



# **Clean Water Act Metrics Plain Language Guide State Review Framework Round 5**

**U.S. Environmental Protection Agency  
Office of Enforcement and Compliance Assurance  
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This Plain Language Guide describes the elements and metrics U.S. EPA uses during a State Review Framework (SRF) review of CWA compliance and enforcement programs and provides instructions on how to use the metrics to make appropriate findings and recommendations. SRF reviews are based on information from the EPA data systems and file reviews. Reviewers should refer to the CWA file review checklist and spreadsheet when conducting file reviews.

Data used in SRF reviews fall into four primary categories:

- goal metrics that contain national goals,
- review indicators that have no national goal,
- compliance monitoring strategy metrics to assess state inspection coverage performance against the commitments states set annually in state specific compliance monitoring strategy plans,
- file review metrics based on the EPA's review of 25-35 inspection reports, enforcement actions, and penalty calculations

**1. Data metrics** are derived from frozen data verified by states and the EPA regional offices with directly implemented programs in ICIS-NPDES during data verification with opportunities for verification to note any caveats in the data metric or known data issues. The data verification process provides the opportunity for reviewed programs to assure accurate and complete data are used in SRF reviews. The EPA expects agencies to correct inaccuracies identified during the data verification process in the Integrated Compliance Information System (ICIS-NPDES) data system. ICIS NPDES data counts, once verified, are frozen and utilized for public access purposes and developing data metrics for the SRF. The EPA Reviewers download data metrics from the Enforcement and Compliance History Online (ECHO) to get an initial overview of a state or local agency's performance.

**Data metrics** fall into one of the following subcategories:

- **Goal metrics** evaluate performance against a specific percentage goal and are used to develop findings. Goal metrics also provide the national average for these metrics expressed as a percentage. The **EPA evaluates agencies against goals, not national averages**. These metrics include averages only to provide a sense of where an agency falls relative to others.
- **Review Indicator metrics** are not used to develop findings in SRF reports, data metric analyses, or file review worksheets. These indicators are used to identify areas for further analysis during the file review of inspection reports and enforcement actions. For example, if inspection coverage is high, and low or no violations are reported in a given year, this may suggest that some violations are not being reported in data systems. During the file review, if a given review indicator appears low, the drilldown data showing facilities with violations reported will help guide review teams to evaluate whether violation data is being accurately

reported in files reviewed. A deviation from a national norm or average does not mean a performance issue exists, just that the issue should be explored further. The EPA should ensure it pulls a sufficient sample of files to evaluate the matter during the file review (see the *File Selection Protocol* for additional guidance). The EPA and the state or local agency should discuss the matter to determine if a problem exists.

- **Compliance Monitoring Strategy (CMS) metrics** Measure progress toward meeting state inspection commitments in CMS plans. Typically, under an alternative CMS an agency will substitute a certain number of inspections at larger facilities for some at smaller facilities. If a state does not have a CMS plan for a given CMS inspection area, regions will evaluate the state against the national inspection coverage goals for all sectors (majors and non-majors) set forth in the 2014 NPDES compliance monitoring strategy under metrics 4a1 – 4a11.

**2. File review metrics** are evaluated during the review of facility files (including information such as inspection reports, enforcement responses and actions, and penalty documentation). The results of file reviews, in combination with data metric results, provide a greater understanding of an agency's performance than data metric results alone. All file review metrics have national goals; however, unlike data metrics with goals, file metrics will not have a national average.

All goal, review indicator, Compliance Monitoring Strategy, and file review metrics listed in this guide are required to appear in all SRF reports. List all metrics in this plain language guide in SRF reports even when there is no universe to ensure reviews include a consistent set of metrics in all SRF reports.

## Using Metrics to Determine SRF Report Findings

**Goal** metrics always have numeric goals and stand alone as sufficient basis for a finding. For example, the goal for CWA metric 1b5 is 95% of completion of permit limit data entry requirements. To analyze performance under this metric, reviewers compare the percentage of permit limit data entered by the state to the 95% goal.

Based on this analysis, the reviewer makes a finding. All findings fall under one of these categories:

**Meets or Exceeds Expectations:** The SRF was established to define and assess the base level or floor of enforcement program performance. This rating describes a situation where the base level is met, and no performance deficiency is identified, or a state performs above base program expectations achieving 85% or greater of the performance goal when the national goal is 100%.

**Area for State Attention:** An activity, process, or policy that one or more SRF metrics show as a minor problem. Where appropriate, the state should correct the issue without additional

EPA oversight under SRF; SRF does not impose any constraints or limit in any way routine oversight procedures conducted by regions and states on a regular, recurring basis outside the SRF process. These areas are not highlighted as significant in an executive summary nor is a recommendation developed. Performance between 71-84% of the national goal of 100% is considered an Area for Attention finding.

**Area for State Improvement:** The EPA will develop a finding of Area for State Improvement whenever an activity, process, or policy that one or more SRF metrics under a specific element show as a significant problem that the agency is required to address with performance that is 70% or below. The EPA will highlight areas for improvement in the Executive Summary as significant issues. Recommendations should address root causes. Recommendation status is publicly available. Recommended activities to correct the issues should be included in the report. Recommendations must have well-defined timelines and milestones for completion, and, if possible, address root causes. The EPA will monitor recommendations for completion between SRF reviews in the SRF Manager database. The status of recommendations will be publicly available on EPA's SRF web site. And between reviews, EPA actively monitors recommendations in the SRF Manager database.

The [National Strategy for Improving Oversight of State Enforcement Performance](#) is a key reference in identifying recommendations for Areas for Improvement. Where a performance problem cannot be readily addressed, or where there are significant or recurring performance issues, there are steps the EPA can and should take to actively promote improved state performance.

Guidance for establishing initial findings in data metric analyses, file review worksheets, and SRF reports appear in the [SRF Reviewer's Guide](#). See the SRF Reviewer's Guide for additional tips on writing SRF reports and developing supporting materials.

## Using Other Metrics

When metrics other than Goal metrics, such as review indicators and CMS metrics, indicate problems, the EPA should conduct the additional research necessary to determine the nature of the issue. These metrics provide additional information that is useful during file selection, and for gauging program health when compared to other metrics.

For example, CWA metric 7j1 is a Review Indicator metric that provides information on the total number of facilities with single event violations. It is only with knowledge of file review findings from inspection reports that contain information on deficiencies identified that a reviewer evaluates whether the number of single event violations reported is accurate.

## Use of State Guidance and Regional-State Agreements as Basis for Findings in SRF Reviews

The State Review Framework evaluates enforcement program performance against established OECA national program guidance. State program guidance or regional-state agreements are applicable to the SRF review process under the following circumstances.

1. It is acceptable to use the state's guidance to evaluate state program performance if: 1) the region demonstrates that the state's standard(s) is(are) equivalent to or more stringent than OECA guidance, and 2) and the state agrees to being evaluated against that standard(s). In these cases, regions should include a statement in the SRF report indicating that the state guidance was determined to be equivalent or more stringent than the applicable OECA policy and was used as the basis for the review.
2. For certain metrics, clearly specified in this Plain Language Guide, it will be necessary to refer to state policies or guidance, or to EPA-state agreements. For example:
  - a. If the state has an Alternative CMS, the EPA will use these state-specific commitments as the basis to evaluate compliance monitoring coverage.
  - b. The national guidance may require only that a state establish a standard but not actually provide the standard. In such cases, the reviewer will need to ensure that the state has developed the required standard, and once it has been reviewed and approved by the region, use that standard to evaluate state performance.
3. Where national guidance has been modified or updated, it is important to review the corresponding state program implementation guidance to assess whether it has become out of date or inaccurate. In such cases, the reviewer should make appropriate recommendations for revision of the state guidance, review the revised version, and approve it, if appropriate.
4. Where state program guidance or regional-state agreements establish practices or standards that are not consistent with or at least equivalent to national program guidance, this may be an allowable flexibility under section A4 of the [Revised Policy Framework for State/EPA Enforcement Agreements](#) (Barnes, August 1986, as revised). If so, the region notes this flexibility in the explanation of the SRF report. If the differences between the state guidance or regional-state agreements and the national guidance is significant, or if it is unclear whether flexibility from OECA policy is appropriate, the region should elevate the issue to OECA for resolution prior to developing findings or a draft report (per the June 21, 2023 [Effective Partnerships Between EPA and the States in Civil Enforcement and Compliance Assurance](#) memo).

## Guidance References and Acronyms

The SRF policy and guidance page on ECHO provides a full list of links to SRF guidance and policies.

**Year reviewed** should generally be the year preceding the year the SRF review is conducted. The year reviewed refers to the federal fiscal year (i.e. October 1-September 30) for most SRF metrics. If state specific CMS plans use a different timeframe for the commitments than the federal fiscal year, the state's fiscal year may be used when evaluating the following inspection coverage metrics only: 4a1, 4a2, 4a4, 4a5, 4a7, 4a8, 4a9, 4a10, 4a11, 5a1, 5b. **Agency** refers to the state, local or federal agency which has the lead for compliance monitoring and enforcement within the state or other jurisdiction undergoing the SRF review.

A list of acronyms is provided as an attachment to this Plain Language Guide.

## Overview of the SRF Review Process

Action	Time Period
Preparing for the File Review	<i>November-February</i>
Conducting the Review	<i>March-August</i>
<ul style="list-style-type: none"><li>• Data Metric Analysis</li></ul>	<i>60 days before review</i>
<ul style="list-style-type: none"><li>• CWA Inspection Coverage Table</li></ul>	<i>60 days before review</i>
<ul style="list-style-type: none"><li>• File Selection</li></ul>	<i>30 days before review</i>
<ul style="list-style-type: none"><li>• On-Site or Remote Review of Files</li></ul>	
<ul style="list-style-type: none"><li>• File Review Worksheet</li></ul>	<i>30 days after review</i>
Drafting And Finalizing Report	<i>September-December</i>
<ul style="list-style-type: none"><li>• Draft Report</li></ul>	<i>By September 30</i>
<ul style="list-style-type: none"><li>• HQ Comment Period</li></ul>	<i>15 working days</i>
<ul style="list-style-type: none"><li>• Send Revised Report to HQ</li></ul>	
<ul style="list-style-type: none"><li>• State/Region Program Comment Period</li></ul>	<i>30 calendar days</i>
<ul style="list-style-type: none"><li>• Final Report</li></ul>	<i>By December 31</i>
Recommendation Monitoring and Close Out	<i>Ongoing</i>
<ul style="list-style-type: none"><li>• Track recommendation implementation process</li></ul>	<i>Ongoing</i>
<ul style="list-style-type: none"><li>• Work with reviewed program to document progress and develop completion verification statement</li></ul>	
<ul style="list-style-type: none"><li>• Completion Verification and Close Out</li></ul>	

## Element and Metric Definitions

For additional details on how each metric is specifically calculated using select logic, see the select logic guidance documents and quick metric reference guide on the ECHO guidance page for SRF materials.

### Element 1 — Data

The EPA uses Element 1 to evaluate data accuracy and completeness. Review of this element is conducted in the following two ways:

- **File review:** The EPA evaluates accuracy and completeness of data primarily through metric 2b, a file review metric that compares data in the ECHO Detailed Facility Report from ICIS-NPDES to information in facility files.
- **Evaluating data metrics:** As the reviewer has discussions with the state/local agency and conducts data metric analysis and the file reviews, they may find the value for a data metric to be inaccurate or incomplete to a significant degree. In this case, the finding in the report should be an Area for Improvement and should cite both the reported and, when possible, the actual values for the relevant metric.

To provide an example, data metric 5a1 shows that State X inspected 5 of its 20 major facilities. The EPA believes that the state actually inspected all 20 but failed to enter the inspections into ICIS because 20 inspections are listed in the state's end of year report on its inspection results. The EPA will need to confirm this during the entrance conference and file review. If the state inspected all 20 but failed to enter the inspections into ICIS, that would be an Area for State Improvement under Element 1 (Data). If the metric numerator is accurate and the state only inspected 5 of 20 facilities in its CMS plan on inspection commitments, that would be an Area for State Improvement under Element 2 (Inspections) because the issue identified pertains to inspection coverage rather than data entry. The same guidance applies for data entry issues pertaining to other data metrics.

Refer to [NPDES Electronic Reporting E-rule \(NPDES E-rule\)](#) for minimum data requirements.

**Key metrics:** 2b, 1b5, and 1b6. Also consider data entry and/or accuracy issues pertaining to metrics 5a1, 5b, 7j1, 7k1, 8a3, 8a4, 10a1, 10a2, 10a3, and 10a4 if applicable.

#### **Metric 1b5 — Permit limit data entry rate for major and non-major facilities**

**Metric type:** Data, Goal

**Goal:** ≥95%

**What it measures:** Percentage of active individually permitted DMR filers that have permit limits present in the national database. Permit limits are the maximum amount of a pollutant that the facility may release according to its permit.

Numerator: Number of active individually permitted DMR filers that have permit limits present in ICIS.

Denominator: Number of active individually permitted DMR filers.

**Guidance:** The NPDES Electronic Reporting E-rule (NPDES E-rule) states that for the purposes of requirements regarding timeliness, accuracy, completeness, and national consistency, data are complete when 95% or more of the submissions required for each NPDES data group are available in the EPA's national NPDES data system.

**Applicable EPA policy/guidance:** The Code of Federal Regulations including [40CFR 123.26\(e\)\(1\) and 40 CFR 123.26\(e\)\(4\)](#); [The Enforcement Management System, National Pollutant Discharge Elimination System \(Clean Water Act\)](#), 1989; [ICIS Addendum Data Elements Attachment](#) from Michael M. Stahl, Director, Office of Compliance and James A. Hanlon, Director, Office of Wastewater Management, December 28, 2007. [PCS Quality Assurance Guidance Manual](#), August 28, 1992; [National Pollutant Discharge Elimination System \(NPDES\) Electronic Reporting Rule](#), October 22, 2015.

**Metric 1b6 — Discharge monitoring report (DMR) data entry rate for major and non-major facilities.**

**Metric type:** Data, Goal

**Goal:** ≥95%

**What it measures:** Percentage of expected DMRs that were received during the fiscal year from all active individually permitted DMR filers. Discharge monitoring reports contain information on the amount of each pollutant released under the facility's permit.

Numerator: Number of received DMRs during the fiscal year from all active individual DMR filers.

Denominator: Number of expected DMRs during the fiscal year from all active individually permitted DMR filers.

**Guidance:** The NPDES Electronic Reporting E-rule (NPDES E-rule) states that for the purposes of requirements regarding timeliness, accuracy, completeness, and national consistency, data are complete when 95% or more of the submissions required for each NPDES data group are available in the EPA's national NPDES data system.



**Applicable EPA policy/guidance:** The Code of Federal Regulations including [40CFR 123.26\(e\)\(1\) and 40 CFR 123.26\(e\)\(4\)](#); [The Enforcement Management System, National Pollutant Discharge Elimination System \(Clean Water Act\)](#), 1989; [ICIS Addendum Data Elements Attachment](#) from Michael M. Stahl, Director, Office of Compliance and James A. Hanlon, Director, Office of Wastewater Management, December 28, 2007. [PCS Quality Assurance Guidance Manual](#), August 28, 1992; [National Pollutant Discharge Elimination System \(NPDES\) Electronic Reporting Rule](#), October 22, 2015.

## **Metric 2b — Files reviewed where data are accurately reflected in the national data system**

**Metric type:** File, Goal

**Goal:** 100% of data are complete and accurate

**What it measures:** Percentage of files reviewed where mandatory data are accurately reflected in the national data system. Numerator = number of files that accurately reflect mandatory data, Denominator = number of files reviewed.

**Guidance:** Mandatory data are those data listed in the NPDES Electronic Reporting E-rule (NPDES E-rule) Attachment A. The following MDRs are considered “substantive,” and information found in the file should match with the ECHO detailed facility report information that contains information from the ICIS database. If information in the files is missing from, or inaccurately entered, into the national database ICIS-NPDES, the data for that file is not complete or accurate.

The following are examples of substantive data to examine for accuracy and completeness under Metric 2b:

1. **Inspections:** Compare the inspection date listed in the inspection report with information in the DFR under “Compliance Monitoring History.” Answer no for metric 2b if the inspection is unreported, or the date for the inspection is not accurate.
2. **Violations:** Compare the information in the file to the facility’s significant noncompliance status, DMR violations, single event violations, permit schedule violations, and compliance schedule violations in the “Compliance Summary Data” and “Three Year Compliance Summary Data” sections of the DFR. Answer no for metric 2b if the violations in the file are unreported on the DFR.
3. **Informal Enforcement Action:** Check to ensure that all informal enforcement actions found in the file for the review year are in the DFR and compare date(s) in the file with information in the “Notice of Violation or Informal Enforcement” section of the DFR. Answer no for metric 2b if the informal action is not reported or the date of the action is inaccurate.

4. **Formal Enforcement Action:** Check to ensure that all formal enforcement actions found in the file for the review year are in the DFR and compare date(s) in the file with information under the “Formal Enforcement Actions (05 Year History)” section of the DFR. Answer no for metric 2b if the formal action is not reported or the date of the action is inaccurate.
5. **Penalties:** Compare penalty dollar value and dates in the file with information in the DFR under “Formal Enforcement Actions.” Answer no for metric 2b if the penalty is unreported, or the date and/or dollar amount is not accurate.

In addition, reviewers have the flexibility to differentiate between non-recurring, clerical errors versus those more significant errors or omissions, particularly those inaccuracies that recur across multiple reviewed files when establishing file review findings. For example, a typo in zip code in one or two files is a much less significant issue than unreported single event violations. Administrative MDRs include the following: facility ID, name, street, city, state, county, zip, NAICS code, government ownership, and activity identifiers. For facilities located in rural areas with no mailing address, verify that the latitude and longitude listed in the permit are entered in the facility identifier section of the ECHO detailed facility report. If there is no latitude and longitude information entered and no facility address; this requires a no response for metric 2b. If a reviewer questions the accuracy of the permittee name in ICIS-NPDES (the database of record for SRF reviews of NPDES data), the permittee name should be reviewed in the organizational formal name field in ICIS-NPDES. See the CWA File Review Facility Checklist, Part II for complete instructions.

Reviewers should familiarize the team with information on extensions granted associated with non-major general permit data. Data not required to be reported yet should not be identified as an error under Metric 2b. In addition, per the information in Section F of the NPDES Electronic Reporting E-rule (NPDES E-rule) on non-major facility single event violation data, an authorized NPDES program is only required to share with the EPA SEV data from a construction stormwater inspection when the authorized NPDES program also issues a formal enforcement action against the inspected construction site.

**Applicable EPA policy/guidance:** [Permit Compliance System \(PCS\) Policy Statement](#), August 31, 1985, as amended in 2000; and the [ICIS Addendum Data Elements Attachment](#) from Michael M. Stahl, Director, Office of Compliance and James A. Hanlon, Director, Office of Wastewater Management, December 28, 2007; [PCS Quality Assurance Guidance Manual](#), August 28, 1992; [National Pollutant Discharge Elimination System \(NPDES\) Electronic Reporting Rule](#), October 22, 2015.

## Element 2 — Inspections

Element 2 evaluates:

- Inspection coverage compared to CMS commitments
- Inspection report completeness and quality
- Inspection report timeliness

at major and non-major facilities.

For the Clean Water Act, the *Clean Water Act National Pollutant Discharge Elimination System Compliance Monitoring Strategy (NPDES CMS, July 21, 2014)* provides inspection frequency goals for the core NPDES program and for wet weather sources and available flexibilities that the EPA and states may use in negotiating inspection commitments. Under the NPDES CMS, major facilities are generally to be inspected biennially. The CMS provides for triennial inspections if the site/facility is consistently in compliance and not contributing to impairments. For most sources other than majors, the CMS provides flexibility in how the goals are achieved (i.e., inspection type and selection of facilities), and generally calls for inspections every five years, with some source types even less frequently.

The NPDES CMS provides flexibility to regions and state agencies to address unique mixes of regulated entities and environmental conditions and to identify and document state specific NPDES inspection frequency goals that differ from the frequencies recommended in the CMS. SRF reviews consider all of the flexibility and trade-offs built into the NPDES CMS plans for each state to provide a clear and accurate picture of the broad set of inspections completed by states.

Inspection coverage at major facilities is tracked under data metric 5a1. Non-major inspection coverage at individually and generally permitted facilities is analyzed under data metric 5b. Metrics 5a1 and 5b are evaluated against state commitments in their CMS plans. State progress in meeting inspection commitments in CMS plans is also available under file metrics 4a1-4a11; these metrics primarily track non-major pretreatment, significant industrial user, and wet weather facilities.

**Key metrics:** 4a1, 4a2, 4a4, 4a5, 4a7, 4a8, 4a9, 4a10, 4a11, 5a1, 5b, 6a, and 6b.

### **Applying the Appendix C Inspection Coverage Table Facility Data to the SRF Review**

Data for the Inspection Coverage Table that appears in Appendix C at the end of this guide is part of the data metric analysis (DMA) process. Fill in the universe and inspection commitments from the state's CMS plan. For states that make inspection commitments based on the state fiscal year in their state specific CMS plan, it is acceptable to evaluate performance based on the state fiscal year, rather than the federal fiscal year for these

metrics only: 4a1, 4a2, 4a4, 4a5, 4a7, 4a8, 4a9, 4a10, 4a11, 5a1, 5b. Use end of year (EOY) reports from the state to determine the number of reported inspections. If the state does not have a state specific CMS plan and/or end of year report listing inspection commitments and results, send the table to the state to complete. If complete universe, inspection commitment, and inspection results appear for all metrics in state specific CMS plans and EOY reports, reviewers have the option to upload those attachments instead of completing the CWA inspection coverage table to save time required to transfer that information from one document to another. Send the CWA inspection coverage table with the data metric analysis to the state for review at least 60 days prior to conducting the file review. This information should be used to develop the explanation narrative and finding level selected under SRF Element 2 on inspections.

### **File Selection**

The EPA evaluates inspection and enforcement files where activity occurs during the review year as part of the State Review Framework evaluation process. As part of the file review preparation process, regions use the [ECHO File Selection Tool](#) available on the ECHO web site to randomly select a small set of files representative of a broad spectrum of the state's compliance monitoring and enforcement work during the review year. The SRF file selection guidance in the SRF reviewer's guide describes the necessary steps including selecting an appropriate number of files with compliance monitoring and enforcement activity, ensuring geographic distribution across the state.

Ensuring that the file selection list is representative of commitments made in the state's NPDES CMS plan is a key consideration for SRF CWA file reviews. Regions should review some files in the inspection commitment categories negotiated in the state specific CMS Plan focusing on areas where the state has the largest universe and numbers of inspections conducted. If the initial file selection list provided by the ECHO File Selection Tool does not generate file selection representative of priorities indicated in the state's CMS plan for wet weather and pretreatment universe facilities in the initial file selection download, add or substitute supplemental files to ensure adequate coverage of pretreatment, CSOs, SSOs, stormwater and CAFO facilities using the established file selection protocol to randomly select files for on-site review. The CWA Inspection Coverage Data Table completed by reviewers for each state facilitates this process by identifying the states priorities for inspections in the review year.

### **Metric 4a — Percentage of planned inspections completed**

**Metric type:** Compliance Monitoring Strategy Metrics

**Goal:** 100% of state specific CMS Plan commitments

**What it measures:**

- 4a1: Number of pretreatment compliance inspections and audits at approved local pretreatment programs (Target: The EPA's CMS goal is two pretreatment compliance inspections that include  $\geq 2$  oversight inspections of industrial users (IUs) and one audit at each approved local pretreatment program within five years. Reviewers should compare the number of state inspections to the commitment in the state specific CMS Plan for the review year, or against the goal in the NPDES CMS policy if there is no state specific CMS plan for pretreatment facilities.)
- 4a2: EPA or state Significant Industrial User inspections for SIUs discharging to non-authorized POTWs (Target: The EPA's CMS goal is one sampling inspection at each SIU annually. Reviewers should compare the number of state inspections to the commitment in the state specific CMS Plan for the review year, or against the goal in the NPDES CMS policy if there is no state specific CMS plan for SIU facilities.)
- 4a4: Number of CSO inspections (Target: The EPA's CMS goal is one inspection of each major and non-major CSO every five years for states with combined sewer systems. Reviewers should compare the number of state inspections to the commitment in the state specific CMS Plan for the review year, or against the goal in the NPDES CMS policy if there is no state specific CMS plan for CSO facilities)
- 4a5: Number of SSO inspections. (Target: The EPA's CMS goal is to inspect 5% of the universe of permitted POTWs with SSS annually. Reviewers should compare the number of state inspections to the commitment in the state specific CMS Plan for the review year, or against the goal in the NPDES CMS policy if there is no state specific CMS plan for SSO facilities.)
- 4a7: Number of Phase I and II MS4 audits or inspections (Target: The EPA's CMS goal is one audit, on-site inspection, or off-site desk audit\* of each Phase I & II MS4 every five years and one inspection or on-site audit of each Phase I & II MS4 every seven years.) Reviewers should compare the number of state inspections to the commitment in the state specific CMS Plan for the review year, or against the goal in the NPDES CMS policy if there is no state specific CMS plan for Phase I and II MS4 facilities.

\* Off-site desk audits include, but are not limited to, review of facility reports and records, review of agency-gathered testing, sampling and ambient monitoring data, evaluation of responses to CWA section 308 information requests, review of compliance deliverables submitted pursuant to permits or enforcement actions, and analysis of aerial or satellite images. An off-site desk audit conducted pursuant to a CMS plan will include the appropriate combination of these activities to allow the region or the state to make a facility-level or program level compliance determination. In order for an off-site desk audit or focused inspection to count toward CMS implementation for the results in this table, the region or state must report the activity into ICIS-NPDES (either through direct data entry or via the CDX National Environmental Information Exchange Network). See Part 3 of the CWA

NPDES CMS for additional details on focused inspections and off-site desk audits.

- 4a8: Number of industrial stormwater inspections (Target: The EPA's CMS goal is 10% of the state universe each year. (includes inspections of unpermitted facilities and those with and without "no exposure certification.") Reviewers should compare the number of state inspections to the commitment in the state specific CMS Plan, or against the goal in the NPDES CMS policy if there is no state specific CMS plan for industrial stormwater facilities.
- 4a9: Number of Phase I and Phase II construction stormwater inspections (Target: the EPA's CMS goal is 10% of the state Phase I and II universe each year including inspections of unpermitted sites.) Reviewers should compare the number of state inspections to the commitment in the state specific CMS Plan, or against the goal in the NPDES CMS policy if there is no state specific CMS plan for Phase I and II construction stormwater facilities.
- 4a10: Number of comprehensive inspections of large and medium NPDES-permitted concentrated animal feeding operations (CAFOs). (Target: The EPA's CMS goal is one comprehensive inspection of each large and medium NPDES-permitted CAFOs every five years). Reviewers should compare the number of state inspections to the commitment in the state specific CMS Plan, or against the goal in the NPDES CMS policy if there is no state specific CMS plan for large and medium CAFO facilities.
- 4a11: Number of sludge/biosolids inspections at each major POTW. (Target: The EPA's CMS goal is one inspection every 5 years for each major POTW in a state with biosolids program authorization. Biosolids use and disposal operations, including incineration and surface application, should receive at least one sludge/biosolids inspection every 5 years.)\*

\*States may substitute an off-site desk audit for sludge/biosolids generation, use, and disposal sites that meet the following criteria: (1) are not currently subject to enforcement actions or compliance schedules that are the result of concluded enforcement actions; (2) have not been reported in Significant Noncompliance (SNC) within the previous four quarters; (3) have no unresolved single event violation(s) identified in prior inspection(s); (4) do not discharge to CWA section 303(d) listed waters for pollutant(s) contributing to the listing; and (5) have no known potential to impact drinking water supplies. A CMS plan that utilizes this approach for conducting off-site desk audits in lieu of sludge/biosolids inspections is still considered a *traditional CMS plan*. In states where the EPA is the permitting authority for biosolids, compliance monitoring activities for biosolids facilities will be conducted in accordance with plans and protocols established by the EPA Biosolids Center of Excellence.

**Guidance:** Metrics 4a1-4a11 track progress in meeting inspection commitments per the negotiated state-specific Compliance Monitoring Strategy Plan (CMS Plan) in the review year

based on the [NPDES Compliance Monitoring Strategy](#) (NPDES CMS, July 21, 2014). The numerator = number of inspections completed; denominator = number of inspections planned based on information in the state CMS Plan.

The information in the completed NPDES CMS metrics table will form the basis for determining whether the state meets, exceeds, or falls short of meeting commitments. Use the Inspection Coverage Data Table in Appendix C to calculate these metrics. The EPA will evaluate the percentage of inspection commitments met based on the commitments in the state's CMS plan for the review year. For each metric with an annual compliance monitoring goal, the EPA review teams will compare the number of inspections or audits committed to in the state's CMS plan against information that appears in the EPA data systems regarding inspections or audits conducted. Where inspections covered by the CMS do not have data entered in ICIS-NPDES, reviewers should gather and assess information from the state agency to review performance against the applicable CMS commitments. (If the state fails to enter system required inspection data in ICIS-NPDES, the reviewer should note this as a problem under Element 1 with a finding of Area for State Attention or Improvement.) For commitments that span more than one year, regions should consider whether the state met the commitment set forth in its CMS plan and how well this prepares the state to meet the cumulative, or multi-year, commitment. If a state does not have a state-specific CMS plan for a given CMS inspection area, regions will evaluate the state against the national inspection coverage goals set forth in the 2014 NPDES compliance monitoring strategy under metrics 4a1– 4a11.

### **Metric 5a1 — Percentage of NPDES major facilities with individual or general permits inspected**

**Metric type:** Goal Metric

**Goal:** 100% of state specific CMS Plan commitment

**What it measures:** Percentage of active NPDES major facilities with individual or general permits inspected. Numerator = the number of major NPDES facilities with individual or general permits inspected; Denominator = the number of major NPDES facilities with individual or general permits scheduled for inspection in the state specific CMS Plan for the review year. **Reviewers are to compare the number of state inspections of major NPDES facilities listed in the data metric analysis to the commitment in the state specific CMS Plan for the review year; the denominator that automatically populates in the data metric analysis for Metric 5a1 is not likely to reflect the state's annual inspection commitment that varies from year to year. The denominator for this metric is the state's inspection commitment listed in the state specific CMS plan for the review year. It is also helpful to examine state end of year reports on inspection results to assess inspection coverage and to determine whether all inspections are reported in the ICIS database.**

**Guidance:** The EPA's CMS goal for inspections of major NPDES permittees is a minimum of at least one comprehensive inspection every two years. Where OECA's Inspection Targeting

Model is used to assist in screening and identifying inspection targets, the inspection frequency can be adjusted to one comprehensive inspection every three years for major NPDES facilities in compliance and not contributing to CWA §303(d) listings or §305(b) reporting unless there is an alternative CMS commitment. A state may have approval for an alternative CMS plan that has different frequencies than those listed above for that year. Reviewers should examine inspection coverage holistically in the CWA Inspection Coverage Table to determine findings on inspection coverage in SRF reports (see Appendix C). Note, replace the existing denominator listed in the data metric analysis with the state's inspection commitment listed in its CMS plan to assess inspection coverage.

**Applicable EPA policy/guidance:** Memo, [Clean Water Act National Pollutant Discharge Elimination System Compliance Monitoring Strategy](#) July 21, 2014

### **Metric 5b — Percentage of NPDES non-major individual and general permitted facilities inspected**

**Metric type:** Goal Metric

**Goal:** 100% of the state specific CMS Plan commitment

**What it measures:** The percentage of active NPDES non-major individual and general permittees inspected in review year. Numerator = the number of non-major individual and general permittees inspected; Denominator = the number of non-major individual and general permittees scheduled for inspection in the state specific CMS Plan for the review year. **Reviewers are to compare the number of state inspections of non-major permitted NPDES facilities against the commitment in the state specific CMS Plan for the review year; the denominator that automatically populates in the data metric analysis for Metric 5b is not likely to reflect the state's annual inspection commitment that varies from year to year. The denominator for this metric is the state's inspection commitment listed in the state specific CMS plan for the review year. It is also helpful to examine state end of year reports on inspection results to assess inspection coverage and to determine whether all inspections are reported in the ICIS database.**

**Guidance:** The EPA's CMS goal for inspections of non-major NPDES permittees is an inspection at least once in each five-year permit term.

**Applicable EPA policy/guidance:** Memo, [Clean Water Act National Pollutant Discharge Elimination System Compliance Monitoring Strategy](#) July 21, 2014,

**Metric 6a — Inspection reports complete and sufficient to assess permit requirements at the facility and document inspector observations.**

**Metric type:** File, Goal



**Goal:** 100%

**What it measures:** Percentage of inspection reports reviewed that provide sufficient documentation to support the review of all permit requirements and inspector observations for the facility. This metric describes the quality of inspection reports. Numerator = number of inspection reports with sufficient documentation of permit requirements and inspector observations; denominator = total number of inspection reports reviewed. There is no need to review prior year inspection reports under metric 6a unless fewer than 5 inspections occur in the review year.

**Guidance:** Inspection reports should be reviewed to see if they provide the information requested in the NPDES Compliance Inspection Manual, Chapter 2. Basic information that should be collected in inspection reports is discussed in the NPDES Compliance Inspection Manual including:

- linking permit and/or regulatory requirements to observations made by the inspector regarding noncompliance,
- narrative describing the facility and its procedures,
- documentation such as reports, records, photographs, maps, conditions observed, statements by facility personnel, and checklists

See the CWA File Review Facility Checklist for additional details on inspection report quality and completeness. For each inspection report found in reviewed files, reviewers should complete CWA Inspection Report Checklist in the “CWA Facility Checklist.” Inspection reports with unreported inspections not listed on ECHO detailed facility reports should be noted along with other unreported data accuracy issues under Element 1 to group data related recommendations under the same element.

Report components in the NPDES Compliance Inspection Manual or the state’s inspection manual should be present and properly documented. If certain components are routinely missing, these should be mentioned in the SRF report. Reviewers have the flexibility to consider a wide range of information sources beyond the inspection report, including state web sites and permits.

Agencies will have their own methods for completing inspection reports. The EPA should discuss this with the agency at the beginning of the review to determine which parts of the agency’s inspection report (particularly for Compliance Evaluation Inspections (CEIs)) are consistent with the EPA’s expectations. The EPA reviews the quality of the written inspection reports only under this metric; this metric is not an evaluation of the quality of field inspections.

**Applicable EPA Policy/Guidance:** [NPDES Compliance Inspection Manual](#), EPA Report # 305-K-17-001, Interim Revised Version, January 2017. [Clean Water Act Inspector Training](#)

## **Metric 6b — Timeliness of inspection report completion**

**Metric type:** File, Goal

**Goal:** 100%

**What it measures:** Percentage of inspection reports reviewed that are timely. Numerator = number of inspection reports completed within recommended timeframe; Denominator = total number of inspection reports reviewed.

**Guidance:** Reviewers should evaluate timeliness of state inspection reports against timeliness goals in state inspection procedures if: 1) the region can demonstrate that the state's standard(s) is (are) equivalent to or more stringent than OECA guidance, and 2) and the state agrees to being evaluated against that standard(s). In these cases, regions should include a statement in the SRF report indicating that the state guidance was determined to be equivalent or more stringent than the applicable OECA policy and was used as the basis for the review. In the absence of state guidelines, reviewers should evaluate timeliness against the EPA guidelines of 60 days. Reviewers should use the day after the inspection date as the start date as inspectors do not write reports on-site. For inspections lasting multiple days, this is the day after the last inspection on-site date.

If an agency does not have a timeliness standard, the EPA should use the SRF as an opportunity to encourage the Agency to adopt one, particularly if it is not consistently completing reports in 60 days or less and especially if this creates delays in other aspects of the program, such as violation determination or enforcement.

**Applicable EPA policy/guidance:** [Clean Water Act National Pollutant Discharge Elimination System Compliance Monitoring Strategy](#) July 21, 2014. [Final Policy on Civil Inspection Report Timeliness](#), August 2022.

## **Element 3 — Violations**

Under this element, the EPA evaluates the accuracy of the agency's violation and compliance determinations, and the accuracy and timeliness of its significant non-compliance determinations.

**Key metrics:** 7e, 7j1, 7k1, 8a3, 8a4

## **File Reviews**

The SRF considers inspections, violations, enforcement actions; the timeliness and appropriateness of enforcement action; and documentation of penalty calculation, assessment and collection (see SRF Elements 3-5). As part of file reviews for Elements 3-5, regions should review files for wet weather and pretreatment facilities that the state inspected in accordance with its NPDES CMS plan to ensure that inspections and enforcement activities at these facilities are well implemented. For non-major permittees, Category 1 violations should be considered requiring enforcement follow-up. As part of the review of regional file selection lists, the EPA will review the representativeness of files selected to ensure NPDES CMS commitments are adequately factored into the review process. See the SRF Reviewer's Guide for additional details on tips for conducting file reviews.

### **Metric 7e —Accuracy of compliance determinations**

**Metric type:** File, Goal

**Goal:** 100%

**What it measures:** Percentage of files reviewed with sufficient documentation leading to an accurate compliance determination. Numerator = number of files containing inspection reports reviewed with sufficient documentation leading to an accurate compliance determination; Denominator = total number of inspection reports reviewed.

**Guidance:** This metric assesses whether violations were accurately identified based on the documentation contained in facility files. For example, violations identified in the enforcement action should be documented in facility files as observations noted while on-site at the facility. This information may be in the inspection report narrative or in the single event violation (SEV) section of state's inspection report form. Note that if the compliance determination is not made in the inspection report, then it should be documented elsewhere in the file including: SEV data in ICIS or a state data system, informal or formal actions taken in response to deficiencies found during the inspection that clearly reference the inspection, tracking systems that document violations discovered and actions taken in response, and unsatisfactory ratings on inspection checklists. Reviewers should examine inspection conclusion data sheet (ICDS) information in ICIS to determine whether compliance determinations on deficiencies found are noted in ICIS and discuss with the state how the state tracks violations. Inspection reports with unreported inspections not listed on ECHO detailed facility reports should be noted along with other unreported data accuracy issues under Element 1 to group data related recommendations under the same element.

Agencies will have their own methods for completing inspection reports. The EPA should discuss this with the agency at the beginning of the review to determine if the agency's inspection reports, particularly for Compliance Evaluation Inspections (CEIs), are consistent with the EPA expectations.

**Applicable EPA policy/guidance:** [NPDES Compliance Inspection Manual](#), EPA Report # 305-K-17-001, Interim Revised Version, January 2017. [Clean Water Act Inspector Training](#).

**Metric 7j1 — Number of major and non-major NPDES facilities with new single-event violations reported that began in the review year**

**Metric type:** Review Indicator

**What it measures:** Assesses whether new single-event violations (SEVs) determined by means other than automated discharge-to-limits comparisons are reported and tracked in ICIS-NPDES that began in the review year. This metric is limited to SEVs that start within the federal fiscal year reviewed under SRF; SEVs that begin in prior years and continue in the review year are not reported under this metric.

**Guidance:** Reviewers should carefully compare SEVs found during the on-site file review in inspection reports, enforcement actions, SSO notifications, and other correspondence to drilldown data for metric 7j1. Facilities with unreported SEVs not listed in drilldown data for this metric should be noted along with other unreported data accuracy issues under Element 1 to group data related recommendations under the same element. SEVs are minimum data requirements for both major and non-major facilities as of December 21, 2016 under the NPDES Electronic Reporting E-rule (NPDES E-rule), excluding SEVs without formal enforcement at stormwater construction sites.

**Applicable EPA policy/guidance:** NPDES Electronic Reporting E-rule (NPDES E-rule), October 22, 2015.

**Metric 7k1 — Active major and non-major facilities in noncompliance**

**Metric type:** Review Indicator

**What it measures:** The percentage of major and non-major individual permit facilities with violations reported to the national database. Violations factored into metric 7k1 include SNC Category I, RNC Category II, effluent, DMR reporting single event, compliance schedule, or permit schedule violations for non-compliance codes D, E, N, S, T, X, and V.

**Guidance:** Review the percent of major and non-major facilities in noncompliance and compare this percentage to the national average and prior year trends for the state. If noncompliance is significantly higher than in previous years or SRF reviews, or is high and remains high over time, the reviewer should consider selecting additional files with violations and enforcement actions to ensure that timely and appropriate enforcement occurs in response to violations when evaluating file review metric 10b. If levels are well below the national average, reviewers should look into what is behind the lower numbers – either higher levels of compliance or failure to identify or report violations.

Facilities in Category I noncompliance (more serious) violations [i.e. are defined in [40CFR123.45\(a\)\(2\)\(G\)\(i-vi\)](#)] and the Category 2 noncompliance (i.e., less serious violations) is defined by [40CFR123.45\(a\)\(2\)\(G\)\(vii\)](#)].

Reviewers may also wish to consult the national average as additional context in interpreting noncompliance at facilities in a given state. If state noncompliance at majors or non-majors is significantly above the national average, timely and appropriate action may not be promoting return to compliance. Conversely, if the state noncompliance rate is low, compliance may be high or the state may not be identifying or reporting violations accurately during inspections or in inspection reports. Information about relative non-compliance at major and non-major facilities may help inform the number of files selected with violations with and without enforcement.

Note: As previously addressed on p.1 on metric types regarding review indicator metrics, reviewers should not establish SRF report findings on the basis of review indicator metrics. Findings should primarily be based on file review metrics for CWA timely and appropriate enforcement, using file review metric 10b, as it is possible to factor in the specific date when the violation was discovered and the date of the enforcement action for individual violations only during on-site file reviews.

**Applicable EPA policy/guidance:** NPDES Electronic Reporting E-rule (NPDES E-rule), October 22, 2015.

**Metric 8a3 — Percentage of active major facilities in SNC and non-major individual permit facilities in Category I noncompliance during the fiscal year**

**Metric type:** Review Indicator

This metric is a key indicator of the EPA's commitment to ensure agencies identify the most significant violations in terms of their environmental and human health impacts to target enforcement actions toward the most important water pollution problems.

**What it measures:** Percentage of active major and non-major individual permit NPDES facilities in significant non-compliance or Category I noncompliance during the review year. Numerator = the number of active major facilities in SNC and the number of non-major individual permit facilities in Category I noncompliance during review year; Denominator = total number of active major and non-major facilities that are either active or have SNC or Category I violations.

**Guidance:** Review the percent of active major and facilities in significant noncompliance or Category I noncompliance. If significant noncompliance is significantly higher or lower than the national average, or is high and remains high, the reviewer should consider selecting additional files with violations and enforcement actions to ensure that timely and appropriate

enforcement occurs in response to violations. If significant noncompliance or Category I noncompliance at majors and non-major individual permit facilities in Category I noncompliance is significantly above the national average, timely and appropriate action may not be promoting return to compliance. If the percentage of active major and non-major individual permit facilities in SNC or Category I noncompliance is significantly lower than the national goal, reviewers should carefully review files for inspected facilities without violations, and those with non-SNC violations, to determine whether SNC or Category I violation determinations are accurately identified in files reviewed. Reviewers will have the flexibility to utilize drilldown data available on ECHO to view the proportion of major and non-major facilities reported as in significant noncompliance.

Note: As previously addressed on p.1 on metric types regarding review indicator metrics, reviewers should not establish SRF report findings on the basis of review indicator metrics. Findings should primarily be based on file review metrics for CWA violations, using file review metric 7e under Element 3.

**Applicable EPA policy/guidance:** [Interim Significant Non- Compliance Policy for Clean Water Act Violations Associated with CSOs, SSOs, CAFOs, and Storm Water Point Sources \(Interim Wet Weather SNC Policy\)](#) issued to EPA Regions only on October [The Enforcement Management System, National Pollutant Discharge Elimination System \(Clean Water Act\)](#), 1989; Memorandum. [Revision of NPDES Significant Noncompliance \(SNC\) Criteria to Address Violations of Non-Monthly Average Limits](#) issued to Water Management Division Directions and Regional Counsels from Steven A. Herman, 1995; [National Pollutant Discharge Elimination System \(NPDES\) Electronic Reporting Rule](#), October 22, 2015.

#### **Metric 8a4 — Percentage of active non-major general permit facilities in Category I noncompliance during the reporting year**

**Metric type:** Review Indicator

This metric is a key indicator of the EPA's commitment to ensure agencies identify the most significant violations in terms of their environmental and human health impacts to target enforcement actions toward the most important water pollution problems.

**What it measures:** Percentage of active non-major general permit NPDES facilities in Category I noncompliance during the review year. Numerator = the number of active non-major general permit facilities in Category I noncompliance during review year; Denominator = total number of active non-major general permit facilities that are active or have Category I violations.

**Guidance:** Review the percent of active non-major general permit facilities in Category I noncompliance and compare this percentage to the national average. If Category 1 noncompliance is significantly higher or lower than the national average, or is high and remains high, the reviewer should consider selecting additional files with violations and

enforcement actions to ensure that timely and appropriate enforcement occurs in response to violations. If Category 1 noncompliance at active non-major general permit facilities in Category 1 noncompliance is significantly above the national average, timely and appropriate action may not be promoting return to compliance. If the percentage of active non-major general permit facilities in Category I noncompliance is significantly lower than the national goal, reviewers should carefully review files for inspected facilities without violations, and those with Category II violations, to determine whether Category I violation determinations are accurately identified in files reviewed.

Note: As previously addressed on p.1 on metric types regarding review indicator metrics, reviewers should not establish SRF report findings on the basis of review indicator metrics. Findings should primarily be based on file review metrics for CWA violations, using file review metric 7e under Element 3.

**Applicable EPA policy/guidance:** [Interim Significant Non- Compliance Policy for Clean Water Act Violations Associated with CSOs, SSOs, CAFOs, and Storm Water Point Sources \(Interim Wet Weather SNC Policy\)](#) issued to EPA Regions only on October [The Enforcement Management System, National Pollutant Discharge Elimination System \(Clean Water Act\)](#), 1989; Memorandum. [Revision of NPDES Significant Noncompliance \(SNC\) Criteria to Address Violations of Non-Monthly Average Limits](#) issued to Water Management Division Directions and Regional Counsels from Steven A. Herman, 1995; [National Pollutant Discharge Elimination System \(NPDES\) Electronic Reporting Rule](#), October 22, 2015.

## **Element 4 — Enforcement**

Reviewers will use Element 4 to determine the agency's effectiveness in taking timely and appropriate enforcement (metrics 10a1, 10a2, 10a3, and 10a4, and 10b) and using enforcement to return facilities to compliance (metric 9a). High noncompliance reported under metrics 7j1, 7k1 and 8a3 in Element 3 may indicate a lack of timely and appropriate enforcement or facilities under long term state or EPA enforcement orders that are on a path to compliance. For example, if violation and SNC rates are higher than the national average, but the number of formal or informal enforcement is low, reviewers may wish to select extra facility files with SNC and non-SNC violations to determine why enforcement activity is low. If enforcement numbers are high, reviewers should review facility files with enforcement to determine if those actions were appropriate and return facilities to compliance. Adequate file selection is important to develop robust findings in the report and can be based on SNC rate or violation rate trend data. Facilities with unreported enforcement actions not listed on ECHO detailed facility reports should be noted along with other unreported data accuracy issues under Element 1 to group data related recommendations under the same element.

### **File Reviews**

As part of file reviews, regions should review files for wet weather, significant industrial user,

and pretreatment facilities that the state inspected in accordance with its NPDES CMS plan to ensure that enforcement activities at these facilities promote return to compliance under metric 9a and are timely and appropriate under metric 10b. As part of the review of regional file selection lists, the EPA will review the representativeness of files selected to ensure NPDES CMS commitments at non-major facilities, including pretreatment, SIU, and wet weather facilities, are adequately factored into the review process.

**Key metrics:** 9a, 10a1, 10a2, 10a3, 10a4, 10b

**Metric 9a** — Percentage of enforcement responses that returned, or will return, a source in violation to compliance

**Metric type:** File, Goal

**Goal:** 100%

**What it measures:** Percentage of enforcement responses in reviewed files that returned, or will return, a source in violation to compliance. Reviewers should evaluate all enforcement responses found in selected files regardless of the type of violation. The violations addressed by reviewed enforcement responses may be SNC or non-SNC violations. Numerator = number of enforcement responses that returned, or will return, the source to compliance; Denominator = total number of enforcement responses in reviewed files.

**Guidance:** Actions that promote return to compliance generally include:

- injunctive relief,
- documentation of return to compliance, and
- an enforceable requirement that compliance be achieved by a date certain for significant noncompliance at major facilities.

Non-major facilities, and facilities with non-SNC violations, should also receive an enforcement response (either informal or formal enforcement) that results in the violator returning to compliance, particularly in areas where minor facilities have a major impact on water quality. Non-SNC violations, and violations at non-major facilities should generally receive an enforcement response in the range of options noted in the Enforcement Response Guide of the NPDES Enforcement Management System, see especially Chapter 2 pp. 55-68 for the range of recommended responses to potential violations. Administrative penalty orders (APOs) count as formal enforcement actions but return to compliance at a facility that has received an APO should be documented in the file for the action to be deemed as returning the facility to compliance.

Examining return to compliance includes examination of compliance schedule milestones due in the review year. Some files may contain violations that take place in the review year at



facilities where long term consent decrees exist. If compliance schedule milestones are due from prior year consent decrees in the SRF review year, reviewers have the flexibility to factor this into their response under CWA metric 9a. For example, if a facility is meeting the terms of a long-term consent decree but appears to be in SNC under data metric 10a1, reviewers should give credit for meeting the terms of the consent decree. Conversely, if there is no evidence that follow up is occurring to verify compliance schedule milestones, especially those past due by 2 quarters or more (a SNC violation), return to compliance is likely not occurring and should be factored into the responses for Metric 9a.

**Applicable EPA policy/guidance:** [The Enforcement Management System, National Pollutant Discharge Elimination System \(Clean Water Act\)](#), 1989; [“Clarification of NPDES EMS Guidance on Timely and Appropriate Response to Significant Noncompliance Violations”](#) from Mark Pollins Water Enforcement Division and Betsy Smidinger, Acting Director, Enforcement Targeting and Data Division, May 29, 2008.

**Metric 10a1 — Percentage of major individually permitted NPDES facilities with formal enforcement action taken in a timely manner in response to late DMR SNC violations**

**Metric type:** Review Indicator

**What it measures:** The percentage of major individually permitted NPDES facilities with late DMR SNC violations in two consecutive quarters of the review year that have formal enforcement taken within 2 quarters of the first violation

Numerator = the number of major NPDES facilities in the denominator having formal enforcement action within 2 quarters of the first late DMR SNC violation reported

Denominator = the number of major individually permitted facilities with two or more consecutive quarters of SNC late DMR violations

**Guidance:** Per the guidance in the NPDES EMS, formal enforcement should occur at major facilities in significant non-compliance within 2 quarters of the significant noncompliance reported unless there is supportable justification for an alternative action, such as an informal enforcement action, permit modification, or the facility returns to compliance. This metric is a review indicator metric given the complexity of assessing the interplay between review year actions taken and those actions taken over time that have on-going compliance schedules with milestones in the review year. This metric is a review indicator and is not designed to be used to establish SRF report findings. Review the specific violations listed in the enforcement action as actions taken may not be directly linked to SNC violations reported in the review year if the action is related to prior year compliance monitoring activities.

Note: As previously addressed on p.1 on metric types regarding review indicator metrics, reviewers should not establish SRF report findings on the basis of review indicator metrics.

**Applicable EPA policy/guidance:** [The Enforcement Management System, National Pollutant Discharge Elimination System \(Clean Water Act\)](#), 1989; [“Clarification of NPDES EMS Guidance on Timely and Appropriate Response to Significant Noncompliance Violations”](#) from Mark Pollins, Director, Water Enforcement Division and Betsy Smidinger, Acting Director, Enforcement Targeting and Data Division, May 29, 2008.; *Guidance for Preparation of Quarterly and Semi-Annual Noncompliance Reports* (Per Section 123.45, Code of Federal Regulations, Title 40) March 13, 1986; [Revision of NPDES Significant Noncompliance \(SNC\) Criteria to Address Violations of Non-Monthly Average Limits](#) issued to Water Management Division Directions and Regional Counsels from Steven A. Herman, 1995; [National Pollutant Discharge Elimination System \(NPDES\) Electronic Reporting Rule](#), October 22, 2015.

**Metric 10a2 — Percentage of major individually permitted NPDES facilities with formal enforcement action taken in a timely manner in response to missing DMR SNC violations**

**Metric type:** Review Indicator

**What it measures:** The percentage of major individually permitted NPDES facilities with missing DMR violations in 2 consecutive quarters of the review year that have formal enforcement taken within 2 quarters of the first violation

Numerator = the number of major NPDES facilities in the denominator having formal enforcement action within 2 quarters of the first missing DMR SNC violation reported

Denominator = the number of major facilities with two or more consecutive quarters of missing DMR SNC violations

**Guidance:** Per the guidance in the NPDES EMS, formal enforcement should occur at major facilities in significant non-compliance within 2 quarters of the significant noncompliance reported unless there is supportable justification for an alternative action, such as an informal enforcement action, permit modification, or the facility returns to compliance. This metric is a review indicator metric given the complexity of assessing the interplay between review year actions taken and those actions taken over time that have on-going compliance schedules with milestones in the review year. This metric is a review indicator and is not designed to be used to establish SRF report findings. Review the specific violations listed in the enforcement action as actions taken may not be directly linked to SNC violations reported in the review year if the action is related to prior year compliance monitoring activities.

Note: As previously addressed on p.1 on metric types regarding review indicator metrics, reviewers should not establish SRF report findings on the basis of review indicator metrics.

**Applicable EPA policy/guidance:** [The Enforcement Management System, National Pollutant Discharge Elimination System \(Clean Water Act\)](#), 1989; [“Clarification of NPDES EMS Guidance on Timely and Appropriate Response to Significant Noncompliance Violations”](#) from Mark Pollins, Director, Water Enforcement Division and Betsy Smidinger, Acting Director,

Enforcement Targeting and Data Division, May 29, 2008.; *Guidance for Preparation of Quarterly and Semi-Annual Noncompliance Reports* (Per Section 123.45, Code of Federal Regulations, Title 40) March 13, 1986; [Revision of NPDES Significant Noncompliance \(SNC\) Criteria to Address Violations of Non-Monthly Average Limits](#) issued to Water Management Division Directions and Regional Counsels from Steven A. Herman, 1995; [National Pollutant Discharge Elimination System \(NPDES\) Electronic Reporting Rule](#), October 22, 2015.

**Metric 10a3 — Percentage of major individually permitted NPDES facilities with formal enforcement action taken in a timely manner in response to SNC effluent violations**

**Metric type:** Review Indicator

**What it measures:** The percentage of major individually permitted NPDES facilities in SNC for effluent violations at the same permitted feature and parameter in 2 consecutive quarters of the review year that have formal enforcement taken within 2 quarters of the first DMR SNC effluent violation reported

Numerator = the number of major NPDES facilities in the denominator having formal enforcement action within 2 quarters of the first DMR SNC effluent violation

Denominator = the number of major individually permitted NPDES facilities with two or more consecutive quarters of SNC effluent violations at the same permitted feature and parameter

**Guidance:** Per the guidance in the NPDES EMS, formal enforcement should occur at major facilities in significant non-compliance within 2 quarters of the significant noncompliance reported unless there is supportable justification for an alternative action, such as an informal enforcement action, permit modification, or the facility returns to compliance. This metric is a review indicator metric given the complexity of assessing the interplay between review year actions taken and those actions taken over time that have on-going compliance schedules with milestones in the review year. This metric is a review indicator and is not designed to be used to establish SRF report findings. Review the specific violations listed in the enforcement action as actions taken may not be directly linked to SNC violations reported in the review year if the action is related to prior year compliance monitoring activities.

Note: As previously addressed on p.1 on metric types regarding review indicator metrics, reviewers should not establish SRF report findings on the basis of review indicator metrics.

**Applicable EPA policy/guidance:** [The Enforcement Management System, National Pollutant Discharge Elimination System \(Clean Water Act\)](#), 1989; [“Clarification of NPDES EMS Guidance on Timely and Appropriate Response to Significant Noncompliance Violations”](#) from Mark Pollins, Director, Water Enforcement Division and Betsy Smidinger, Acting Director, Enforcement Targeting and Data Division, May 29, 2008.; *Guidance for Preparation of Quarterly and Semi-Annual Noncompliance Reports* (Per Section 123.45, Code of Federal Regulations, Title 40) March 13, 1986; [Revision of NPDES Significant Noncompliance \(SNC\)](#)

[Criteria to Address Violations of Non-Monthly Average Limits](#) issued to Water Management Division Directions and Regional Counsels from Steven A. Herman, 1995; [National Pollutant Discharge Elimination System \(NPDES\) Electronic Reporting Rule](#), October 22, 2015.

**Metric 10a4 — Percentage of major individually permitted NPDES facilities with formal enforcement action taken in a timely manner in response to SNC compliance schedule violations**

**Metric type:** Review Indicator

**What it measures:** The percentage of major individually permitted NPDES facilities with SNC compliance schedule violations in 2 consecutive quarters of the review year that have formal enforcement taken within 2 quarters of the of the first violation reported.

Numerator = the number of major NPDES facilities in the denominator having formal enforcement action within 2 quarters of the first SNC compliance schedule violation reported

Denominator = the number of major individually permitted facilities with two or more consecutive quarters of SNC compliance schedule violations

**Guidance:** Per the guidance in the NPDES EMS, formal enforcement should occur at major facilities in significant non-compliance within 2 quarters of the significant noncompliance reported unless there is supportable justification for an alternative action, such as an informal enforcement action, permit modification, or the facility returns to compliance. This metric is a review indicator metric given the complexity of assessing the interplay between review year actions taken and those actions taken over time that have on-going compliance schedules with milestones in the review year. This metric is a review indicator and is not designed to be used to establish SRF report findings. Review the specific violations listed in the enforcement action as actions taken may not be directly linked to SNC violations reported in the review year if the action is related to prior year compliance monitoring activities.

Note: As previously addressed on p.1 on metric types regarding review indicator metrics, reviewers should not establish SRF report findings on the basis of review indicator metrics.

**Applicable EPA policy/guidance:** [The Enforcement Management System, National Pollutant Discharge Elimination System \(Clean Water Act\)](#), 1989; [“Clarification of NPDES EMS Guidance on Timely and Appropriate Response to Significant Noncompliance Violations”](#) from Mark Pollins, Director, Water Enforcement Division and Betsy Smidinger, Acting Director, Enforcement Targeting and Data Division, May 29, 2008.; [Guidance for Preparation of Quarterly and Semi-Annual Noncompliance Reports](#) (Per Section 123.45, Code of Federal Regulations, Title 40) March 13, 1986; [Revision of NPDES Significant Noncompliance \(SNC\) Criteria to Address Violations of Non-Monthly Average Limits](#) issued to Water Management Division Directions and Regional Counsels from Steven A. Herman, 1995; [National Pollutant](#)

[Discharge Elimination System \(NPDES\) Electronic Reporting Rule](#), October 22, 2015.

**Metric 10b — Enforcement responses reviewed that address violations in a timely and appropriate manner**

**Metric type:** File, Goal

**Goal:** 100%

**What it measures:** The percentage of enforcement actions taken in an appropriate and timely manner. Numerator = the number of appropriate enforcement responses in reviewed files taken to address violations; Denominator = the number actions identified by the reviewer including files with no enforcement that contain violations warranting an enforcement response. It is helpful to review prior year inspection reports associated with an enforcement action that takes place in the review year to evaluate the timeliness of enforcement in response to violations found during inspections.

**Guidance:** Per the guidance in the NPDES EMS, formal enforcement should occur at major facilities in significant non-compliance within 2 quarters of the within 2 quarters of the violation start date unless there is supportable justification for an alternative action, such as an informal enforcement action, permit modification, or the facility returns to compliance. This metric is a review indicator metric given the complexity of assessing the interplay between review year actions taken and those actions taken over time that have on-going compliance schedules with milestones in the review year. Review the specific violations listed in the enforcement action as actions taken may not be directly linked to SNC violations reported in the review year if the action is related to prior year compliance monitoring activities. The enforcement response should be a formal action which directs the permittee to return to compliance by date certain.

When formal enforcement action is not taken, there should be a written record that clearly justifies why the alternative action (*e.g.*, informal enforcement action) is more appropriate. As indicated in the introduction section for Element 4, reviewers have the flexibility to consider a wide range of information sources beyond that found in the ECHO Detailed Facility Report (DFR) to make findings under Metric 10b, including but not limited to state web sites, and documentation from quarterly calls on progress in addressing violations.

Examining the appropriateness of enforcement taken includes examination of compliance schedule milestones due in the review year. Some files may contain violations that take place in the review year at facilities where long term consent decrees exist. If compliance schedule milestones are due from prior year consent decrees in the SRF review year, reviewers have the flexibility to factor this into their response under CWA metric 10b. For example, if a facility is meeting the terms of a long-term consent decree but appears to be in SNC under data metric 10a2, 10a3, or 10a4, reviewers should give credit for meeting the terms of the consent decree. Conversely, if there is no evidence that follow up is occurring to verify compliance schedule

milestones, especially those past due by 2 quarters or more (a SNC violation), appropriate enforcement is likely not occurring and should be factored into the responses for Metric 10b.

Non-major facilities with Category 1 or 2 violations, and facilities with non-SNC violations, should also receive an enforcement response (either informal or formal enforcement) within 12 months that results in the violator returning to compliance. Non-SNC violations, and violations at non-major facilities should generally receive an enforcement response in the range of options noted in the Enforcement Response Guide of the NPDES Enforcement Management System Guidance in 12 months. See especially Chapter 2 pp. 55-68 for the range of recommended responses to potential violations.

Reviewers should consider Administrative Penalty Orders (APOs) as formal enforcement actions under SRF file review metric 10b. APOs, as formal enforcement actions, are generally an appropriate response to non-SNC violations and violations at non-major facilities. Per the NPDES EMS policy, APOs are not appropriate to address SNC violations at major facilities because APOs generally do not contain injunctive relief provisions. An APO at a major facility may be appropriate if the file reviewed shows documentation of return to compliance. In addition, there are some types of violations that could occur at non-majors, such as reporting false information, for which an APO is not sufficient. Refer to the Enforcement Response Guide in the EMS if you have questions about whether the response is appropriate.

When establishing Element 4 findings in SRF reports for metric 10b, target the finding and any related recommendation for an Area for Improvement on the specific problem found: timely enforcement, appropriate enforcement, both timely and appropriate enforcement.

Reviewers may utilize state enforcement response policies in evaluating metric 10b per the guidelines outlined in the Use of State Guidance and Regional-State Agreements as Basis for Findings in SRF Reviews on p. 3 of this Plain Language Guide.

**Applicable EPA policy/guidance:** [National Pollutant Discharge Elimination System \(Clean Water Act\)](#), 1989; [“Clarification of NPDES EMS Guidance on Timely and Appropriate Response to Significant Noncompliance Violations”](#) from Mark Pollins, Director Water Enforcement Division and Betsy Smidinger, Acting Director, Enforcement Targeting and Data Division, May 29, 2008; [National Pollutant Discharge Elimination System Enforcement Management System \(NPDES EMS\)](#), Chapter 7, Quarterly Noncompliance Report Guidance; [Revision of NPDES Significant Noncompliance \(SNC\) Criteria to Address Violations of Non-Monthly Average Limits](#) issued to Water Management Division Directions and Regional Counsels from Steven A. Herman, 1995; [Interim Significant Non- Compliance Policy for Clean Water Act Violations Associated with CSOs, SSOs, CAFOs, and Storm Water Point Sources \(Interim Wet Weather SNC Policy\)](#) issued to the EPA Regions only on October 23, 2007.

## Element 5 — Penalties

Element 5 evaluates penalty documentation using three metrics — 11a for gravity and economic benefit, 12a for differences between initial and final penalties, and 12b for penalty collection. Facilities with unreported penalties not listed on ECHO detailed facility reports should be noted along with other unreported data accuracy issues under Element 1 to group data related recommendations under the same element.

**Key metrics:** 11a, 12a, and 12b.

### **Metric 11a — Penalty calculations reviewed that document and include gravity and economic benefit**

**Metric type:** File, Goal

**Goal:** 100%

**What it measures:** Percentage of penalty calculations reviewed that document and include, where appropriate, gravity and economic benefit. Numerator = the number of penalties reviewed where the penalty was appropriately calculated and documented; Denominator = the total number of penalties reviewed. Note: draft penalties that are not final are not within the scope of this metric and no response is required for metric 11a as the values listed for economic benefit and/or gravity in draft penalty calculations are subject to change.

**Guidance:** Agencies should document penalties sought, including the calculation of gravity and economic benefit where appropriate. With regard to this documentation, the Revisions to the Policy Framework for State/EPA Enforcement Agreements (1993) says the following:

EPA asks that a State or local agency make case records available to EPA upon request and during an EPA audit of State performance. All recordkeeping and reporting should meet the requirements of the quality assurance management policy and follow procedures established by each national program consistent with the Agency's Monitoring Policy and Quality Assurance Management System.

State and local recordkeeping should include documentation of the penalty sought, including the calculation of economic benefit where appropriate. It is important that accurate and complete documentation of economic benefit calculations be maintained to support defensibility in court, enhance Agency's negotiating posture, and lead to greater consistency.

Agencies may use their own penalty policies and either the EPA's computerized model, known as BEN, or their own method to calculate economic benefit consistent with national policy.



Review the files containing enforcement responses with penalties and examine whether the gravity and economic benefit components were documented (sometimes found in a penalty calculation worksheet). If the penalty does not include an economic benefit or gravity calculation, the reviewer should determine if the file documents the reason for the absence, such as one of the mitigation factors listed in the policy. The Interim Clean Water Act Settlement Penalty Policy recommends no more than a one third reduction in gravity for penalty calculations due to litigation considerations for non-municipal cases. See specific guidance in the Interim Clean Water Act Settlement Penalty Policy regarding adjustments in municipal cases for litigation considerations.

**Applicable EPA policy/guidance:** [Interim Clean Water Act Settlement Penalty Policy](#), March 1, 1995; [Oversight of State and Local Penalty Assessments: Revisions to the Policy Framework for State/EPA Enforcement Agreements](#) (1993); [Revised Policy Framework for State/EPA Enforcement Agreements](#) (1986), [EPA Policy on Civil Penalties](#), February 16, 1984.

### **Metric 12a — Documentation of rationale for difference between initial penalty calculation and final penalty**

**Metric type:** File Review, Goal

**Goal:** 100%

**What it measures:** Percentage of penalties reviewed that document the rationale for the final value assessed when it is lower than the initial calculated value. Numerator = number of penalties reviewed that document the rationale for the final value assessed compared to the initial value calculated; Denominator = number of penalties reviewed where final value assessed is lower than initial value calculated. Note: draft penalties that are not final are not within the scope of this metric and no response is required for metric 12a as the values listed for economic benefit and/or gravity in draft penalty calculations are subject to change.

**Guidance:** According to the *Revisions to the Policy Framework for State/EPA Enforcement Agreements* (1993) and the Framework for Statute Specific Approaches to Penalty Assessments: Implementing EPA's Policy on Civil Penalties, enforcement files should have documentation of adjustments to the initial penalties sent to the facility, including a justification for differences between the initial and final assessed penalty. Review penalty files to identify their contents with respect to initial and final penalties. If two or more penalty amounts are found in the file, ask the agency for documentation of the changes to the penalty.

**Applicable EPA guidance/policy:** [Oversight of State and Local Penalty Assessments: Revisions to the Policy Framework for State/EPA Enforcement Agreements](#) (1993), [Revised Policy Framework for State/EPA Enforcement Agreements](#) (1986); [Interim Clean Water Act Settlement Penalty Policy](#), March 1, 1995, [A Framework for Statute Specific Approaches to Penalty Assessments: Implementing EPA's Policy on Civil Penalties](#), February 16, 1984, [EPA Policy on Civil Penalties](#),



February 16, 1984.

### **Metric 12b — Penalties collected**

**Metric type:** File, Goal

**Goal:** 100%

**What it measures:** Percentage of penalty files reviewed that document collection of penalty. Numerator = the number of penalties with documentation of collection or documentation of measures to collect a delinquent penalty; Denominator = the number of penalties reviewed for which penalty payment was due by the time of the review. Note: draft penalties that are not final are not within the scope of this metric and no response is required for metric 12b as such penalties have not been finalized and collected.

**Guidance:** This metric assesses whether the final penalty was collected. Begin by looking in the file for a cancelled check or other correspondence documenting transmittal of the check such as debits, wire transfers, and credit card payments from financial institutions. If this documentation is not in the file, ask the agency if they can provide proof of collection through the data system of record. The dollar amount on the detailed facility report should list the final penalty dollar value collected, not an initial proposed penalty value at the start of settlement negotiation; address inaccuracies regarding inaccurate penalty dollar amounts or unreported penalties as data quality issues under Element 1. Findings in SRF reports are not designed to address trends in penalty dollar amounts over time as there is no guidance on assessing penalty dollar amounts against a national goal.

If the penalty has not been collected, there should be documentation either in the file or in the data system of record that the agency has taken appropriate follow-up measures.

**Applicable EPA policy/guidance:** [Oversight of State and Local Penalty Assessments: Revisions to the Policy Framework for State/EPA Enforcement Agreements \(1993\)](#), [Revised Policy Framework for State/EPA Enforcement Agreements \(1986\)](#); [Interim Clean Water Act Settlement Penalty Policy](#), March 1, 1995, [EPA Policy on Civil Penalties](#), February 16, 1984.

## Appendix A: Acronyms

Note: This is not a complete list of acronyms used in this document. It includes only those acronyms that are not frequently used in the Agency lexicon, or which have multiple meanings in the Agency lexicon.

<b>Agency</b>	Agency is the state, local or EPA regional directly implemented program reviewed
<b>CAFO</b>	Concentrated Animal Feeding Operation. This acronym can also mean Consent Agreement and Final Order in other enforcement contexts, however, in this guidance CAFO always refers to concentrated animal feeding operations
<b>CDX</b>	Central Data Exchange
<b>CMS</b>	Compliance Monitoring Strategy
<b>CSO</b>	Combined Sewer Overflow
<b>DFR</b>	Detailed Facility Report
<b>EMS</b>	Enforcement Management System. In this document, EMS ALWAYS means Enforcement Management System. Elsewhere in the Agency, the acronym refers to an Environmental Management System, however, that term is not used in this document or the State Review Framework.
<b>ICIS-NPDES</b>	Integrated Compliance Information System – National Pollutant Discharge Elimination System
<b>MDR</b>	Minimum Data Requirement
<b>SNC</b>	Significant non-compliance
<b>SRF</b>	State Review Framework. In this document, SRF ALWAYS refers to the State Review Framework. Elsewhere in the Agency, the acronym refers to the State Revolving Fund, however, that term is not used in this document or the State Review Framework
<b>SRF Manager</b>	The State Review Framework Manager is an on-line database that contains records of individual agency reviews and includes a system to track agency progress in completing recommendations stemming from the SRF reviews
<b>SSO</b>	Sanitary Sewer Overflow

## Appendix B: Information Sources

The following documents referenced in the metric discussions above are available electronically at: [Enforcement and Compliance History Online \(ECHO\)](#)

1. [The Enforcement Management System, National Pollutant Discharge Elimination System \(Clean Water Act\)](#), 1989
2. [Clarification of NPDES EMS Guidance on Timely and Appropriate Response to Significant Noncompliance Violations](#) from Mark Pollins, Director, Water Enforcement Division, and Betsy Smidinger, Acting Director, Enforcement Targeting and Data Division, May 29, 2008
3. [Policy Framework for State/EPA Agreements](#), August 1986, as revised
4. [Revised Interim Clean Water Act Settlement Penalty Policy](#), March 1, 1995.
5. Memorandum, [Oversight of State and Local Penalty Assessments: Revisions to the Policy Framework for State/EPA Enforcement Agreements](#), from Steven A. Herman, Assistant Administrator, June 23, 1993 (this document contains an amendment to source 3)
6. The Code of Federal Regulations including [40CFR123.26\(e\)](#), [40CFR123.26\(e\)\(5\)](#) and [40CFR123.45c](#).
7. [Interim Significant Non-compliance Policy for Clean Water Act Violations Associated with CSOs, SSOs, CAFOs, and Storm Water Point Sources \(WW SNC Policy\)](#), issued to EPA Regions only on October 23, 2007.
8. [EPA Policy on Civil Penalties](#), February 16, 1984.
9. [A Framework for Statute Specific Approaches to Penalty Assessments: Implementing EPA's Policy on Civil Penalties](#), February 16, 1984
10. [NPDES Electronic Reporting Rule](#), October 22, 2015.
11. [Effective Partnerships Between EPA and the States in Civil Enforcement and Compliance Assurance](#), June 21, 2023.

### References (also see SRF Compendium of Guidance and Policy Documents)

- [Clean Water Act Civil Enforcement Policy and Guidance](#)

## Appendix C: Inspection Coverage Data Table

State: [insert state]	FY: [insert FY]
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### Inspection Coverage Data Table

Percent of planned inspections completed: Planned inspections per the negotiated CMS Plan completed in the Year Reviewed. Calculate as a percentage by category where the numerator = number of inspections completed; denominator = number of inspections planned. Compliance monitoring activities counted for metrics below should use the inspection type codes listed in the NPDES CMS policy in Attachment 2, Part 4, pp. 25-28. See [Clean Water Act NPDES Compliance Monitoring Strategy](#) for additional details.

Where inspections covered by the CMS do not have data entered in ICIS- NPDES, reviewers should gather and assess information from the agency to review performance against the applicable CMS commitments and note this as a problem with a finding of Area for State Attention or Improvement. If a state does not have a state-specific CMS plan for a given CMS inspection area, regions will evaluate the state against the national inspection coverage goals set forth in the 2014 NPDES compliance monitoring strategy under metrics 4a1 – 4a11.

#	Metric	Description (based on NPDES CMS target)	Universe	CMS Commitment / Performance Goal	Inspections Conducted
4a1	Pretreatment compliance inspections and audits at approved local pretreatment programs.	Every five years, two pretreatment compliance inspections and one audit at each approved local pretreatment program that includes $\geq 2$ oversight inspections of industrial users (IUs)			
4a2	Significant industrial user (SIU) inspections for SIUs discharging to non-authorized POTWs	One sampling inspection at each SIU annually			
4a4	Number of CSO inspections	One inspection of each major and non-major CSO every five years (for states with combined sewer systems)			
4a5	Number of SSO inspections	5% universe permitted POTWs with SSS annually			
4a7	Number of Phase I and II MS4 audits or inspections	One on-site audit, on-site inspection or off-site desk audit* of each Phase I & II MS4 every five years and one inspection or on-site audit of each Phase I & II MS4 every seven years thereafter			
4a8	Number of industrial stormwater inspections	Inspections of 10% of the industrial stormwater universe each year (includes inspections of unpermitted facilities with and without “no exposure certification”)			

<b>4a9</b>	Number of Phase I and II construction stormwater inspections	Inspections of 10% of Phase I and Phase II construction stormwater universe each year including inspections of unpermitted sites			
<b>4a10</b>	Number of inspections of comprehensive large and medium NPDES-permitted CAFOs	One comprehensive inspection of each large and medium NPDES-permitted CAFO every five years			
<b>4a11</b>	Number of sludge/biosolids inspections at each major POTW.	One inspection every 5 years for each major POTW in a state with biosolids program authorization. (use and disposal operations, including incineration and surface application). Includes off-site desk audit substitutions if sites are not subject to enforcement actions, compliance schedules from concluded enforcement actions; (2) in SNC in the previous four quarters; (3) have no unresolved SEVs in prior inspection(s); (4) do not discharge to CWA section 303(d) listed waters for pollutant(s) contributing to the listing; and (5) have no known potential to impact drinking water supplies.			
<b>5a1</b>	Inspection coverage of NPDES majors	1 comprehensive inspection every 2 years; alternative: one comprehensive inspection every 3 years based upon Inspection Targeting Model (ITM) or comparable targeting methodology for facilities in compliance, not subject to any credible citizen tips or complaints, and facilities not contributing to section 303(d) impaired waters.			
<b>5b</b>	Inspections coverage of NPDES non-major facilities	1 focused, reconnaissance, enforcement follow-up, oversight, or sludge/biosolids inspection every 5 years for facilities not contributing to 303(d) impairment; for facilities contributing to 303(d) impairment 1 comprehensive inspection at least every 5 years.			

\*Off-site desk audits include but are not limited to review of facility reports and records, review of agency-gathered testing, sampling and ambient monitoring data, evaluation of responses to CWA section 308 information requests, review of compliance deliverables submitted pursuant to permits or enforcement actions and analysis of aerial or satellite images. An off-site desk audit conducted pursuant to a CMS plan will include the appropriate combination of these activities to allow the region or the state to make a facility-level or program level compliance determination. In order for an off-site desk audit or focused inspection to count towards CMS implementation for the results in this table, the region or state the activity into ICIS-NPDES (either through direct data entry or via the CDX National Environmental Information Exchange Network). See Part 3 of the CWA NPDES CMS for additional details on focused inspections and off-site desk audits.