

# **STATE REVIEW FRAMEWORK**

## **Florida**

### **Clean Air Act, Clean Water Act, & Resource Conservation & Recovery Act Implementation in Federal Fiscal Year 2021**

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

**Final Report  
November 27, 2023**

# I. Introduction

## A. Overview of the State Review Framework

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

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

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

## B. The Review Process

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

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

# II. Navigating the Report

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

## A. Metrics

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

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

## B. Performance Findings

The EPA makes findings on performance in five program areas:

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

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

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

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

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

## C. Recommendations for Corrective Action

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

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

### III. Review Process Information

**Key Dates:**

- November 17, 2022, kick-off letter sent to the State
- March 13 – April 19, 2023, remote file review for CAA
- April 10 – May 5, 2023, remote file review for CWA
- April 3 – April 20, 2023, remote file review for RCRA

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

	<b>Florida Department of Environmental Protection (FDEP)</b>	<b>EPA Region 4</b>
SRF Contact	Jessica Kramer, Deputy Secretary Regulatory Programs	Reginald Barrino, SRF Coordinator
CAA	Jessica Dalton, Environmental Administrator Division of Air Resource Management Compliance Assurance Section	Denis Kler, Policy, Oversight & Liaison Office Carrie Griffith, Air Enforcement Branch
CWA	Jennifer Walters, Program Administrator Division of Water Resource Management Water Compliance Enforcement Program	Laurie Jones, Policy, Oversight & Liaison Office John Goodwin, Water Enforcement Branch
RCRA	Jeff Gregg, Environmental Manager Division of Waste Management Hazardous and Solid Waste Compliance Assistance Program	Reginald Barrino, Policy, Oversight & Liaison Office Parvez Mallick, Chemical Safety & Land Enforcement Branch

# Executive Summary

## Areas of Strong Performance

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

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

The Florida Department of Environmental Protection (FDEP) 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. FDEP was also accurate in reporting MDRs in ICIS-Air.

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

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

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

FDEP provided penalty calculation worksheets that addressed both gravity and economic benefit components, provided rationale for the difference between the initial penalty calculation and the final penalty amount and provided documentation that the penalties were collected.

### **Clean Water Act (CWA)**

FDEP had strong performance in permit limit and DMR data entry rate for major and non-major facilities.

FDEP met or exceeded its FY21 CMS Plan and CWA §106 Workplan commitments.

FDEP consistently documented accurate compliance determinations and showed significant improvement regarding identification and reporting of Single Event Violations (SEVs) and Significant Noncompliance (SNCs). The previous SRF (Round 3) review found this to be an area of improvement and this Round 4 review showed this to be an area of strong improvement for FDEP.

FDEP's enforcement responses promoted a return to compliance and addressed the violations in an appropriate manner.

FDEP consistently documents adequate rationale for the economic benefit component in penalty calculations as well as documenting the rationale for difference between the initial and final assessed penalty in NPDES penalty calculations.

FDEP consistently documents adequate rationale for the economic benefit component in penalty calculations as well as documenting the rationale for difference between the initial and final assessed penalty in NPDES penalty calculations.

FDEP consistently includes documentation in the files that all final assessed penalties were collected.

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

FDEP met national goals for both TSDF and LQG inspections.

FDEP's hazardous waste program inspection reports reviewed were complete, provided appropriate documentation to determine compliance at the facility and the timeliness of inspection report completion was well under the 150-day timeline outlined the Hazardous Waste Civil Enforcement Response Policy (ERP).

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

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

### **Priority Issues to Address**

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

#### **Clean Water Act (CWA)**

FDEP's NPDES inspection report issuance timeframes did not consistently meet the issuance timeframe standards.

# Clean Air Act Findings

## CAA Element 1 - Data

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### Finding 1-1

Meets or Exceeds Expectations

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### Recurring Issue:

No

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### Summary:

The Florida Department of Environmental Protection (FDEP) 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. FDEP was also accurate in reporting MDRs in ICIS-Air.

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### Explanation:

Data metrics 3a2 (100%), 3b1 (99.5%), 3b2 (97.9%) and 3b3 (91.9%) indicated that FDEP was timely in reporting HPVs, compliance monitoring MDRs, stack tests and stack test results, and enforcement MDRs in ICIS-Air.

The data metric analysis for data metric 3b1 indicated that FDEP was timely in reporting compliance monitoring MDRs in ICIS-Air for 99.5% (595 out of 598). FDEP provided additional information concerning data metric 3b1 and indicated that the data metric should be corrected to 100%. FDEP provided the following information: “There were three Title V Annual Compliance Certifications (TVACC) that were counted as late due to a programming issue with ECHO, which FDEP reported to EPA in 2021. When there is a violation linked to a TVACC activity, the create date of the TVACC in ECHO is overwritten by the create date of the violation resolution activity. EPA has acknowledged this is an issue and they have been working with ECHO contractors, but the issue has not been resolved to date. The initial create dates of these TVACC activities are still maintained in ICIS-Air as displayed at the bottom of the page. Based on the initial create dates in ICIS-Air, these three TVACC activities were reported to EPA timely.” Based on the information from FDEP and the EPA’s review of the issue, the EPA corrected the data metric 3b1 percentage to 100%.

File review metric 2b (92.6%) indicated that FDEP was accurate in reporting MDRs in ICIS-Air.

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**Relevant metrics:**

<b>Metric ID Number and Description</b>	<b>Natl Goal</b>	<b>Natl Avg</b>	<b>State N</b>	<b>State D</b>	<b>State Total</b>
2b Files reviewed where data are accurately reflected in the national data system [GOAL]	100%		25	27	92.6%
3a2 Timely reporting of HPV determinations [GOAL]	100%	35.6%	8	8	100%
3b1 Timely reporting of compliance monitoring MDRs [GOAL]	100%	79.2%	598	598	100%
3b2 Timely reporting of stack test dates and results [GOAL]	100%	51.1%	1471	1503	97.9%
3b3 Timely reporting of enforcement MDRs [GOAL]	100%	74.2%	68	74	91.9%

**State Response:**

FDEP acknowledges the importance of keeping accurate data and continuously strives to improve accuracy and completeness of data through data systems enhancements and regular data quality audits.

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**CAA Element 2 - Inspections**

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**Finding 2-1**

Meets or Exceeds Expectations

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**Recurring Issue:**

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No

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**Summary:**

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

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**Explanation:**

Data metrics 5a (100%) and 5b (100%) indicated that FDEP provided adequate inspection coverage for Title V sources and SM-80 sources during the FY 2021 review year by ensuring that each Title V source was inspected at least once every 2 years, and each SM-80 source was inspected at least once every 5 years. In addition, data metric 5e (99.7%) indicated that FDEP completed the reviews of the Title V annual compliance certifications.

File review metrics 6a (95.0%) and 6b (95.0%) indicated that FDEP provided adequate documentation of the FCE elements identified in the CAA Stationary Source Compliance Monitoring Strategy (CMS Guidance) and provided adequate documentation in the CMRs to determine the compliance status of the facility.

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**Relevant metrics:**

<b>Metric ID Number and Description</b>	<b>Natl Goal</b>	<b>Natl Avg</b>	<b>State N</b>	<b>State D</b>	<b>State Total</b>
5a FCE coverage: majors and mega-sites [GOAL]	100%	86.2%	166	166	100%
5b FCE coverage: SM-80s [GOAL]	100%	92.9%	69	69	100%
5e Reviews of Title V annual compliance certifications completed [GOAL]	100%	81.1%	346	347	99.7%

6a Documentation of FCE elements [GOAL]	100%		19	20	95%
6b Compliance monitoring reports (CMRs) or facility files reviewed that provide sufficient documentation to determine compliance of the facility [GOAL]	100%		19	20	95%

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**State Response:**

FDEP appreciates EPA’s recognition that we met our commitments outlined in the FY2022 Compliance Monitoring Strategy (CMS) Plan and provided adequate documentation in our inspection reports and FCE Checklists.

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**CAA Element 3 - Violations**

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**Finding 3-1**

Meets or Exceeds Expectations

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**Recurring Issue:**

No

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**Summary:**

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

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**Explanation:**

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

File review metrics 7a (100%) and 8c (100%) indicated that FDEP made accurate compliance determinations and accurate HPV determinations.

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**Relevant metrics:**

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State Total
7a Accurate compliance determinations [GOAL]	100%		27	27	100%
8c Accuracy of HPV determinations [GOAL]	100%		19	19	100%
13 Timeliness of HPV Identification [GOAL]	100%	81.4%	8	8	100%

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**State Response:**

FDEP appreciates EPA’s recognition that accurate and timely compliance determinations were made. FDEP continues to perform regular reviews of newly created violation records to ensure they are appropriately documented. An FRV-HPV Determination Checklist was also developed for inspectors to reference which aids in the proper classification and documentation of federally reportable violations.

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**CAA Element 4 - Enforcement**

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**Finding 4-1**

Meets or Exceeds Expectations

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**Recurring Issue:**

No

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**Summary:**

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

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**Explanation:**

File review metrics 9a (94.7%), 10a (100%), and 10b (100%) indicated that FDEP 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 FDEP did not have to develop case development and resolution timelines and therefore, file review metric 14 does not apply.

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**Relevant metrics:**

<b>Metric ID Number and Description</b>	<b>Natl Goal</b>	<b>Natl Avg</b>	<b>State N</b>	<b>State D</b>	<b>State Total</b>
9a Formal enforcement responses that include required corrective action that will return the facility to compliance in a specified time frame, or the facility fixed the problem without a compliance schedule [GOAL]	100%		18	19	94.7%
10a Timeliness of addressing HPVs or alternatively having a case development and resolution timeline in place	100%		7	7	100%
10b Percent of HPVs that have been addressed or removed consistent with the HPV Policy [GOAL]	100%		5	5	100%

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**State Response:**

FDEP recognizes that the most important enforcement goal is returning a facility to compliance. Through careful oversight and regular audits of violation records, FDEP ensures that enforcement actions are handled timely and effectively to return facilities to compliance as expeditiously as possible.

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**CAA Element 5 - Penalties**

**Finding 5-1**

Meets or Exceeds Expectations

**Recurring Issue:**

No

**Summary:**

FDEP provided penalty calculation worksheets that addressed both gravity and economic benefit components, provided rationale for the difference between the initial penalty calculation and the final penalty amount and provided documentation that the penalties were collected.

**Explanation:**

File Review Metrics 11a (100), 12a (100%) and 12b (100%) indicated that FDEP considered gravity and economic benefit components in the penalty calculations, provided rationale for differences between the initial penalty calculation and the final penalty, 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
11a Penalty calculations reviewed that document gravity and economic benefit [GOAL]	100%		16	16	100%
12a Documentation of rationale for difference between initial penalty calculation and final penalty [GOAL]	100%		16	16	100%
12b Penalties collected [GOAL]	100%		16	16	100%

**State Response:**

FDEP has implemented several measures to ensure appropriate and consistent assessment of penalties and economic benefit, including making enhancements to our penalty calculation worksheet and developing a peer review memo template that provides a concise summary of the violation details and proposed enforcement actions and penalties. Additionally, the FDEP Air Compliance Program conducts peer reviews of all formal enforcement cases and follows up to ensure penalties are collected.

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## Clean Water Act Findings

### CWA Element 1 - Data

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#### Finding 1-1

Meets or Exceeds Expectations

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#### Recurring Issue:

No

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#### Summary:

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

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#### Explanation:

For the FY 2021 period of review, FDEP entered 100% of their permit limits and 99.8% of DMRs for NPDES major and non-major facilities (Data Metrics 1b5 and 1b6).

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**Relevant metrics:**

<b>Metric ID Number and Description</b>	<b>Natl Goal</b>	<b>Natl Avg</b>	<b>State N</b>	<b>State D</b>	<b>State Total</b>
1b5 Completeness of data entry on major and non-major permit limits. [GOAL]	95%	96.8%	414	414	100%
1b6 Completeness of data entry on major and non-major discharge monitoring reports. [GOAL]	95%	95.2%	9986	10002	99.8%

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**State Response:**

FDEP acknowledges the importance of keeping accurate data. Data is one of the methods by which information is relayed to the public and is a significant part of how the Department evaluates its performance under the CWA. During the SRF Annual Data Verification, staff verify metrics to ensure the accuracy of all data reported for the previous year. Facilities with incomplete discharge monitoring reports (DMRs) have open or pending enforcement for the DMRs or other issues. Florida appreciates EPA’s recognition that the data corresponding to the data verification metrics was properly entered and reflected in ICIS-NPDES, exceeding the national goals.

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**CWA Element 1 - Data**

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**Finding 1-2**

Area for Attention

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**Recurring Issue:**

No

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**Summary:**

The accuracy of data between files reviewed and data reflected in the national data system had minor discrepancies.

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**Explanation:**

Metric 2b indicated that 83.3% of the files reviewed (35 of 42) reflected accurate data entry of minimum data requirements (MDR) for NPDES facilities into Integrated Compliance Information System (ICIS). The observed discrepancies do not appear to reflect a systemic problem and were promptly corrected once brought to the state’s attention. Data Accuracy was raised in SRF Rounds 1 and 2 as an Area for State Improvement, and in SRF Round 3 as an area for State Attention. While considerable progress has been made to ensure data accuracy and to prepare for implementation of the NPDES e-reporting rule, additional work is needed to meet the SRF national goal. Therefore, this is an Area for State Attention. The issues found fall into these four categories: SEVs not entered which are listed in the inspection checklist; failure to enter enforcement actions into ICIS; double entry of Warning Letters; and penalty assessed value missing from ICIS.

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**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%		35	42	83.3%

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**State Response:**

FDEP appreciates the recognition of progress in this area. FDEP will continue to work with staff to ensure that compliance and enforcement activities are accurately entered into our database and coded correctly in ICIS.

In response to the Round 3 evaluation, a new expanded SEV List was implemented in 2018 based on a statewide workgroup. Initially, the new SEVs were incorporated into the inspection report form for manual selection and transfer into the database. In 2021, a new inspection report form was developed that automatically identifies the SEVs for wastewater facilities when the corresponding violation is recorded. This new form still relies on correct manual entry of those SEVs into the database but can help with proper identification of the SEVs. Additionally, a presentation provided during the 2023 annual wastewater basic inspector training familiarized the state’s newest inspectors with the expanded SEV list.



A new enforcement routing process for manual data entry was implemented in October 2020 to streamline enforcement action entry and to ensure that accurate data entry is completed. Monthly teleconference reminders are provided, and a guidance document for the process is available to inspectors. Manual data entry for enforcement actions is still occurring which may lead to errors. For the missing enforcement action listed above, the action was entered under the incorrect facility ID. FDEP has begun the process of creating a new database, Permit Lifecycle Unified Management System (PLUMS) that will help automate this process and reduce potential for error.

In 2023, revisions to FDEP ICIS Enforcement Data Entry Standard Operating Procedure (SOP) were proposed for clarification and to reflect Florida’s compliance and enforcement activities more accurately in the federal databases. The continued use of the SOP along with the revisions will ensure that enforcement activities are entered correctly.

Quality control measures will also be implemented for collected penalties. The process will be documented in the SOP and will identify correct dollar amounts for all assessed and collected penalties.

After Round 3, an audit process was also implemented to identify common data entry deficiencies for selected files. Training and corrections occur when deficiencies are identified.

Access to make deletions in the state database is restricted to prevent data mismatches between the state databases and ICIS. In 2022, this process was enhanced through the creation of a COMET modification form to request deletions for duplicate entries. The form collects all the information necessary in one communication rather than multiple inquiries. Additional quality control measures will be put into place to detect potential duplicates that were not requested for deletion. WCEP also has the ability identify some duplicates during ICIS data batch uploads.

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## **CWA Element 2 - Inspections**

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### **Finding 2-1**

Meets or Exceeds Expectations

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### **Recurring Issue:**

No

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### **Summary:**

FDEP met or exceeded its FY21 CMS Plan and CWA §106 Workplan commitments.

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**Explanation:**

Element 2 includes metrics that measure planned inspections completed (Metrics 4a1 - 4a10) and inspection coverages (Metrics 5a1, 5b1, and 5b2) for NPDES majors and non-majors. The National Goal for these Metrics is for 100% of state specific CMS Plan commitments to be met. The FY21 inspection results listed in the table below are from the CWA §106 Workplan end of year report (EOY). Based on review of the FDEP CWA §106 Workplan EOY, the State met or exceeded its CMS commitments in FY21 for all inspection metrics.

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**Relevant metrics:**

<b>Metric ID Number and Description</b>	<b>Natl Goal</b>	<b>Natl Avg</b>	<b>State N</b>	<b>State D</b>	<b>State Total</b>
4a1 Number of pretreatment compliance inspections and audits at approved local pretreatment programs. [GOAL]	100% of commitments%		14	14	100%
4a2 Number of inspections at EPA or state Significant Industrial Users that are discharging to nonauthorized POTWs. [GOAL]	100% of commitments%		54	34	158.8%
4a5 Number of SSO inspections. [GOAL]	100% of commitments%		61	46	132.6%
4a7 Number of Phase I and II MS4 audits or inspections. [GOAL]	100% of commitments%		76	76	100%
4a8 Number of industrial stormwater inspections. [GOAL]	100% of commitments%		425	270	157.4%

4a9 Number of Phase I and Phase II construction stormwater inspections. [GOAL]	100% of commitments%		444	441	100.7%
4a10 Number of comprehensive inspections of large and medium concentrated animal feeding operations (CAFOs) [GOAL]	100% of commitments%		9	9	100%
5a1 Inspection coverage of NPDES majors. [GOAL]	50%	47.7%	87	177	49.2%
5b1 Inspections coverage of NPDES non-majors with individual permits [GOAL]	20%	23.3%	44	211	20.9%
5b2 Inspections coverage of NPDES non-majors with general permits [GOAL]	20%	5.6%	91	454	20%

**State Response:**

FDEP appreciates EPA’s recognition of the meets or exceeds finding of the inspection commitments outlined in the PPA.

**CWA Element 2 - Inspections**

**Finding 2-2**

Meets or Exceeds Expectations

**Recurring Issue:**

No

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**Summary:**

FDEP’s NPDES inspection reports were found to be complete and provided sufficient documentation to determine compliance at the facility.

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**Explanation:**

Metric 6a measures the percentage of on-site inspection reports reviewed that are complete and provide sufficient documentation to determine compliance. 29 out of 32 (90.6%) onsite inspection reports reviewed were complete and provided sufficient documentation to determine compliance. Three of the reports reviewed were sampling inspections which did not contain the sampling results.

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**Relevant metrics:**

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State Total
6a Inspection reports complete and sufficient to determine compliance at the facility. [GOAL]	100%		29	32	90.6%

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**State Response:**

Since Round 3, FDEP has implemented an audit process to check this metric in selected files each quarter. Training was conducted to correct deficiencies when found. To address the inconsistency with providing the sampling results to the facility, a guidance document has been prepared. Once finalized, it will be distributed to inspectors with training on how to document and evaluate compliance for all sampling inspections.

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**CWA Element 2 - Inspections**

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**Finding 2-3**

Area for Improvement

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**Recurring Issue:**

Recurring from Round 3

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**Summary:**

FDEP's NPDES inspection report issuance timeframes did not consistently meet the issuance timeframe standards.

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**Explanation:**

Metric 6b measures the percentage of inspection reports reviewed that are completed in a timely manner. FDEP follows EPA's National Pollutant Discharge Elimination System Enforcement Management which provides guidance on timeliness of inspection reports completion being within 45 days of the date of inspection for sampling inspections and within 30 days for non-sampling inspections.

Metric 6b indicated 68.8% (22 of 32) of FDEP's inspection reports reviewed were completed in a timely manner. The average number of days to complete inspection reports was 46.6 days. Timeframes for report issuance ranged from 2 days to 251 days. Inspection report completion timeliness was an Area for Improvement in the previous SRF (Round 3) review.

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**Relevant metrics:**

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State Total
6b Timeliness of inspection report completion [GOAL]	100%		22	32	68.8%

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**State Response:**

By December 31, 2023, we will reassess timeliness practices and training and submit any changes for EPA review. Inspection timeliness has improved 27% and is directly reflective of new measures taken since the Round 3 review. There has been continued improvement through outreach and training in this area since federal fiscal year 2020-2021. In state fiscal year 2021- 2022, 1,130 NPDES inspection reports were issued, and 67 were not sent timely corresponding to an overall 94.1% timely report completion. In state fiscal year 2022- 2023, 1,228 NPDES inspection reports were issued, and 65 were not sent timely corresponding to an overall 94.7% timely report completion.

The Industrial Pretreatment Program will be adding a “Reviewer Date” field on the existing inspection report checklist to accurately record the number of days between inspection and reviewer dates. This will ensure that all Industrial Pretreatment Program inspections are reviewed within the 30-day timeframe.

FDEP implemented a standardized timeliness report to track progress monthly – from inspection date to the newly created reviewer date. Additionally, quality checks on inspection date, reviewer date and letter date were created in 2021 to correct timeliness flags due to missing data or errors in data entry. This continues to be a performance expectation for the district offices.

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**Recommendation:**

Rec #	Due Date	Recommendation
1	05/31/2024	By December 31, 2023, FDEP should reassess their practices, procedures, and/or inspector training and oversight activities to ensure the timely completion of inspection reports. Any revised procedures should be submitted to EPA for review. EPA will review these practices and procedures and monitor the state's implementation efforts through existing oversight calls and other periodic data reviews. EPA will also review a random sample of inspection reports for timeliness. Specifically, EPA will review 15 inspection reports for timely completion. If 85% or more meet timeliness standards, this recommendation will be closed. If by May 31, 2024, these reviews indicate that the state is timely in completing inspection reports; the recommendation will be considered completed.

**CWA Element 3 - Violations**

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**Finding 3-1**

Meets or Exceeds Expectations

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**Recurring Issue:**

No

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**Summary:**

FDEP consistently documented accurate compliance determinations and showed significant improvement regarding identification and reporting of Single Event Violations (SEVs) and Significant Noncompliance (SNCs).

The previous SRF (Round 3) review found this to be an area of improvement. The SRF Round 4 review finds this to be an area of strong improvement for FDEP.

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**Explanation:**

Metric 7e measures whether accurate compliance determinations were made based on a file review of inspections reports and other compliance monitoring activity. The file review indicated that 100% (51 of 51) of the files reviewed consistently documented an accurate compliance determination. Each of the files reviewed had accurate and complete descriptions of the violations observed and adequate documentation to support FDEP's compliance determinations.

The review indicator Metric 7j1 measures the number of major and non-major facilities with single event violations (SEVs) reported in the review year, which was 830, a significant improvement over the 0 SEVs that were entered during the Round 3 review year.

Review indicators Metrics 7k1 and 8a3 measure facilities in noncompliance.

The improvement in the entry of SEV codes is attributed to the actions taken by FDEP in response to the SRF Round 3 results which include that FDEP began an internal state-wide SEV workgroup to analyze available SEV codes and expanded their list of SEV codes for use; FDEP updated its inspection forms to include the list of potential SEV codes; and FDEP provided training and guidance to their staff on inclusion and entry of SEVs.

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**Relevant metrics:**

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<b>Metric ID Number and Description</b>	<b>Natl Goal</b>	<b>Natl Avg</b>	<b>State N</b>	<b>State D</b>	<b>State Total</b>
7e Accuracy of compliance determinations [GOAL]	100%		51	51	100%
7j1 Number of major and non-major facilities with single-event violations reported in the review year.			830		830
7k1 Major and non-major facilities in noncompliance.		16.7%	1271	26393	4.8%
8a3 Percentage of major facilities in SNC and non-major facilities Category I noncompliance during the reporting year.		6.3%	432	26393	1.6%

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**State Response:**

FDEP appreciates EPA’s recognition that we have improved on identification and entry of SEVs. In 2018, an expanded set of SEVs was agreed upon by a statewide workgroup and implemented. When Sanitary Sewer Overflows are reported, associated SEVs are created in our database and flowed into ICIS monthly in a separate process independent of inspections.

Once EPA’s pending SEV guidance is finalized and published, FDEP will re-evaluate the usage of SEVs for the NPDES program.

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**CWA Element 4 - Enforcement**

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**Finding 4-1**



Meets or Exceeds Expectations

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**Recurring Issue:**

No

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**Summary:**

Enforcement responses promoted a return to compliance and addressed the violations in a timely and appropriate manner.

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**Explanation:**

Metric 9a looks at the percentage of enforcement responses that returned or will return a source in violation to compliance. Metric 9a indicated that 100% (64 of 64) of enforcement action files reviewed returned or were expected to return a facility to compliance.

Taking a timely and appropriate enforcement response was an issue in Rounds 1 and 2 of the SRF and was an Area for State Improvement in Round 3. Metric 10a1 looks at the number of formal enforcement actions taken in a timely manner that address SNC violations and Metric 10b1 looks at the appropriateness of enforcement actions taken. Per EPA’s NPDES EMS, formal enforcement should occur at facilities in SNC prior to the second official Quarterly Noncompliance Report unless there is supportable, written justification for an alternative action was appropriate. FDEP showed considerable improvement in this area from previous Rounds with all reviewed files showing that responsive action taken was timely, appropriate, and promoted a return to compliance.

**Relevant metrics:**

<b>Metric ID Number and Description</b>	<b>Natl Goal</b>	<b>Natl Avg</b>	<b>State N</b>	<b>State D</b>	<b>State Total</b>
9a Percentage of enforcement responses that returned, or will return, a source in violation to compliance [GOAL]	100%		64	64	100%
10a1 Percentage of major NPDES facilities with formal enforcement action taken in a timely manner in response to SNC violations			67	67	100%

10b Enforcement responses reviewed that address violations in an appropriate manner [GOAL]	100%		67	67	100%
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**State Response:**

FDEP appreciates EPA’s recognition of improvement on this metric. FDEP continues to ensure that staff are selecting the appropriate enforcement response and are including appropriate documentation in the record that demonstrates the facility’s return to compliance.

Developed and implemented in 2018, the Timely and Appropriate Guidance Document addresses QNCR violations in a more timely, appropriate, and efficient manner. This was accomplished by instituting a new 180-day timeclock for resolution of violations. FDEP also uses the QNCR and the Enforcement and Compliance History Online (ECHO) SNC Early Warning Dashboard to flag NPDES facilities for potential enforcement ahead of timeliness requirements. Since June 2020, FDEP has used the Dashboard to create a monthly SNC Early Warning Report. The report has been valuable in providing the real-time statuses of facilities without the processing time of the QNCR so enforcement decisions can be made earlier.

**CWA Element 5 - Penalties**

**Finding 5-1**

Meets or Exceeds Expectations

**Recurring Issue:**

No

**Summary:**

FDEP consistently documents adequate rationale for the economic benefit component in penalty calculations as well as documenting the rationale for difference between the initial and final assessed penalty in NPDES penalty calculations.

FDEP consistently includes documentation in the files that all final assessed penalties were collected.

**Explanation:**

Metric 11a measures the percentage of penalty calculations reviewed that document, where appropriate, gravity and economic benefit. Metric 11a indicated that 19 of 20 (95%) of the files reviewed contained either economic benefit (EB) calculations or documentation that it was considered, with an adequate rationale for not including economic benefit.

Metric 12a measures the percentage of penalties reviewed that document the rationale for the final penalty assessed when it is lower than the initial calculated value. Metric 12a indicated that 19 of 20 (95%) files reviewed included adequate documentation of differences between the initial penalty calculation and the final assessed penalty.

Economic benefit and documentation of rationale for final penalty were found as areas of improvement in the previous SRF (Round 3) review. The improvement is attributed to the State's actions in response to the previous Round findings which include that FDEP implemented a new peer review process for formal enforcement actions and penalty calculations. A committee now evaluates each enforcement action and penalty calculation including economic benefit for completeness and appropriateness. Additionally, staff has been instructed to consider economic benefit in each enforcement case and their assessment is evaluated during a peer review committee meeting. They also created and implemented a new standardized form to ensure uniformity statewide in the penalty calculation process and revisions.

Metric 12b measures the percentage of enforcement files reviewed that document the collection of the assessed penalty. Metric 12b indicated that 20 of 20 (100%) files reviewed included adequate documentation of penalty payment collection by FDEP.

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**Relevant metrics:**

<b>Metric ID Number and Description</b>	<b>Natl Goal</b>	<b>Natl Avg</b>	<b>State N</b>	<b>State D</b>	<b>State Total</b>
11a Penalty calculations reviewed that document and include gravity and economic benefit [GOAL]	100%		19	20	95%
12a Documentation of rationale for difference between initial penalty calculation and final penalty [GOAL]	100%		19	20	95%

12b Penalties collected [GOAL]	100%		20	20	100%
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**State Response:**

An economic benefit guidance was implemented in 2019 for wastewater and revised in 2021 for stormwater. This guidance document has aided staff in calculations. Also, the peer review process can discover omissions in economic benefit calculations and allows for correction before the final assessment. In accordance with FDEP penalty policies, the new revision of the penalty calculation worksheet contains fields for standard penalty assessments, economic benefit calculations, and areas for justification between the initial and final penalty amounts. We will continue to provide training and guidance for consistent application of penalties, documenting differences between the initial and final penalty assessments, economic benefit calculations or rationale, and documentation of penalty collections.

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# Resource Conservation and Recovery Act Findings

## RCRA Element 1 - Data

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### Finding 1-1

Meets or Exceeds Expectations

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### Recurring Issue:

No

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### Summary:

The Florida Department of Environmental Protection's (FDEP) RCRA Minimum Data Requirements for compliance monitoring and enforcement activities were complete in RCRA Info.

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### Explanation:

Metric 2b measures the data accuracy and completeness in RCRA Info with information in the facility files. Thirty files were selected and reviewed to determine completeness of the minimum data requirements. The data was found to be accurate in 27 of the 32 files (84.4%).

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### Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State Total
2b Accurate entry of mandatory data [GOAL]	100%		27	32	84.4%

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### State Response:

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FDEP appreciates EPA’s recognition that accurate entry of mandatory data was made. The RCRA program will use the non-complete findings as a point of emphasis in program training.

## RCRA Element 2 - Inspections

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### Finding 2-1

Meets or Exceeds Expectations

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### Recurring Issue:

No

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### Summary:

FDEP met national goals for both TSDF and LQG inspections.

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### Explanation:

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

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### Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State Total
5a Two-year inspection coverage of operating TSDFs [GOAL]	100%	83%	25	25	100%

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5b1 Annual inspection coverage of LQGs using RCRAInfo universe [GOAL]	20%	7.7%	101	449	22.5%
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**State Response:**

FDEP appreciates EPA’s recognition that we met the national goals for both TSDf and LQG inspections.

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**RCRA Element 2 - Inspections**

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**Finding 2-2**

Meets or Exceeds Expectations

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**Recurring Issue:**

No

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**Summary:**

FDEP's hazardous waste program inspection reports reviewed were complete, provided appropriate documentation to determine compliance at the facility and the timeliness of inspection report completion was well under the 150-day timeline outlined the Hazardous Waste Civil Enforcement Response Policy (ERP).

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**Explanation:**

Metric 6a measures the percentage of on-site inspection reports reviewed that are complete and provide sufficient documentation to determine compliance. All twenty-eight (28) onsite inspection reports reviewed were complete and provided sufficient documentation to determine compliance.

Metric 6b measures the percentage of inspection reports reviewed that are completed in a timely manner per the national standard. Metric 6b indicated 100% of FDEP’s onsite inspection reports reviewed were completed in a timely manner per the national standard.

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**Relevant metrics:**

<b>Metric ID Number and Description</b>	<b>Natl Goal</b>	<b>Natl Avg</b>	<b>State N</b>	<b>State D</b>	<b>State Total</b>
6a Inspection reports complete and sufficient to determine compliance [GOAL]	100%		28	28	100%
6b Timeliness of inspection report completion [GOAL]	100%		28	28	100%

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**State Response:**

FDEP appreciates EPA’s recognition of the meets or exceeds finding.



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## RCRA Element 3 - Violations

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### Finding 3-1

Meets or Exceeds Expectations

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### Recurring Issue:

No

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### Summary:

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

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### Explanation:

Metric 7a measures whether accurate compliance determinations were made based on a file review of inspection reports and other compliance monitoring activity (i.e., record reviews). The file review indicated that 100% of the files reviewed had accurate compliance determinations. Each of the files reviewed had accurate and complete descriptions of the violations observed during the inspection and had adequate documentation to support FDEP's compliance determinations.

Metric 8b measures the percentage of SNC determinations made within 150 days of the first day of inspection (Day Zero). The data metric analysis (DMA) indicated that 100% of SNC determinations were made with within 150 days.

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

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### Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State Total
7a Accurate compliance determinations [GOAL]	100%		28	28	100%

8b Timeliness of SNC determinations [GOAL]	100%	91.7%	54	54	100%
8c Appropriate SNC determinations [GOAL]	100%		30	30	100%

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**State Response:**

FDEP appreciates EPA’s recognition of the meets or exceeds finding.

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**RCRA Element 4 - Enforcement**

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**Finding 4-1**

Meets or Exceeds Expectations

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**Recurring Issue:**

No

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**Summary:**

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

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**Explanation:**

Metric 9a measures the percentage of enforcement responses that have returned or will return sites in SNC or SV to compliance. A total of twenty-eight (28) files were reviewed that included informal or formal enforcement actions. 89.3% of the enforcement responses returned the facilities to compliance with the hazardous waste requirements.

Metric 10a measures the percentage of SNC violations addressed with a formal action or referral during the year reviewed and within 360 days of Day Zero. The data metric analysis (DMA) indicated that 91.1% of the FY 2021 enforcement actions met the Hazardous Waste Enforcement Response Policy (ERP) timeline of 360 days.

Metric 10b measures the percentage of files with enforcement responses that are appropriate to the violations. A total of twenty-eight (28) files were reviewed with concluded enforcement responses. 89.3% of the files reviewed contained enforcement responses that were appropriate to the violations.

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**Relevant metrics:**

<b>Metric ID Number and Description</b>	<b>Natl Goal</b>	<b>Natl Avg</b>	<b>State N</b>	<b>State D</b>	<b>State Total</b>
9a Enforcement that returns sites to compliance [GOAL]	100%		25	28	89.3%
10a Timely enforcement taken to address SNC [GOAL]	80%	77.8%	41	45	91.1%
10b Appropriate enforcement taken to address violations [GOAL]	100%		25	28	89.3%

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**State Response:**

FDEP appreciates EPA’s recognition of the meets or exceeds finding. The RCRA program will use the less than 100% findings as a point of emphasis in program training.

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**RCRA Element 5 - Penalties**

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**Finding 5-1**

Meets or Exceeds Expectations

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**Recurring Issue:**

No

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**Summary:**

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

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**Explanation:**

Metric 11a measures the percentage of penalty calculations reviewed that document, where appropriate, gravity and economic benefit. Metric 11a indicated that FDEP considered gravity and economic benefit in 100% of the penalty calculations reviewed.

Metric 12a measures the percentage of penalties reviewed that document the rationale for the final value assessed when it is lower than the initial calculated value. Metric 12a indicated FDEP documented the difference between the initial and final penalty assessed in 85.7% (6 of 7) of the penalty calculations reviewed.

Metric 12b measures the percentage of enforcement files reviewed that document the collection of a penalty. There was documentation verifying that FDEP collected penalties assessed in 91.7% of the final enforcement actions reviewed.

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**Relevant metrics:**

<b>Metric ID Number and Description</b>	<b>Natl Goal</b>	<b>Natl Avg</b>	<b>State N</b>	<b>State D</b>	<b>State Total</b>
11a Gravity and economic benefit [GOAL]	100%		23	23	100%
12a Documentation of rationale for difference between initial penalty calculation and final penalty [GOAL]	100%		6	7	85.7%
12b Penalty collection [GOAL]	100%		22	24	91.7%

**State Response:**

FDEP appreciates EPA's recognition of the meets or exceeds finding. The RCRA program will use the less than 100% findings as a point of emphasis in program training.

