilities (TSDF) nearly meets the two-year coverage requirement. The California inspection coverage for LQGs is below the national average.e.

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**Explanation:**

The Covid-19 pandemic significantly impacted the ability of DTSC and the CUPAs performing routine on-site inspections during a significant portion of the review period.

For the review period, the two-year TSDF inspection coverage by DTSC was 43 of 47 TSDFs or 91.5%. DTSC also performs transporter, electronic waste management facility and other types of inspections such as treated wood waste and scrap metal facilities.

California LQG inspection coverage as shown in metric 5b1 was 3.9%. The national goal for LQG inspection coverage is 20%.

SJCEHD's goal is to inspect a third of its LQG universe on an annual basis. According to RCRAInfo, there are 130 facilities listed as LQGs for San Joaquin County. During the review period, SJCEHD inspected 14 LQGs, as reported in CERS, or 10.8%. This is better than the State average, but still below the national goal of 20%.

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**Relevant metrics:**

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State %
5a Two-year inspection coverage of operating TSDFs [GOAL]	100%	83.5%	43	47	91.5%
5b1 Annual inspection coverage of LQGs using RCRAinfo universe [GOAL]	20%	11.9%	499	12798	3.9%
5d One-year count of SQGs with inspections [GOAL]	100% of commitments%		27	5475	.5%
5e5 One-year count of very small quantity generators (VSQGs) with inspections	100% of commitments%		8		8
5e6 One-year count of transporters with inspections	100% of commitments%		58		58
5e7 One-year count of sites not covered by metrics 5a - 5e6 with inspections	100% of commitments%		22		22

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**State Response:**

SJCEHD will continue to resume inspection activities at our pre-Covid rate, with the goal of inspecting a third of our LQG universe on an annual basis.

**RCRA Element 2 - Inspections****Finding 2-2**

Meets or Exceeds Expectations

**Recurring Issue:**

No

**Summary:**

SJCEHD's hazardous waste program inspection reports reviewed were complete, consistent, and provided appropriate documentation to determine compliance at the facility.

**Explanation:**

Metric 6a measures the percentage of on-site inspection reports reviewed that are complete and provide sufficient documentation to determine compliance. SJCEHD utilizes a checklist report to document inspection findings. When a violation is identified on the checklist, a detailed description of the violation is provided as part of the checklist report that includes the citation, the reason why the finding did not conform to the regulation, the classification of the waste related the violation (e.g., D001, used oil, non-RCRA hazardous waste) and any corrective action required by the facility to address the violation. The 30 inspection reports reviewed were complete, thorough, and provided sufficient documentation (e.g., photographs) to determine compliance. There was no variation in the reports prepared by SJCEHD staff (i.e., the quality of inspection reports was consistent between inspectors).

**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%		30	30	100%

**State Response:****RCRA Element 2 - Inspections****Finding 2-3**

Meets or Exceeds Expectations

**Recurring Issue:**

No

**Summary:**

Timeliness of issuing an official inspection report averages three days from the first day of the inspection.

**Explanation:**

In accordance with California Health and Safety Code 25185(c) a violation summary must be issued by DTSC or the CUPA at the conclusion of the inspection. A final report is required to be issued within 65-days of the inspection. SJCEHD 2021 Inspection and Enforcement Plan (Plan) requires that the inspection checklist be issued to the facility at the end of the inspection. Further the Plan requires that the official inspection report be issued at the conclusion of the inspector or no later than one week from the date of the inspection. Metric 6b measures the timeliness of issuing inspection reports. SJCEHD's timeliness averages three days, exceeding the stated goal contained in the Plan.

**Relevant metrics:**

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State %
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:**

SJCEHD made accurate compliance determinations in the reports that were reviewed during the Round 4 review period.

**Explanation:**

Metric 2a measures the number of facilities that have long-term secondary violations that have not been returned to compliance. For the review period, there are 377 California facilities identified with long-term secondary violations. Of the 377 facilities, 10 of the facilities are in

San Joaquin County. EPA works with CalEPA and DTSC to close-out the long-term secondary violations.

CalEPA has developed a violation library and a violation guidance document for CUPAs. The violation library and guidance document provide CUPAs with recommended violation language for specific violations for LQGs and Small Quantity Generators (SQGs) and a procedure for determining the appropriate violation classification. Additionally, CUPA inspectors and enforcement officers can receive violation classification training at the annual CUPA conference. The purpose of the library, guidance document, and violation classification training is an attempt by CalEPA to develop and apply a statewide standard for describing a violation and classifying a violation.

California has three violation classifications: Class 1, Class 2 and Minor. EPA's equivalent violation classification is Significant Non-Compliance (SNC), Secondary Violation, and Minor. Many of the regulated facilities in San Joaquin County are non-RCRA hazardous waste generators (e.g., used oil is a non-RCRA hazardous waste in California). SJCEHD consistently applies the hazardous waste classification of a violation regardless if the violation involves a RCRA or non-RCRA hazardous waste.

File review metric 7a assesses whether accurate compliance determinations were made based on the inspector's observations and information obtained during inspections. SJCEHD's checklist inspection reports contain a detailed description of the violation(s), including citation, the waste classification of the waste(s) associated with the violation, a description of the violation(s), and actions the facility must perform to correct the violation. The observed violations are well documented (e.g., photographs) by SJCEHD inspectors. Of the 30 completed files reviewed, 100% of inspection case files contained sufficient information to document the inspector's compliance determination.

EPA reviewed the violation classifications made by SJCEHD inspectors based on available waste classification training materials provided at the annual CUPA Conference and discussed with DTSC staff that assist CalEPA in performing CUPA hazardous waste inspection and enforcement oversight evaluations. Based on this process, EPA determined that 15 inspection/enforcement files reviewed, where there was a Class 1 violation identified, all the Class 1 violation determinations were accurate.

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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>
2a Long-standing secondary violators			377		377
7a Accurate compliance determinations [GOAL]	100%		30	30	100%
8b Timeliness of SNC determinations [GOAL]	100%		15	15	100%

**State Response:**

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### **RCRA Element 3 - Violations**

#### **Finding 3-2**

Meets or Exceeds Expectations

#### **Recurring Issue:**

No

#### **Summary:**

The State's SNC determination rate and timeliness of SNC determinations exceeds the national average.

#### **Explanation:**

Metric 8a is an indicator of the State's SNC determination rate. The National average is 1.4%. The State's rate is 1.5%. Metric 8b is a SNC timeliness goal. The goal is 100%. The State's timeliness goal for the review period was 100%.

SJCEHD's goal is to identify any Class 1 (SNC) violations at the time of the inspection. Of the 15 inspection and enforcement files reviewed with Class 1 violations, all the Class 1 violations identified by SJCEHD were made in a timely manner.

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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>
8a SNC identification rate at sites with CEI and FCI		1.4%	19	1301	1.5%
8b Timeliness of SNC determinations [GOAL]	100%	82.7%	28	28	100%

**State Response:**

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**RCRA Element 4 - Enforcement**

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**Finding 4-1**

Meets or Exceeds Expectations

**Recurring Issue:**

No

**Summary:**

San Joaquin County effectively manages noncompliant facilities with appropriate enforcement responses.

**Explanation:**

EPA's review found that SJCEHD's enforcement actions returned the facilities to compliance in an appropriate and timely manner. SJCEHD's files contained well documented return to compliance information. In addition to the RTC documentation, SJCEHD prepares an internal document identified as a "Narrative" report that provides an inspection/enforcement log of the inspection/enforcement action. This includes the date of the inspection, inspection findings summary, which violations have been satisfactorily addressed and the date this determination was made, internal discussions of the violations and other information (e.g., date samples were obtained, date analytical data were obtained).

Metric 10b assesses the appropriateness of enforcement actions for Secondary Violations and Significant Non-Compliance determinations. All 30 files with violations included appropriate enforcement to address the violations.

**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%		30	30	100%
10a Timely enforcement taken to address SNC [GOAL]	100%	80.9%	8	10	80%
10b Appropriate enforcement taken to address violations [GOAL]	100%		30	30	100%

**State Response:**

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**RCRA Element 5 - Penalties**

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**Finding 5-1**

Area for Improvement

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**Recurring Issue:**

No

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**Summary:**

SJCEHD penalties do not document economic benefit components in their penalty calculation procedures.

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**Explanation:**

SJCEHD has developed and implemented an Inspection and Enforcement Plan. Additionally, the SJCEHD uses a Sample Policy with Matrixes for Administrative Penalties (Sample Policy) in developing administrative penalties. The Sample Policy was not referenced in SJCEHD's Inspection and Enforcement Plan.

The Sample Policy includes a brief discussion of Economic Benefit of Non-Compliance (EBN). However, there is no discussion on how SJCEHD's calculates EBN (e.g., EPA's BEN model used to calculate EBN). SJCEHD also provided an Administrative Enforcement Order worksheet used to prepare a penalty calculation. All penalty calculation components (e.g., gravity, multiday) except EBN are listed on the worksheet.

Formal enforcement performed by SJCEHD can be administrative orders, civil action via the San Joaquin County District Attorney's office, referral to DTSC or EPA, or referrals to the State Attorney General's office. Also, SJCEHD works with other CUPAs, County District Attorneys and DTSC on formal enforcement actions involving companies with multiple locations, such as retailers (e.g., drug stores) with significant hazardous waste management violations (e.g., illegal disposal, waste determination). These multi-jurisdictional enforcement actions are commonly referred to as state-wide cases.

EPA reviewed five completed formal enforcement actions. Three of the actions were state-wide cases, one was civil and one was an administrative case. There were no penalty worksheets contained for the state-wide cases or for the civil case. The penalty worksheet of the administrative case was provided. EBN did not appear to be a component of the administrative enforcement action.

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**Relevant metrics:**

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Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State %
11a Gravity and economic benefit [GOAL]	100%		0	5	0%
12a Documentation of rationale for difference between initial penalty calculation and final penalty [GOAL]	100%		5	5	100%
12b Penalty collection [GOAL]	100%		5	5	100%

**State Response:**

The SJCEHD has developed a formal penalty calculation policy incorporated into the Inspection and Enforcement plan. The Inspection and Enforcement plan will be updated to include procedures to determine economic benefit of non-compliance by May 2, 2022.

The SJCEHD has not control of penalty calculations for statewide cases or referrals for prosecution through out County District Attorney's Office.

Many SJDEHD resolutions from the District Attorney's office include prosecution of California Business and Professions Code 17200, unfair business practice which to the understanding of the SJCEHD is similar to EBN.

**Recommendation:**

Rec #	Due Date	Recommendation
1	05/02/2022	SJCEHD should develop a formal penalty calculation policy and procedure or incorporate by reference "Sample Policy with Matrixes for Administrative Penalties" developed by CalEPA or DTSC.
2	05/02/2022	SJCEHD should develop and implement in the agency's Inspection and Enforcement Plan procedures to determine economic benefit of non-compliance.