

STATE REVIEW FRAMEWORK

Tennessee

Shelby County

**Clean Air Act
Implementation in Federal Fiscal Year 2022**

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

**Final Report
January 17, 2024**

I. Introduction

A. Overview of the State Review Framework

The State Review Framework (SRF) is a key mechanism for EPA oversight, providing a nationally consistent process for reviewing the performance of state delegated compliance and enforcement programs under three core federal statutes: Clean Air Act, Clean Water Act, and Resource Conservation and Recovery Act. Through SRF, EPA periodically reviews such programs using a standardized set of metrics to evaluate their performance against performance standards laid out in federal statute, EPA regulations, policy, and guidance. When states do not achieve standards, the EPA will work with them to improve performance.

Established in 2004, the review was developed jointly by EPA and Environmental Council of the States (ECOS) in response to calls both inside and outside the agency for improved, more consistent oversight of state delegated programs. The goals of the review that were agreed upon at its formation remain relevant and unchanged today:

1. Ensure delegated and EPA-run programs meet federal policy and baseline performance standards
2. Promote fair and consistent enforcement necessary to protect human health and the environment
3. Promote equitable treatment and level interstate playing field for business
4. Provide transparency with publicly available data and reports

B. The Review Process

The review is conducted on a rolling five-year cycle such that all programs are reviewed approximately once every five years. The EPA evaluates programs on a one-year period of performance, typically the one-year prior to review, using a standard set of metrics to make findings on performance in five areas (elements) around which the report is organized: data, inspections, violations, enforcement, and penalties. Wherever program performance is found to deviate significantly from federal policy or standards, the EPA will issue recommendations for corrective action which are monitored by EPA until completed and program performance improves.

The SRF is currently in its 4th Round (FY2018-2022) of reviews, preceded by Round 3 (FY2012-2017), Round 2 (2008-2011), and Round 1 (FY2004-2007). Additional information and final reports can be found at the EPA website under [State Review Framework](#).

II. Navigating the Report

The final report contains the results and relevant information from the review including EPA and program contact information, metric values, performance findings and explanations, program responses, and EPA recommendations for corrective action where any significant deficiencies in performance were found.

A. Metrics

There are two general types of metrics used to assess program performance. The first are **data metrics**, which reflect verified inspection and enforcement data from the national data systems of each media, or statute. The second, and generally more significant, are **file metrics**, which are derived from the review of individual facility files in order to determine if the program is performing their compliance and enforcement responsibilities adequately.

Other information considered by EPA to make performance findings in addition to the metrics includes results from previous SRF reviews, data metrics from the years in-between reviews, multi-year metric trends.

B. Performance Findings

The EPA makes findings on performance in five program areas:

- **Data** - completeness, accuracy, and timeliness of data entry into national data systems
- **Inspections** - meeting inspection and coverage commitments, inspection report quality, and report timeliness
- **Violations** - identification of violations, accuracy of compliance determinations, and determination of significant noncompliance (SNC) or high priority violators (HPV)
- **Enforcement** - timeliness and appropriateness of enforcement, returning facilities to compliance
- **Penalties** - calculation including gravity and economic benefit components, assessment, and collection

Though performance generally varies across a spectrum, for the purposes of conducting a standardized review, SRF categorizes performance into three findings levels:

Meets or Exceeds: No issues are found. Base standards of performance are met or exceeded.

Area for Attention: Minor issues are found. One or more metrics indicates performance issues related to quality, process, or policy. The implementing agency is considered able to correct the issue without additional EPA oversight.

Area for Improvement: Significant issues are found. One or more metrics indicates routine and/or widespread performance issues related to quality, process, or policy. A recommendation for corrective action is issued which contains specific actions and schedule for completion. The EPA monitors implementation until completion.

C. Recommendations for Corrective Action

Whenever the EPA makes a finding on performance of *Area for Improvement*, the EPA will include a recommendation for corrective action, or recommendation, in the report. The purpose of recommendations are to address significant performance issues and bring program performance back in line with federal policy and standards. All recommendations should include

specific actions and a schedule for completion, and their implementation is monitored by the EPA until completion.

III. Review Process Information

Clean Air Act (CAA)

Key Dates:

February 16, 2023, kick-off letter sent to the local program

June 12, 2023, opening meeting with the local program

August 7, 2023, closing meeting with the local program

August 8, 2023, file review checklist summary spreadsheet sent to the local program

Contact information:

	Shelby County Department of Health Air Pollution Control Branch (SCDH)	EPA Region 4
SRF Contact	Wasim Khokhar, Supervisor Major Source Branch – Pollution Control Section Shelby County Health Department	Reginald Barrino, SRF Coordinator
CAA	Gregg Fortunato, Lead Engineer Major Source Branch – Pollution Control Section Shelby County Health Department	Denis Kler, Policy, Oversight & Liaison Office Chetan Gala, Air Enforcement Branch

Executive Summary

Areas of Strong Performance

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

Clean Air Act (CAA)

The Shelby County Department of Health Air Pollution Control Branch (SCDH) was timely in reporting high priority violations (HPVs), compliance monitoring minimum data requirements (MDRs), stack tests and stack test results and enforcement MDRs in ICIS-Air.

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

SCDH was timely in identifying HPVs and made accurate compliance determinations and accurate HPV determinations.

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

SCDH provided rationale for the difference between the initial penalty calculation and the final penalty amount and provided documentation that the penalties were collected.

Priority Issues to Address

The following are aspects of the program that, according to the review, are not meeting federal standards and should be prioritized for management attention:

Clean Air Act (CAA)

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

Clean Air Act Findings

CAA Element 1 - Data

Finding 1-1

Meets or Exceeds Expectations

Recurring Issue:

No

Summary:

The Shelby County Department of Health Air Pollution Control Branch (SCDH) was timely in reporting high priority violations (HPVs), compliance monitoring minimum data requirements (MDRs), stack tests and stack test results and enforcement MDRs in ICIS-Air.

Explanation:

Data metrics 3a2 (100%), 3b1 (93.5%), 3b2 (96.9%) and 3b3 (100%) indicated that SCDH was timely in reporting HPVs, compliance monitoring MDRs, stack tests and stack test results, and enforcement MDRs in ICIS-Air.

Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State Total
3a2 Timely reporting of HPV determinations [GOAL]	100%	43.9%	4	4	100%
3b1 Timely reporting of compliance monitoring MDRs [GOAL]	100%	78.2%	86	92	93.5%
3b2 Timely reporting of stack test dates and results [GOAL]	100%	66.8%	31	32	96.9%
3b3 Timely reporting of enforcement MDRs [GOAL]	100%	78.1%	35	35	100%

State Response:

CAA Element 1 - Data

Finding 1-2

Area for Improvement

Recurring Issue:

Recurring from Round 3

Summary:

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

Explanation:

File review metric 2b indicated that 68.0% of the files reviewed reflected accurate entry of all MDRs in ICIS-Air. Eight files reviewed had discrepancies such as federal regulation subparts not listed in ICIS-Air, and incorrect dates entered in ICIS-Air for enforcement activities and for federally reportable violations. Incorrect data has the potential to hinder the EPA's oversight and targeting efforts and may result in inaccurate information being released to the public.

Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State Total
2b Files reviewed where data are accurately reflected in the national data system [GOAL]	100%		17	25	68%

State Response:

File Review Metric 2b: Discrepancies were identified between the data in the facility files and the data entered in ICIS-Air due to miscommunication between the engineers and the data entry person. Our team is aware of this, and we have a plan in place to update the ICIS-Air database. Permit application evaluation (PAE) documents will more clearly identify new applicable regulations and no longer applicable regulations. This will ensure changes are readily identifiable

and made in ICIS by the Technical Specialist – Records. The Technical Specialist – Records will also audit sources at the direction of the Major Sources Supervisor to ensure data is current in ICIS. The majority of issues found were related to emergency generators and these sources will be flagged for review.

Recommendation:

Rec #	Due Date	Recommendation
1	12/30/2024	File metric 2b: By April 1, 2024, SCDH will provide to the EPA a written description of the root causes for the inaccurate data entry, and a written description of what measures and/or procedures have been implemented to ensure accurate entry of data in ICIS-Air. By December 30, 2024, the EPA will review a random selection of facility files and evaluate file metric 2b to ensure data entry has improved. Once file metric 2b indicates a 71.0% or greater of data entry accuracy, then this recommendation will be considered complete.

CAA Element 2 - Inspections

Finding 2-1

Meets or Exceeds Expectations

Recurring Issue:

No

Summary:

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

Explanation:

Data metrics 5a (92.3%) and 5b (96.4%) indicated that SCDH provided adequate inspection coverage for Title V sources and SM-80 sources during the FY 2022 review year by ensuring that each Title V source was inspected at least once every 2 years, and each SM-80 source was

inspected at least once every 5 years. In addition, data metric 5e (100%) indicated that SCDH completed the reviews of the Title V annual compliance certifications.

File review metric 6a (88.2%) indicated that SCDH provided adequate documentation of the FCE elements identified in the CAA Stationary Source Compliance Monitoring Strategy (CMS Guidance) document dated October 4, 2016.

Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State Total
5a FCE coverage: majors and mega-sites [GOAL]	100%	85.7%	12	13	92.3%
5b FCE coverage: SM-80s [GOAL]	100%	94.1%	53	55	96.4%
5e Reviews of Title V annual compliance certifications completed [GOAL]	100%	82%	25	25	100%
6a Documentation of FCE elements [GOAL]	100%		15	17	88.2%

State Response:

CAA Element 2 - Inspections

Finding 2-2

Area for Attention

Recurring Issue:

No

Summary:

In general, the Compliance Monitoring Reports (CMRs) reviewed provided sufficient documentation to determine facility compliance.

Explanation:

File review metric 6b (76.5%) indicated that SCDH provided sufficient documentation in the CMRs to determine the compliance status of the facility. For the files that did not provide

sufficient documentation to determine compliance, the discrepancies consisted of the CMRs not addressing all applicable requirements and permit conditions, as outlined in section IX of the CMS Guidance document dated October 4, 2016.

Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State Total
6b Compliance monitoring reports (CMRs) or facility files reviewed that provide sufficient documentation to determine compliance of the facility [GOAL]	100%		13	17	76.5%

State Response:

File Review Metric 6b: Compliance monitoring reports did not address all applicable requirements and permit conditions. Our team is aware of this, and we have a plan in place to update our reporting mechanism. Inspections assure compliance with all permit conditions, but final inspection reports may not adequately state it. Many of these reports have dated formats that can be improved. Inspectors will be required to ensure all permit-required reports and records are reviewed and inspection report clearly reflects findings. Additionally, our internal review process will prioritize the identification of report inadequacies.

CAA Element 3 - Violations

Finding 3-1

Meets or Exceeds Expectations

Recurring Issue:

No

Summary:

SCDH was timely in identifying HPVs and made accurate compliance determinations and accurate HPV determinations.

Explanation:

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

File review metrics 7a (96.0%) and 8c (93.8%) indicated that SCDH made accurate compliance determinations and accurate HPV determinations.

Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State Total
7a Accurate compliance determinations [GOAL]	100%		24	25	96%
8c Accuracy of HPV determinations [GOAL]	100%		15	16	93.8%
13 Timeliness of HPV Identification [GOAL]	100%	87.8%	4	4	100%

State Response:

CAA Element 4 - Enforcement

Finding 4-1

Meets or Exceeds Expectations

Recurring Issue:

No

Summary:

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

Explanation:

File review metrics 9a (100%), 10a (100%), and 10b (100%) indicated that SCDH returned facilities to compliance, addressed HPVs in a timely manner, and appropriately addressed HPVs consistent with the HPV policy. All HPV actions were addressed within the 180-day timeframe required by the HPV Policy, so SCDH did not have to develop case development and resolution timelines and therefore, file review metric 14 does not apply.

Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State Total
9a Formal enforcement responses that include required corrective action that will return the facility to compliance in a specified time frame or the facility fixed the problem without a compliance schedule [GOAL]	100%		15	15	100%
10a Timeliness of addressing HPVs or alternatively having a case development and resolution timeline in place	100%		4	4	100%
10b Percent of HPVs that have been addressed or removed consistent with the HPV Policy [GOAL]	100%		4	4	100%

State Response:

CAA Element 5 - Penalties

Finding 5-1

Meets or Exceeds Expectations

Recurring Issue:

No

Summary:

SCDH provided rationale for the difference between the initial penalty calculation and the final penalty amount assessed and provided documentation that the penalties were collected.

Explanation:

File Review Metrics 12a (91.7%) and 12b (100%) indicated that SCDH provided rationale for differences between the initial penalty calculation and the final penalty calculation, and provided documentation that the penalties were collected.

Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State Total
12a Documentation of rationale for difference between initial penalty calculation and final penalty [GOAL]	100%		11	12	91.7%
12b Penalties collected [GOAL]	100%		12	12	100%

State Response:

CAA Element 5 - Penalties

Finding 5-2

Area for Attention

Recurring Issue:

No

Summary:

In general, SCDH provided sufficient documentation of the gravity and economic benefit components in the penalty calculation worksheets.

Explanation:

File Review Metric 11a (75.0%) indicated that SCDH provided adequate documentation showing that the gravity and economic benefit components were considered in the penalty calculation worksheets. For the files that did not provide sufficient documentation in the penalty calculation worksheets, the discrepancies consisted of the penalty calculation worksheets not considering or mentioning the economic benefit component.

Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State Total
11a Penalty calculations reviewed that document gravity and economic benefit [GOAL]	100%		9	12	75%

State Response:

File Review Metric 11a: We did not provide adequate documentation showing that the economic benefit component was considered in the penalty calculations. We have a plan in place to incorporate this step in our penalty documentation. All penalty calculation development spreadsheets will add an economic benefit review.
