

# **STATE REVIEW FRAMEWORK**

## **Vermont**

**Clean Water Act, Clean Air Act, and  
Resource Conservation and Recovery Act  
Implementation in Federal Fiscal Year 2022**

**U.S. Environmental Protection Agency  
Region 1**

**Final Report  
March 13, 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 Water Act (CWA)**

Kickoff Meeting for Vermont DEC Round 4 Review: April 10, 2023.

Vermont DEC CWA Contacts: Amy Polaczyk (wastewater) 802-490-6185; Chip Gianfagna (stormwater) 802-490-6174; Abbi Pajak (CAFO) 802-490-4741

EPA CWA Regional Reviewer: Andrew Spejewski (617) 918-1014.

Note that, separate from this SRF process, EPA is currently reviewing Vermont's CAFO program in response to a petition to require corrective action or withdraw delegation of the NPDES program from Vermont. This SRF focused narrowly on the specific aspects of the CAFO program within the scope of the SRF metrics. The review currently underway in response to the petition is more encompassing and is expected to have additional findings about the CAFO program.

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

Kickoff Meeting for Vermont DEC Round 4 Review: April 10, 2023.

Vermont DEC CAA Contact: John Wakefield (802) 828-1288.

EPA CAA Regional Reviewer: Tom McCusker (617) 918-1862.

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

Kickoff Meeting for Vermont DEC Round 4 Review: April 10, 2023.

Vermont DEC RCRA Contact: Anna Bourakovsky (802) 477-2981

EPA RCRA Regional Reviewers: Conor O'Brien (left agency) and Lisa Papetti (617) 918-1756.

#### **State Review Framework (SRF) Contacts**

Adam D. Miller, VT DEC, (802) 777-2852

James Chow, EPA Region 1, (617) 918-1394

Tom McCusker, EPA Region 1: (617) 918-1862

# Executive Summary

## Introduction

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### Clean Water Act (CWA)

EPA Region 1 enforcement staff conducted a State Review Framework (SRF) enforcement program oversight review of the Vermont Department of Environmental Protection's (VTDEC's) water enforcement program. The review included individual permits for wastewater (municipal and industrial), stormwater permits (including construction, industrial and municipal stormwater), and animal feeding operations (CAFOs). EPA bases SRF findings on numerous data and file review metrics, summaries of which are included in this report, as well as conversations with program management and staff.

For purposes of this report, EPA has highlighted the most important metrics that demonstrate VTDEC's program performance. The EPA will track recommended actions from the review in the SRF Manager database and will publish final reports and recommendations on EPA's ECHO database.

Note that, separate from this SRF process, EPA is currently reviewing Vermont's CAFO program in response to a petition to require corrective action or withdraw delegation of the NPDES program from Vermont. This SRF focused narrowly on the specific aspects of the CAFO program within the scope of the SRF metrics. The review currently underway in response to the petition is more encompassing and is expected to have additional findings about the CAFO program.

### Clean Air Act (CAA)

The Air Program regarding the Clean Air Act (CAA) specifically, conducted a SRF review of the VTDEC pertaining to activities conducted by VTDEC in Federal Fiscal Years (FFYs) 2022 (11 files), 2021 (2 files), 2020 (2 files), 2019 (11 files) and 2018 (1 file). In order to review a representative sampling of federally-reportable violators (FRVs), stack test failures and enforcement case files, the review extended into the years preceding FFY 2022, as described above. The review entailed analyzing both data metrics and file metrics in order to evaluate VTDEC's strengths and areas for improvement in carrying out its compliance and enforcement responsibilities under the CAA. The report will provide findings under these five major headings: Data, Inspections, Violations, Enforcement, and Penalties. Under each heading, EPA will evaluate whether VTDEC is meeting or exceeding expectations or, as necessary, point out areas where EPA will seek improvement by VTDEC. In some cases, where there is only a minor concern EPA will merely point out the issue. Where any major issues are found, EPA will provide recommendations for VTDEC to implement in order to resolve those issues.

In conducting the file review portion of this SRF, EPA looked at 29 case files at 27 facilities, including in two instances, when files from the same facility (1 Title V source and 1 SM80 source) were reviewed for two separate FFYs to review failed stack tests. Of the files reviewed for the 27 separate facilities, 6 files were for Title V major sources (Vermont currently has 8 Title V sources) and 21 files were for synthetic minor 80 percent (SM80) sources where air emissions are capped at, or above, 80 percent of the major source threshold for a given air pollutant. VTDEC has an effort underway to re-permit sources, when permit reissuance is due, to further cap, or reduce, pollutant emissions at sources, where appropriate, which will lower the number of SM80 sources, and thus, reduce the number of sources contained within its Compliance Monitoring Strategy (CMS) plan.

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

EPA Region 1 enforcement staff conducted a SRF enforcement program oversight review of the VTDEC.

EPA bases SRF findings on numerous data and file review metrics, summaries of which are included in this report, as well as conversations with program management and staff.

For purposes of this report, EPA has highlighted the most important metrics that demonstrate VTDEC's program performance. The EPA will track recommended actions from the review in the SRF Manager database and will publish final reports and recommendations on EPA's ECHO web site.

### **Areas of Strong Performance**

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

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

VTDEC's inspection program is generally strong at inspecting facilities at an appropriate rate, accurately determining compliance, and responding appropriately.

VTDEC is consistently meeting its inspection commitments under the Compliance Monitoring System

VTDEC's inspectors are knowledgeable, inspections are sufficient to determine compliance and the state is accurate in its determinations of compliance/non-compliance. Reports are completed within timeliness guidelines.

VT DEC is taking appropriate enforcement to return facilities to compliance.

VT DEC has worked hard on data issues since the last SRF review to reduce or eliminate data errors for traditional individual permittees. This has drastically reduced the amount of facilities that are incorrectly flagged as being in significant non-compliance in ICIS.

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

VTDEC inspection reports contain a “Permit Review” section that includes all applicable requirements for each air emission source found at a facility. This provides for more comprehensive inspection reports with a streamlined procedure for inspectors to use to evaluate compliance and to document compliance determinations made at facilities.

VTDEC does an excellent job of documenting violations and making accurate compliance and HPV determinations.

VTDEC does an excellent job of providing early warning notice, through informal enforcement actions, to facilities with violations to expedite their return to compliance.

VTDEC does an excellent job of calculating and documenting the “gravity” portion of penalties that it assesses, according to its Penalty Policy. VTDEC also does an excellent job of documenting that penalties have been collected.

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

VTDEC does an excellent job maintaining accurate data and reporting it in a timely manner into the national database. During the time periods reviewed, inspection counts, documentation of violations and enforcement actions were accurate.

VTDEC prepares inspection reports that document compliance status and determine violations and document the observed violations in their inspection records and enforcement responses. Each of the 27 files reviewed that identified violations had accurate and complete descriptions of the violations observed during the inspection and had adequate documentation to support VTDEC’s compliance determinations.

VTDEC completed all of its Treatment, Storage and Disposal Facilities (TSDF) inspections in FFY2022 and exceeded both the National Goal and the National Average for Large Quantity Generator (LQG) inspections at 27.3% and conducted 100% of the required TSDF inspections in a two-year cycle. VTDEC also inspects generator categories other than LQGs. Each of the 27 files for these inspections included sufficient information to document the compliance status of the facilities.

VTDEC’s enforcement actions are generally brought in a timely manner and return facilities to compliance in a timely manner.

VTDEC’s violation identification rate is significantly higher than the national average at 62.5%.

## Priority Issues to Address

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

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

VTDEC is behind in completing the process of uploading all required data to EPA's ICIS system. Specifically, no data on enforcement actions is making it to ICIS, nor is any Industrial stormwater (MSGP) or municipal stormwater (MS4) permit or inspection data, or CAFO inspection data. All of these were required years ago; Vermont must ensure that all required data is correctly flowing to EPA's data systems.

VTDEC was not adequately assessing economic benefit in penalty calculations reviewed. While penalty calculations did document that economic benefit was considered, in every case reviewed an economic benefit of zero was assessed. The documented justification for zero benefit was not sufficient in the cases that were reviewed. In cases where VTDEC determines there is no economic benefit, it must adequately document why there is no economic benefit, ensure that violators do not gain an unfair advantage over law-abiding competitors.

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

Both the file review metrics and the data metrics indicate that VTDEC has had issues regarding the timely entry of minimum data requirements (MDRs) into ICIS for compliance monitoring activities, stack tests and enforcement-related activities.

A review of the file review metrics and the data metrics (Data Metric Analysis and Data Verification) indicate that VTDEC had issues regarding the completeness of data entered into ICIS, including, in several instances, the creation of federally-reportable violator (FRV) case files. In addition, three informal enforcement actions, one formal enforcement action and two penalties were not reported to ICIS.

The file review metrics indicate that for full compliance evaluations (FCEs) conducted by VTDEC inspectors, in many files reviewed, the compliance monitoring reports (CMRs) did not provide adequate documentation that compliance determinations were being made for all applicable regulations. For instance, most of the CMRs reported that compliance wasn't evaluated regarding the retention of various records for five years as required by permit. Additionally, the CMRs were too general and too broad in nature to accurately evaluate and document compliance with some applicable requirements.

The file review metrics indicate that VTDEC is not, in most cases, documenting whether economic benefit is being properly calculated and assessed. EPA had to go back to prior years for a representative sampling of formal enforcement cases, before VTDEC implemented its revised guidance concerning economic benefit, which resulted from findings from the last SRF



review. Because there were not enough penalty cases to review since the guidance was implemented to make a comprehensive finding, EPA will continue to review future penalty cases, for at least the next year, to ensure economic benefit is being assessed appropriately and that sufficient documentation exists in the file when no economic benefit is assessed.

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

A review of the selected case files showed that VTDEC and VT Attorney General's Office did not provide justification for reductions in the final penalty amount in all cases.

A review of the selected case files showed that VTDEC and VT Attorney General's Office consolidated multiple violations into one penalty amount without justification.

# 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:

Data for individual NPDES permits (both major and non-major) is generally entered correctly and flowing from Vermont's state-only data system to EPA's ICIS system. One minor issue was discovered during the review where some administratively continued permits were shown as expired in ICIS.

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### Explanation:

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### Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State %
1b5 Completeness of data entry on major and non-major permit limits. [GOAL]	95%		188	192	97.9%
1b6 Completeness of data entry on major and non-major discharge monitoring reports. [GOAL]	95%		2144	2225	96.4%

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### State Response:

None Provided

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## CWA Element 1 - Data

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### Finding 1-2

Area for Improvement

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**Recurring Issue:**

No

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**Summary:**

No required data is flowing to EPA's ICIS system for several categories:

All data on enforcement actions;

All permit and inspection data for Industrial Stormwater (Multi-Sector General Permit)

All permit and inspection data for municipal stormwater (Municipal Separate Stormwater Systems, or MS4)

Data on inspections at animal feeding operations (CAFOs). Even if facilities are not permitted, inspections should be entered into ICIS (with placeholder permit numbers).

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**Explanation:**

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**Relevant metrics:**

<b>Metric ID Number and Description</b>	<b>Natl Goal</b>	<b>Natl Avg</b>	<b>State N</b>	<b>State D</b>	<b>State %</b>
2b Files reviewed where data are accurately reflected in the national data system (except CAFO, Industrial SW and MS4)			11	16	68.8%
2b (CAFO) Files reviewed where data are accurately reflected in the national data system (CAFO)	100%		0	3	0%
2b (ISW) Files reviewed where data are accurately reflected in the national data system (Industrial SW)	100%		0	5	0%
2b (MS4) Files reviewed where data are accurately reflected in the national data system (MS4)	100%		0	1	0%
7j1 Number of major and non-major facilities with single-event violations reported in the review year			26	26	100%
7k1 Major and non-major facilities in noncompliance		15%	206	933	22.1%

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**State Response:**

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**Recommendation:**

Rec #	Due Date	Recommendation
1	07/01/2024	The state must provide to EPA by July 1, 2024 an update on current progress and plan for meeting all requirements for uploading permit and enforcement data to ICIS.

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**CWA Element 2 - Inspections**

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**Finding 2-1**

Area for Improvement

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**Recurring Issue:**

No

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**Summary:**

VTDEC generally met or exceeded its commitments for numbers of inspections approved under EPA's Compliance Monitoring Strategy ("CMS"), however the commitment for Industrial Stormwater inspections was not met. Note that there are no permitted CAFOs in the state, so the CMS does not require any CAFO inspections; however due to the state's unique situation with a large number of CAFOs without permits, the state committed to CAFO inspections beyond the CMS requirements; therefore the metric 4a10 is based on state commitment, rather than CMS requirement.

Inspectors are knowledgeable, and able to accurately assess compliance.

Inspection reports are sufficient to assess compliance. In the case of stormwater inspections, which are documented in an inspection database, the supporting documentation (correspondence, pictures, etc.) is also necessary, but with that there is sufficient information.

In general, reports are completed in a timely manner. The CAFO reports reviewed were not dated with the report completion date, so the timeliness could not be assessed; this requires a simple fix by VTDEC of including the report date in the report.

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**Explanation:****Relevant metrics:**

<b>Metric ID Number and Description</b>	<b>Natl Goal</b>	<b>Natl Avg</b>	<b>State N</b>	<b>State D</b>	<b>State %</b>
4a2 Number of inspections at EPA or state Significant Industrial Users that are discharging to non-authorized POTWs. [GOAL]	100% of commitments		13	18	72.2%
4a4 Number of CSO inspections. [GOAL]	100% of commitments		3	2	150%
4a5 Number of SSO inspections. [GOAL]	100% of commitments		4	3	133.3%
4a7 Number of Phase I and II MS4 audits or inspections. [GOAL]	100% of commitments		2	2	100%
4a8 Number of industrial stormwater inspections. [GOAL]	100% of commitments		18	39	46.2%
4a9 Number of Phase I and Phase II construction stormwater inspections. [GOAL]	100% of commitments		88	72	122.2%
4a10 Number of comprehensive inspections of large and medium concentrated animal feeding operations (CAFOs) [GOAL]	100% of commitments		16	15	106.7%
5a1 Inspection coverage of NPDES majors. [GOAL]	100%		14	10	140%
5b1 Inspections coverage of NPDES non-majors with individual permits [GOAL]	100%		20	20	100%
6a Inspection reports complete and sufficient to determine compliance at the facility. [GOAL]	100%		23	23	100%

**State Response:**

VTDEC met half of the MSGP inspection goal in FY 2022. At the time, VTDEC had not dedicated enough staff time to complete the inspections but has since re-organized the Stormwater Program to put greater emphasis on MSGP and allotted one full staff member to manage the MSGP, with

supervisory support. Since implementing this change the VTDEC met the inspection goals for FY 2023 and should continue to stay on track in future years.

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**Recommendation:**

Rec #	Due Date	Recommendation
1	07/01/2024	The state must submit a statement explaining the reason for the shortfall in Industrial Stormwater Inspections and how the state will meet the goals in the future.

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**CWA Element 2 - Inspections**

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**Finding 2-2**

Area for Attention

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**Recurring Issue:**

No

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**Summary:**

Most programs' inspection reports were completed in a timely manner. The CAFO reports that were reviewed were not dated, making it impossible to determine if the goal was being met. This result was shared with DEC's CAFO program during the review, and the program provided EPA with a template for inspection reports that had been adopted in December 2022; the new template includes a space for report date. EPA believes no further action is necessary by the program.

However, one report (of a CAFO inspection) by the DEC enforcement department was not completed until a year after the inspection. The enforcement department should ensure that all observations are documented within an appropriate time.

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**Explanation:**

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**Relevant metrics:**

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Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State %
6b Timeliness of inspection report completion [GOAL]	100%		20	21	95.2%
6b (CAFO) Timeliness of inspection report completion (CAFO)	100%		0	3	0%

**State Response:**

Except for the report outlined above, the CAFO program has ensured all other observations made during inspections have been documented in an expedited timeframe. The program aims for a completed report within 90 days of an inspection when the program is fully staffed. The CAFO program exceeded this metric for multiple inspections in 2023.

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**CWA Element 3 - Violations**

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**Finding 3-1**

Meets or Exceeds Expectations

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**Recurring Issue:**

No

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**Summary:**

Inspections accurately determine compliance.

Facilities in Significant Non-Compliance are under the national average (and EPA believes many of these in Vermont are actually minor data issues).

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**Explanation:**

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**Relevant metrics:**

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Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State %
7e Accuracy of compliance determinations [GOAL]	100%		24	24	100%
8a3 Percentage of major facilities in SNC and non-major facilities Category I noncompliance during the reporting year.		5.8%	49	931	5.3%

**State Response:**

None Provided

**CWA Element 4 - Enforcement**

**Finding 4-1**

Meets or Exceeds Expectations

**Recurring Issue:**

No

**Summary:**

Enforcement is generally appropriate for the level of violation, and adequate to return facilities to compliance. Because of the data issue with enforcement actions not flowing to ICIS (see finding 1-2 above), data analysis shows no response to SNC violations.

**Explanation:**

**Relevant metrics:**



Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State %
9a Percentage of enforcement responses that returned, or will return, a source in violation to compliance [GOAL]	100%		9	9	100%
10a1 Percentage of major NPDES facilities with formal enforcement action taken in a timely manner in response to SNC violations		20.7%	0	3	0%
10b Enforcement responses reviewed that address violations in an appropriate manner [GOAL]	100%		9	9	100%

**State Response:**

None was provided.

**CWA Element 5 - Penalties**

**Finding 5-1**

Meets or Exceeds Expectations

**Recurring Issue:**

No

**Summary:**

In all but one case (where the state could not produce a penalty calculation), penalty amounts are documented, and reasons for changing the amount are also documented. Penalty calculations follow DEC's policy. Penalty payments are tracked, and in all but one case have been made by the respondent.

**Explanation:**

**Relevant metrics:**

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State %
12b Penalties collected [GOAL]	100%		4	4	100%

**State Response:**

None was provided.

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**CWA Element 5 - Penalties**

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**Finding 5-2**

Area for Attention

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**Recurring Issue:**

No

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**Summary:**

In one case, documentation could not be found that the penalty was collected.

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**Explanation:**

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**Relevant metrics:**

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State %
12a Documentation of rationale for difference between initial penalty calculation and final penalty [GOAL]	100%		3	4	75%

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**State Response:**

None was provided.

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**CWA Element 5 - Penalties**

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**Finding 5-3**

Area for Improvement

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**Recurring Issue:**

Recurring from Rounds 2 and 3

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**Summary:**

Economic Benefit was not adequately assessed in the cases reviewed during the review and there was insufficient justification where there was an assessment of no economic benefit.

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**Explanation:**

Previous reviews have noted issues with assessing economic benefit in enforcement cases. As a response, in December 2020, VT DEC adopted a new penalty guidance to assist in assessing and documenting economic benefit assessments. One case included in the current review was completed before the new guidance was adopted, and did not include any information on economic benefit. Four other cases reviewed, completed since the new guidance was implemented, included justifications for no economic benefit in the economic benefit section of the penalty calculation, however they were not sufficient.

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**Relevant metrics:**

<b>Metric ID Number and Description</b>	<b>Natl Goal</b>	<b>Natl Avg</b>	<b>State N</b>	<b>State D</b>	<b>State %</b>
11a Penalty calculations reviewed that document and include gravity and economic benefit [GOAL]	100%		0	4	0%

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**State Response:**

In its CWA Priority Issues to Address, and its summary and explanation above, EPA makes findings and recommendations related to economic benefit. DEC worked cooperatively with EPA following the prior SRF audit to develop guidance on this topic. DEC and EPA did not complete this process until December 18, 2020, and it was not rolled out to Enforcement & Litigation staff until after that time. Any cases reviewed as part of the current SRF audit where penalty calculations were completed prior to that timeframe may not reflect this current approach.

With respect to economic benefit generally, in the majority of DEC's enforcement cases, given the nature of the CWA violations and the relatively small scale of Vermont's regulated community, economic benefit may not be present, or it may be de minimis. Despite this, DEC considers economic benefit whenever it performs a penalty calculation. With respect to the specific cases reviewed here, one case reviewed was completed prior to completion of the economic benefit guidance. The other cases contain a rationale for no economic benefit. DEC submits that while the CWA cases reviewed during this SRF did not contain economic benefit, that assessment is due to the nature of each specific case, and that it does assess economic benefit when able. This SRF confirms that approach based on RCRA Finding 5-1 below: "EPA has determined during this review that, following implementation of a working penalty calculation policy which requires the consideration of economic benefit in penalty actions, VT DEC has taken on the previous SRF recommendations regarding the inclusion of economic benefit in penalty calculation. From the six penalty actions reviewed by EPA for this SRF, the two most recent cases from FY22 levied economic benefit penalties as part of the penalty calculations and justified economic benefit

exclusion from certain delayed costs. Although the other penalty actions did not adequately consider economic benefit, as these cases were subject to review during the last SRF and therefore occurred prior to VTDEC's implementation of an economic benefit policy. DEC looks forward to receiving feedback from EPA on this topic.

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**Recommendation:**

<b>Rec #</b>	<b>Due Date</b>	<b>Recommendation</b>
1	07/01/2024	For the next two quarters, VT DEC will share completed penalty calcs with EPA. EPA will provide feedback and training on the economic benefit calculations.  VT DEC will provide training to all water program staff involved in penalty calculations on an as-needed basis, covering appropriate calculation and documentation of economic benefit.

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# Clean Air Act Findings

## CAA Element 1 – Data Timeliness

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### **Finding 1-1**

Area for Improvement

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### **Summary:**

Both the file review metrics and the data metrics indicate that VTDEC has had some issues regarding the timely entry of minimum data requirements (MDRs) into ICIS.

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### **Explanation:**

A review of Metric 3a2 of the Data Metric Analysis (DMA) indicates that VTDEC had no newly-identified HPVs in FFY 2022. This is accurate. For FFYs 2018-2022, VTDEC identified no HPVs, but it should be noted that, historically, Vermont has had a significantly small universe of Title V source (for FFY 2022, Vermont had 8 Title V sources).

A review of Metric 3b1 of the DMA indicates that 15 out of 36 compliance monitoring activities (41.7%) were entered into ICIS in a timely manner (within 60 days of the activity). A total of 21 out of 36 compliance monitoring activities were entered in an untimely manner (58.3%).

A review of Metric 3b2 of the DMA indicates that 1 out of 4 stack tests (25%) were reported into ICIS in a timely manner (within 120 days of the activity). A total of 3 out of 4 stack tests were entered in an untimely manner (75%). The stack test issue was found to be a data entry issue only. EPA's review of VTDEC stack test data for FFY 2023 (as of the end of August 2023) indicates that stack test results codes are being entered into ICIS in a timely manner.

A review of Metric 3b3 of the DMA indicates that 1 out of 10 enforcement-related MDRs (10%) were entered into ICIS in a timely manner. A total of 9 out of 10 enforcement-related MDRs were entered in an untimely manner (90%). In addition, based on the file review, it was found that three informal enforcement actions, one formal enforcement action and two penalties were not reported to ICIS.

The VTDEC Air Quality and Climate Division (AQMD) Compliance Section Chief informed EPA that the data timeliness issue could be attributed to two major reasons. First, the VTDEC CAA Program lost their database steward of many years, in FFY 2019, to retirement and it took over a year and a half to hire and train the new staff person who took over these responsibilities. Second, the COVID-19 pandemic caused some technical issues as staff needed to be trained on how to access the VTDEC compliance database of record to be able to transfer data from it to ICIS from remote work locations. The timeliness issue continued into FFY 2022 because the VTDEC data steward had a backlog of data from FFYs 2020 and 2021 to enter as well. EPA's review of VTDEC

data for FFY 2023 (as of the end of August 2023) indicates that VTDEC has significantly improved in this area.

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**Relevant metrics:**

<b>Metric ID Number and Description</b>	<b>Natl Goal</b>	<b>Natl Avg</b>	<b>State N</b>	<b>State D</b>	<b>State %</b>
3a2 Timely reporting of HPV determinations [GOAL]	100%	43.9%	0	0	N/A
3b1 Timely reporting of compliance monitoring MDRs [GOAL]	100%	78.2%	15	36	41.7%
3b2 Timely reporting of stack test dates and results [GOAL]	100%	66.8%	1	4	25%
3b3 Timely reporting of enforcement MDRs [GOAL]	100%	78.1%	1	10	10%

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**State Response:**

The transition to a new data steward has been a long process. The VTAQCD has had one data steward reporting Compliance Monitoring Activities to the EPA since the beginning of the reporting being required. With a staff of only 4, cross training on topics such as data management and reporting has been unfeasible. When the former data steward retired in early 2019, the VT AQCD focused on efforts to train the new hire on performing compliance evaluations as well as many other compliance monitoring activities and state programs. With limited staff and cross-training opportunities, timely data reporting was difficult to maintain.

VTAQCD's current data steward has made significant progress since becoming fully trained. Additionally, the remainder of the staff continues to improve with internal reporting of Compliance Monitoring Activities and Enforcement to the data steward and is confident the timely reporting will continue into the future.

Additionally, the VTAQCD continues to improve the functionality of our internal database and node with ICIS-Air and identify and resolve issues with data transfer, which should also improve the timeliness of our data entry. The VTAQCD welcomes a quarterly discussion with EPA Region 1 to ensure that all Compliance Monitoring Activities and Enforcement data are Transferred to ICIS-Air in a timely manner in accordance with applicable requirements.

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**Recommendation:**

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Rec #	Due Date	Recommendation
1	03/31/2025	<p>On a quarterly basis, for at least four quarters, EPA will review with VTDEC compliance monitoring, stack test and enforcement-related activity data in the VTDEC database of record and compare it with what is currently appearing in ICIS and discuss whether the MDRs are being met and entered in a timely fashion.</p> <p>If all the VTDEC timeliness metrics (3a2, 3b1, 3b2 and 3b3) are not equal to or greater than 90% at the end of FY 24 then the quarterly review process described above will be repeated for an additional four quarters.</p>
2	03/31/2025	<p>EPA will provide ICIS training to VTDEC's data steward, and other VTDEC staff, as appropriate, on a quarterly basis, for at least four quarters, to ensure the data timeliness issue is resolved. If the timeliness issue persists, EPA will continue to provide quarterly training until such time that the issue is resolved.</p>

**CAA Element 1 – Data – Accuracy and Completeness**

**Finding 1-2**

Area for Improvement

**Summary:**

The file review metric, the DMA, and the data verification metrics indicate that VTDEC has had issues regarding the accuracy and completeness of data entered into ICIS.

**Explanation:**

A comparison of Metric 1h1 of the Data Verification Metrics (Total Amount of Assessed Penalties) for FFY 2020 (this was the review year for the two formal enforcement actions that resulted in the assessment and collection of penalties) with the VTDEC information for this metric for FFY 2020 reveals an inconsistency. Metric 1h1 of the Data Verification Metrics reports that no penalties were assessed by VTDEC in this timeframe while the VTDEC enforcement files for the same timeframe indicate that two penalties were assessed in the amounts of \$45,000 and \$9,125. There is documentation in the files indicating that both penalties were collected. VTDEC has since entered the missing penalty figures in ICIS.

A review of Metric 5e of the DMA (Reviews of Title V Annual Compliance Certifications Completed) indicates that VTDEC conducted reviews of 8 out of 8 sources (100%) where Title V annual compliance certifications were due in FFY 2022.

A review of Metric 7a1 (FRV Discovery Rate Based on Evaluations of Active CMS Sources) for files reviewed from FFYs 2018 - 2022 indicate that federally-reportable violators (FRVs) were not reported to ICIS for 12 sources, as required by EPA policy. In three instances, VTDEC did create case files but neglected to identify the violation type in the case file, which prevented the FRVs from being properly reported. In the remaining instances, VTDEC failed to create FRV case files. VTDEC's data steward retired in early 2019 and it was approximately one and a half years before VTDEC hired and fully trained someone to take over the data steward responsibilities, which likely accounts for many of the missing FRVs. None of the missing FRVs would have been considered HPVs. In total, 12 out of 17 FRVs (70.6%) identified between FFYs 2018 – 2022 were not reported to ICIS. VTDEC has since entered the missing FRVs into ICIS.

A review of Metric 8a of the DMA (Discovery Rate of HPVs at Major Sources) indicates that for FFYs 2018 - 2022 VTDEC did not identify any HPVs. EPA's review of 6 Title V major source files did not identify any HPVs either indicating that this was not an issue. During this 5-year period, VTDEC had between 8 and 12 Title V major sources (Title V major sources decreased from 12 in FFYs 2018 and 2019 to 8 Title V major sources in FFY 2022). Due to the very small number of Title V major sources and the fact that the HPV Policy has been revised such that identification of HPVs has been reduced in recent years based on changes to the HPV criteria, it is not a big concern that VTDEC has not identified any HPVs in recent years.

Based on the file review, it was noted that 3 informal enforcement actions (2 Notices of Alleged Violations issued in FFY 2021 and 1 Notice of Alleged Violation issued in FFY 2019) and 1 formal enforcement action (Consent Order and Final Judgement Order from the Superior Court of Vermont) issued in FFY 2020 were not reported in ICIS. VTDEC has since entered these 3 informal enforcement actions and 1 formal enforcement action into ICIS.

A total of 12 out of the 29 files reviewed (files for two sources were reviewed for two separate fiscal years to include past failed stack tests so a total of 29 files were reviewed for 27 different sources) (41.4%) had at least one missing MDR that should have been reported to ICIS. VTDEC should pay closer attention to the MDRs required to be reported in ICIS. It is expected that now that VTDEC once again has a fully trained data steward and has worked out the issues regarding transferring of data from their database to ICIS while working remotely that these data accuracy and completeness issues will be resolved. (See Recommendation 2 under Finding 1-1).

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**Relevant metrics:**

<b>Metric ID Number and Description</b>	<b>Natl Goal</b>	<b>Natl Avg</b>	<b>State N</b>	<b>State D</b>	<b>State %</b>
2b Files reviewed where data are accurately reflected in the national data system [GOAL]	100%		17	29	58.6%

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**State Response:**



Much of the missing data noted by EPA Region 1 occurred during the transition period to a new data steward. While the Section Chief did attempt to correctly enter data throughout the transition period, there were numerous misunderstandings with current EPA reporting requirements and ICIS-Air procedures, which led to inaccurate data reporting primarily of FRVs.

VTAQCD believes that with a fully trained data steward and continuing improvements of data transfer, missing or inaccurate reporting will continue to decrease. VTAQCD welcomes quarterly reviews of this metric with Region 1 to ensure we remain on track with accurate data reporting.

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**Recommendation:**

Rec #	Due Date	Recommendation
1	03/31/2025	<p>As part of the quarterly data review described in Finding 1-1, EPA will review and discuss with VTDEC all informal and formal enforcement actions taken during the quarter to ensure FRVs and any HPVs are being properly created in ICIS and to ensure that all enforcement actions, and any associated penalties, are promptly and accurately reported to ICIS.</p> <p>Similar to the recommendation for Finding 1-1, if the VTDEC metric 2b is not equal to or greater than 90% at the end of FFY 24 then the quarterly review process described above will be repeated for an additional four quarters.</p>

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**CAA Element 2 - Inspections**

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**Finding 2-1**

Meets or Exceeds Expectations

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**Summary:**

VTDEC met all its CMS Plan FCE commitments. This included Title V major sources and SM-80 sources, indicating that VTDEC is committed to meeting its FCE commitments.

VTDEC inspectors incorporate a “Permit Review” inspection checklist template within the body of their compliance monitoring reports (CMRs), which include all applicable requirements for each air emission source found at a facility. This provides for more comprehensive inspection reports with a streamlined procedure for inspectors to use to evaluate compliance and to document compliance determinations made at facilities.

VTDEC reviewed all annual compliance certifications required for FFY 2022.

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**Explanation:**

A review of Metric 5a of the Data Metric Analysis (DMA) (FCE Coverage at Majors and Mega-Sites) indicates that VTDEC conducted FCEs at 5 out of 5 (100%) Title V major sources required to be inspected with an FCE in FFY 2022.

A review of Metric 5b of the DMA (FCE Coverage at SM-80s) indicates that VTDEC conducted required FCEs at 21 out of 21 (100%) SM-80 sources required to be inspected with an FCE in FFY 2022.

A review of Metric 5e of the DMA (Reviews of Title V Annual Compliance Certifications Completed) indicates that VTDEC conducted reviews at 8 out of 8 (100%) sources where Title V annual compliance certifications were due in FFY 2022.

A review of Metric 1j1 of the Data Verification Results for FFY 2022 (Number of Facilities with a TVACC) reports that Title V annual compliance certifications were reviewed for 8 sources in FFY 2022. Metric 1j2 of the Data Verification Results (Number of Facilities with a TVACC Due) reports that 8 sources were due a Title V annual compliance certification review in FFY 2022.

Based on the file review, VTDEC was found to utilize a “Permit Review” inspection checklist template within the body of all their CMR reports that incorporates all applicable permit conditions, as well as a narrative portion in the CMR reports that includes other inspection findings made during inspections, including but not limited to process and control parameters observed during the course of inspections and descriptions of all air polluting equipment. A total of 22 out of the 29 files reviewed (files for two sources were reviewed for two separate fiscal years to include past failed stack tests so a total of 29 files were reviewed for 27 different sources) contained a CMR report for the appropriate review period (in some instances, a CMR report from a previous year was reviewed for continuity purposes where follow-up enforcement occurred in a preceding year). The use of CMR reports that contain both a narrative section and a “Permit Review” section is excellent and makes for a more comprehensive CMR report and helps the inspectors identify all applicable emission units and applicable federal and state regulations that apply in a more streamlined way that enhances the inspectors’ ability to evaluate compliance and to document compliance determinations made at facilities.

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**Relevant metrics:**

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<b>Metric ID Number and Description</b>	<b>Natl Goal</b>	<b>Natl Avg</b>	<b>State N</b>	<b>State D</b>	<b>State %</b>
5a FCE coverage: majors and mega-sites [GOAL]	100%	85.7%	5	5	100%
5b FCE coverage: SM-80s [GOAL]	100%	94.1%	21	21	100%
5c FCE coverage: minors and synthetic minors (non-SM 80s) that are part of CMS plan or alternative CMS Plan [GOAL]	100%	74.4%	0	0	N/A
5d FCE coverage: minor facilities that are part of CMS plan. [GOAL]			0	0	N/A
5e Reviews of Title V annual compliance certifications completed [GOAL]	100%	82%	8	8	100%

**State Response:**

VTAQCD is fortunate to be able to meet its inspection requirements while still targeting a significant amount of smaller facilities and industries for State inspections. This is primarily due to Vermont’s smaller universe of sources. In 2017, due to the inability to further support the MS-DOS operating system that the EPA’s Inspection Targeting System, VTAQCD moved out of an alternative Compliance Monitoring Strategy. At that time, EPA Region 1 noted that an allowables table in many Vermont permits allowed for the emission of HAPs up to the major source levels of 10/25 tons annually, technically classifying them as synthetic minor 80 sources once Vermont was no longer using an alternative CMS. At that time, VTAQCD reclassified the sources in ICIS-Air as SM80 sources.

Since that time, VTAQCD lessened HAP allowances in the permits to less than SM80 level emissions as they came through for renewal. VTAQCD has been systematically removing the SM80 classification for facilities as the new permits are issued. While the reclassifications were resource intensive, now having a properly classified universe of sources has removed unnecessary reporting requirements helping to improve timeliness, accuracy and thoroughness of our required reporting. Now that our sources are properly classified, Vermont does not foresee failing to meet the inspection requirements of our CMS plan in the future, while still continuing to provide a robust state inspection program.

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**CAA Element 2 - Inspections**

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**Finding 2-2**

Area for Attention

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## **Summary:**

In some cases, VTDEC inspectors were either not conducting complete FCEs or were not properly documenting their findings in their CMR reports as described in Chapter IX of the CMS Policy. Although the inspectors' CMR reports all consisted of a "Permit Review" inspection checklist section that listed all applicable permit conditions for all applicable equipment, as well as, a narrative section that provided for a very detailed description of applicable air polluting equipment, it was still found that some CMR reports were lacking to some degree.

Minor deficiencies found in most CMR reports included the following: not reporting whether the CMR report was for a full compliance evaluation (FCE) or for a partial compliance evaluation (PCE) (the reports just indicated either "Compliance Inspection" or "Facility Inspection"); not reporting the size classification of the source inspected (i.e., Title V major source or SM80 source); and not providing a telephone number for the contact person at the facility being inspected.

Based on the file review, EPA found that the inspectors would overlook some permit conditions. For instance, in some cases the inspectors would report that they were not evaluating whether facilities were maintaining records for 5 years as required by facility permits. In addition, the inspectors would generally report that they were not evaluating standard administrative requirements found in facility permits, most of which were just statements of fact, but one such requirement does necessitate a compliance determination.

The CMR reports were excellent at identifying all applicable state and federal regulations at a facility and providing for past enforcement history.

The CMR reports were excellent in reviewing both state and federal regulations and would go so far, in some instances, as to provide preliminary compliance determinations for some federal standards that VTDEC hasn't been delegated enforcement authority.

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## **Explanation:**

Of the 29 files reviewed (files for two sources were reviewed for two separate fiscal years to include past failed stack tests so a total of 29 files were reviewed for 27 different sources), 22 contained CMR reports. Of the remaining 7 files, the files were reviewed due to informal enforcement actions taken that were not based on inspections (three were based on failed tests, two were based on failure to submit required reports and two were based on failure to pay registration fees).

Minor deficiencies found in most CMR reports included the following: not reporting whether the CMR report was for a full compliance evaluation (FCE) or for a partial compliance evaluation (PCE) (the reports just indicated either "Compliance Inspection" or "Facility Inspection"); not reporting the size classification of the source inspected (i.e., Title V major source or SM80 source); and not providing a telephone number for the contact person at the facility being inspected.

In 5 out of the 22 files reviewed where an FCE was reported as being done (although the CMR reports didn't identify the inspections as FCEs this was confirmed by VTDEC in each case), the CMR reports lacked some documentation to indicate that the inspectors had evaluated compliance and made compliance determinations for each applicable regulation that applied at a facility. For instance, the inspectors would report that they were not evaluating whether facilities were maintaining records for 5 years, which was a permit condition. In addition, the inspectors would generally report that they were not evaluating standard administrative requirements found in the permits associated with the facilities inspected. All but one of these standard administrative requirements found in the permits were just statements of fact that did not require a compliance evaluation, but one such condition did require facilities to employ good engineering practices during periods of startup/shutdown/malfunction for which a compliance evaluation should have been made. EPA recommends that for the standard administrative conditions that are just statements of fact that the inspectors note in the "Permit Review" section of the report, under the applicable condition, that these requirements are just statements of fact that require no compliance evaluation.

In addition, it was found that in some instances the compliance determinations were too broad in scope to verify that a compliance determination was made. For example, the inspectors would report on, in the "Permit Review" section of the CMR reports, various items such as testing, boiler tune-ups and recordkeeping where the compliance evaluations were unclear. Regarding testing, the inspectors would indicate that tests had been performed at a facility, but not indicate whether the test reports were reviewed and demonstrated compliance. In addition, regarding boiler tune-ups subject to federal standards, the inspectors would indicate that the tune-ups were performed, but not whether the tune-ups and other associated criteria were being complied with. Lastly, the inspectors would provide statements indicating that for engines subject to federal standards that logbooks on operation and maintenance were being kept without indicating that these logbooks were reviewed to determine if the operation and maintenance requirements were being met. EPA strongly recommends that the inspectors provide more clear and precise compliance evaluations in their CMR reports for all applicable state and federal requirements.

The CMR reports were excellent in reviewing both state and federal regulations and would go so far, in some instances, as to provide preliminary compliance determinations for federal standards for which VTDEC hasn't been granted delegation and doesn't currently have enforcement authority.

EPA has a general policy that inspection reports be completed within 60 days of conducting an FCE or PCE, but in no case later than 90 days. EPA Region I's Air Compliance Section has had a 30-day policy in effect for several years. Of the 22 CMR reports reviewed, only 2 were completed within 30 days of the inspection, an additional 11 within 60 days of inspection and 9 were not completed until more than 90 days past the inspection date, with a couple outliers being completed 179 days and 215 days after the inspection date. EPA discussed these findings with VTDEC and was informed that in most cases the inspectors have most of the inspection report completed, awaiting additional information from the source, and wait to finalize the report until after all information is provided and complete. EPA suggests finalizing the reports shortly after the inspections occur, while the information ascertained during the inspections is still fresh in the inspectors' minds, and provide addendums to the reports, as necessary, as information is provided

by the inspected facility. The CMR reports should be a description of the findings and observations made during the inspection itself.

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**Relevant metrics:**

<b>Metric ID Number and Description</b>	<b>Natl Goal</b>	<b>Natl Avg</b>	<b>State N</b>	<b>State D</b>	<b>State %</b>
6a Documentation of FCE elements [GOAL]	100%		17	22	77.3%
6b Compliance monitoring reports (CMRs) or facility files reviewed that provide sufficient documentation to determine compliance of the facility [GOAL]	100%		22	29	75.9%

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**State Response:**

VTAQCD has already begun adding the aforementioned missing information in our CMRs including Evaluation type, size classification and facility telephone contact information.

With a limited universe, where certain sectors are inspected annually, VTAQCD did not feel that the reviewing records that had already been reviewed in previous recent inspections (within 5 years) is worthwhile. This can be a time-consuming effort and if duplicative from previous years can be a resource drain. However, VTAQCD understands the need to better review records going back 5 years, especially with facilities not recently inspected and will provide more scrutiny toward recordkeeping overall and documents better within our CMRs. VTAQCD will also increase scrutiny over good housekeeping practices during start-up shutdown and malfunction, as well as more thorough evaluations of federal boiler and engine requirements.

As discussed with Region 1 during the Round 4 SRF drafting, our inspectors have their CMRs near completion within a short time after the FCE/PCE, however we can often be significantly delayed in receiving additional data to ascertain compliance from many sources. Since the last SRF, VTAQCD has become much more adept at using our information request regulation to help in obtaining information in a timely manner. While we do not feel that any information gathered during the FCE/PCE is lost when we do not meet the required CMR production time, however we understand the need to meet federal requirements and will continue to improve in this area. Should follow up information continue to be difficult to obtain, VTAQCD will began to finalize CMRs and add supplemental files to the CMRs once all the data is collected.

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**CAA Element 3 - Violations**

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**Finding 3-1**

Meets or Exceeds Expectations

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**Summary:**

VTDEC does an excellent job of documenting violations and making accurate compliance and HPV determinations.

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**Explanation:**

In 22 out of the 29 files reviewed (files for two sources were reviewed for two separate fiscal years to include past failed stack tests so a total of 29 files were reviewed for 27 different sources), there were some actionable violations noted. In all 22 files with actionable violations, and the remaining 7 files where no violations were found, VTDEC made accurate compliance and HPV determinations, based on inspections, stack test report reviews, and various other types of report reviews. HPV determinations are a collaborative effort between VTDEC and EPA. On an ongoing basis, at a minimum of once per quarter, VTDEC and EPA discuss the enforcement actions (informal and formal) taken by VTDEC to determine whether any of the violations meet the HPV criteria. The ultimate HPV determination is mutually agreed by both VTDEC and EPA. In the 5 files reviewed without violations, the compliance determinations made appeared accurate based on the CMR reports, where applicable, or other information found in the file.

With regards to one Title V source with a failed engine test for carbon monoxide, both VTDEC and EPA met and mutually agreed that the violation did not warrant increased scrutiny by EPA and decided not to include the violation as an HPV. The rationale for this decision was because the excess emission was less than 500 pounds of carbon monoxide and the facility took expeditious action to achieve compliance by overhauling the engine four months early, which likely resulted in lower emissions of particulate matter, nitrogen oxides and volatile organic compounds, as well as carbon monoxide. In addition, VTDEC didn't have records to determine whether the engine operated for more than 168 hours after the failed test since the unit was only operated intermittently.

Regarding three other failed stack tests, these were all at SM80 facilities. One failed test was for hydrogen flouride and two were for particulate matter. As such these would be considered FRVs, but not HPVs.

A review of support Metric 7a1 related to the discovery rate of federally-reportable violators (FRVs) based on inspections at active CMS sources as well as support Metric 8a related to the high priority violator (HPV) discovery rate at major sources indicates that VTDEC is below the national average for both of these metrics. This does not appear to be an issue with regards to making accurate compliance determinations; however, as noted in Finding 1-2, VTDEC should have reported 12 additional FRVs into ICIS. Taking into account the additional 12 FRVs, for which enforcement action was taken, the accurate number of FRVs found that pertain to Metric 7a1 should be 17 FRVs identified per 76 active CMS sources (22.4%), which is well above the national average of 8.1%. With regards to HPVs, Vermont has only had 8 to 12 Title V major sources over the past 5 years, with only 8 such sources reported in FFY 2022, so the fact that VTDEC has not

identified any HPVs in recent years is not concerning and file reviews of 6 Title V sources during this SRF audit did not indicate that any identified violations would meet the HPV criteria.

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**Relevant metrics:**

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State %
7a Accurate compliance determinations [GOAL]	100%		29	29	100%
7a1 FRV 'discovery rate' based on inspections at active CMS sources		8.1%	5	76	6.6%
8a HPV discovery rate at majors		2.5%	0	8	0%
8c Accuracy of HPV determinations [GOAL]	100%		22	22	100%
13 Timeliness of HPV Identification [GOAL]	100%	87.8%	0	0	N/A

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**State Response:**

Vermont has already and will continue to improve its reporting of FRVs.

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**CAA Element 4 - Enforcement**

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**Finding 4-1**

Area for Attention

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**Summary:**

VTDEC does an excellent job of taking appropriate informal enforcement that includes corrective actions to get a non-complying facility back into compliance expeditiously. Providing "early warning notice" to facilities with violations to expedite their return to compliance was considered a "Good Practice" in past SRF rounds.

VTDEC is not always following through with formal enforcement where EPA believes it is warranted.

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**Explanation:**



VTDEC took informal and/or formal enforcement actions against 22 out of the 27 facilities (29 files) where files were reviewed (8 for FFY 2022, 2 for FFY 2021, 2 for FFY 2020, 9 for FFY 2019 and 1 for FFY 2018). A total of 23 informal (2 separate informal actions taken against 1 source) and 3 formal enforcement actions were taken against these 22 facilities (another formal enforcement action is planned but not yet taken). The informal and formal enforcement actions included corrective actions to be taken to return the violating source to compliance expeditiously. VTDEC should be commended for its use of an early warning notice, through its use of informal enforcement actions issued to violators, to help expedite their return to compliance. This has been considered a Good Practice in earlier SRF Reviews.

Based on the file review, EPA believes VTDEC should have taken formal enforcement in 6 cases where only informal enforcement was sought. In 4 of these cases, the violations were for failed stack tests. The two other cases concerned a reporting violation and a records violation. Although Metric 9a indicates that 3 out of 3 formal enforcement actions were taken that included required corrective actions, which would be a finding of “Meets or Exceeds Expectations”, there were an additional 6 FRVs where EPA believes formal enforcement should have been taken where it wasn’t, resulting in an overall finding of “Area for State Attention”.

With regards to the four failed stack tests, VTDEC decided not to pursue formal enforcement against one Title V source with a failed engine test for carbon monoxide since the excess emission was less than 500 pounds of carbon monoxide and the facility took expeditious action to achieve compliance by overhauling the engine four months early, which likely resulted in lower emissions of particulate matter, nitrogen oxides and volatile organic compounds, as well as carbon monoxide. With regards to the other three failed stack tests at SM80 sources, the excess emissions (for hydrogen flouride in one case and particulate matter in two cases) were considered to be minimal so VTDEC decided to forego formal enforcement.

In the reporting case, the facility continually failed to submit reports for a federal standard regarding boilers.

In the records case, the facility failed to promptly submit required records/information requested during an inspection so that timely and proper compliance evaluations couldn’t be made.

The final decision regarding whether or not to pursue formal enforcement lies within VTDEC and, once referred for formal enforcement, includes legal advice from the Enforcement & Litigation Section, which is part of the VT Agency of Natural Resources Office of General Counsel, which was created to handle enforcement and appeals litigation not only for the VTDEC, but also for the Department of Fish and Wildlife and the Department of Forest, Parks, and Recreation, which are three departments housed in the VT Agency of Natural Resources. During the course of its review, EPA found that some enforcement-related materials were not housed with VTDEC. For completeness and confidentiality purposes, the final enforcement-related materials are housed in a centralized location within the Enforcement and Litigation Section and shared with VTDEC as necessary.

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**Relevant metrics:**

<b>Metric ID Number and Description</b>	<b>Natl Goal</b>	<b>Natl Avg</b>	<b>State N</b>	<b>State D</b>	<b>State %</b>
9a Formal enforcement responses that include required corrective action that will return the facility to compliance in a specified time frame or the facility fixed the problem without a compliance schedule [GOAL]	100%		3	3	100%
10a Timeliness of addressing HPVs or alternatively having a case development and resolution timeline in place	100%		0	0	N/A
10a1 Rate of Addressing HPVs within 180 days		36.1%	0	0	N/A
10b Percent of HPVs that have been addressed or removed consistent with the HPV Policy [GOAL]	100%		0	0	N/A
10b1 Rate of managing HPVs without formal enforcement action		7.2%	0	0	N/A
14 HPV case development and resolution timeline in place when required that contains required policy elements [GOAL]	100%		0	0	N/A

**State Response:**

It should be noted that some violations where formal enforcement and penalties were not sought by VTDEC occurred during the pandemic. Where due to restructuring operations and limited resources, emphasis was placed on a return to compliance and not on monetary penalty deterrence for a period of time.

**CAA Element 5 - Penalties**

**Finding 5-1**

Area for Improvement

**Summary:**

VTDEC does an excellent job of calculating the gravity portion of its penalties.

VTDEC is not usually providing sufficient documentation regarding economic benefit.

VTDEC is not documenting the difference between initial and final penalty amounts.

VTDEC does an excellent job of documenting that penalties have been collected.

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**Explanation:**

A total of 4 out of the 29 files reviewed included penalties (all 4 were for non-HPV case files reviewed). In one case, the penalty has yet to be collected awaiting a decision by the Bankruptcy Court on the payout of funds. In another case, the enforcement action has yet to be taken but the proposed penalty had been calculated. Penalties have been assessed and collected for the remaining two sources.

VTDEC did an excellent job of calculating and documenting the gravity component of the penalty in each case using their “Administrative Penalty Form.”

With regards to economic benefit, VTDEC did not appear to be documenting whether economic benefit was being properly evaluated. In one penalty case file reviewed, the “Administrative Penalty Form” just reported that economic benefit was \$0 without providing any rationale for not assessing economic benefit. In two other penalty case files reviewed, the “Administrative Penalty Form” for each case indicated that economic benefit might be pursued depending on certain factors not yet evaluated. VTDEC did not have any more recent versions of the penalty forms for these two cases that actually indicated whether economic benefit was assessed as part of the final penalty. In one penalty case file reviewed, where formal enforcement has yet to be taken, the economic benefit was deemed insignificant and there was an adequate explanation for not assessing any economic benefit as part of the final penalty. (In order to review a representative number of formal enforcement cases with penalties, EPA had to go back to prior years, before VTDEC implemented its revised guidance concerning economic benefit, which resulted from findings from the last SRF review. As a result, there were not enough penalty cases to review since the guidance was implemented to make a comprehensive finding. As such, EPA believes the below recommendation is necessary).

In all 3 penalty cases reviewed where enforcement has already been taken, the final assessed penalty was lower than the initial proposed penalty due to settlement negotiations. No penalty justification memos were found in the files for any of these 3 penalty cases. However it was later determined that the final enforcement-related materials are housed in a centralized location within the Enforcement and Litigation Section and shared with VTDEC as necessary.

In the 2 penalty cases where the penalty was paid, documentation was found in the files that the penalties had been paid.

EPA strongly recommends that VTDEC and the Enforcement & Litigation Section of the VT Agency of Natural Resources do a better job of maintaining and sharing penalty documentation

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**Relevant metrics:**

<b>Metric ID Number and Description</b>	<b>Natl Goal</b>	<b>Natl Avg</b>	<b>State N</b>	<b>State D</b>	<b>State %</b>
11a Penalty calculations reviewed that document gravity and economic benefit [GOAL]	100%		1	4	25%
12a Documentation of rationale for difference between initial penalty calculation and final penalty [GOAL]	100%		0	3	0%
12b Penalties collected [GOAL]	100%		2	2	100%

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**State Response:**

EPA makes a number of findings in its Explanation above regarding economic benefit, location of file materials, and documentation of final penalty amounts and justifications for those amounts. EPA did not consult with the Enforcement & Litigation Section before making any of these findings. DEC worked cooperatively with EPA following the prior SRF audit to develop guidance on this topic. DEC and EPA did not complete this process until December 18, 2020, and it was not rolled out to Enforcement & Litigation staff until after that time. Any cases reviewed as part of the current SRF audit where penalty calculations were completed prior to that timeframe may not reflect this current approach. Of the four formal enforcement cases reviewed by EPA, for one case, the penalty calculation was completed in 2018, prior to the collaborative efforts that resulted in economic benefit guidance discussed earlier in this report. The case file contains a Case Closure Form. For the second case, the penalty calculation was completed in 2019, prior to the collaborative efforts that resulted in economic benefit guidance referred to earlier in this report. The case file contains a Case Closure Form. For the third case, which was initiated in 2023 after economic benefit guidance had been developed, the calculation form contains an assessment that there was no economic benefit, in accordance with new guidance. This case was pending at the time of EPA's review. It is now closed and has a Case Closure Form in the file. As a general practice, penalty calculation forms are completed by the regulatory program in consultation with the assigned Enforcement & Litigation attorney. Once finalized, the regulatory program signs the form electronically and sends it to the assigned attorney to include as part of the enforcement case file. Once a case is concluded, the assigned attorney completes a Case Closure Form which contains the final penalty amount and identifies the rationale for any reductions beyond its standard 25% reduction. This form is included as part of the enforcement case file. The Enforcement & Litigation Section maintains the enforcement case file on behalf of the Agency and its regulatory programs. Information is shared with these programs as requested. For the fourth case, handled by the Vermont Attorney General's Office (Hearth and Home Technologies), this case concluded in August 2020, prior to the collaborative efforts that resulted in economic benefit guidance discussed earlier in this report. The final case materials are held by their office.

DEC submits that while the CAA cases reviewed during this SRF did not contain economic benefit, that assessment is due to the nature of each specific case, and that it does assess economic benefit when able. This SRF confirms that approach based on RCRA Finding 5-1 below: “EPA has determined during this review that, following implementation of a working penalty calculation policy which requires the consideration of economic benefit in penalty actions, VT DEC has taken on the previous SRF recommendations regarding the inclusion of economic benefit in penalty calculation. From the six penalty actions reviewed by EPA for this SRF, the two most recent cases from FY22 levied economic benefit penalties as part of the penalty calculations and justified economic benefit exclusion from certain delayed costs. Although the other penalty actions did not adequately consider economic benefit, as these cases were subject to review during the last SRF and therefore occurred prior to VTDEC’s implementation of an economic benefit policy, EPA believes that economic benefit is now adequately considered by VTDEC.”

In sum, the cases for which EPA bases its assessment on either fall prior the collaborative efforts discussed above or follow the current guidance, and the Agency files do in fact contain documentation on final penalty amounts and justifications, which are available.

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**Recommendation:**

Rec #	Due Date	Recommendation
1	03/31/2025	EPA, on a quarterly basis, for four quarters, will review VTDEC formal enforcement actions and penalty documentation and discuss these with VTDEC to ensure VTDEC and the Enforcement & Litigation Section of the VT Agency of Natural Resources are evaluating and documenting economic benefit assessments, in order to review a representative number of formal enforcement cases to make a comprehensive finding. The quarterly meetings will also be used to discuss FRVs/HPVs to ensure that VTDEC is taking formal enforcement as necessary.

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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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### **Summary:**

During the time period reviewed, VT DEC generally maintained accurate data and reported activities in a timely manner to RCRAInfo. The files selected for review were accurately represented when compared to the SRF review metrics and the Data Metric Analysis (DMA) in ECHO.

Although the DMA for FY22 showed 23 long standing secondary violators, all but two of these long-standing secondary violators were closed out prior to the start of the review during FY23. EPA has therefore determined that VTDEC had implemented recommendations from previous SRF reviews to address long-standing secondary violators where the data was sufficient to close out violations.

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### **Explanation:**

Twenty-seven files were reviewed to determine VT DEC's adherence to the minimum data requirements. Most of the files selected were accurately represented in RCRAInfo. During its review, EPA noted that two facility records did not link the violations recorded as part of the inspection data in the resulting Notices of Alleged Violation (NOAV) in RCRAInfo, one facility record had a typographical error in the inspection date, and one facility listed only a portion of the violations for its NOAV (all violations were included in the inspection tab). Although these discrepancies were noted, there were ultimately no missing violations for any file and all violations were included in the inspection component of the RCRAInfo listing. As such, EPA concludes that VT DEC is meeting the data accuracy metric.

Although Metric 2a identifies 23 sites which appear to be long-standing secondary violators. As of FY23, all of the long-standing secondary violators have been closed out. VT DEC is adequately addressing long-standing secondary violators.

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### **Relevant metrics:**

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Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State %
2a Long-standing secondary violators			23		23
2b Accurate entry of mandatory data [GOAL]	100%		27	27	100%

**State Response:**

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**RCRA Element 2 - Inspections**

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**Finding 2-1**

Meets or Exceeds Expectations

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**Summary:**

VT DEC exceeded its mandatory annual inspection coverage of Large Quantity Generators (LQGs) and completed its mandatory two-year inspection coverage of operating Treatment, Storage, and Disposal Facilities (TSDFs). VTDEC completed 100% of its 2-year TSDF coverage and inspected 27.3% of its LQG universe, exceeding the national 20% mandatory LQG coverage goal. Inspection reports are written with sufficient detail to determine compliance with hazardous waste regulations and had an average date to completion of 47 days across the 27 inspection files.

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**Explanation:**

VT DEC inspected 9 of its 43 BR LQGs (the universe of active LQGs is 33 facilities), exceeding its minimum inspection coverage requirements. Additionally, VT DEC inspected all 5 of its operating TSDFs within 2 years.

Since the last SRF, VTDEC has implemented a policy requiring a file naming convention for inspection reports that allows for an easy review of inspection timeliness. Among the twenty-seven files reviewed, only one inspection took over 150 days to finalize the inspection report. As this inspection took place while the lead inspector was transitioning into a new position, and as it was the only file with such a discrepancy, EPA believes that VT DEC is adequately implementing its inspection program.

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**Relevant metrics:**

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<b>Metric ID Number and Description</b>	<b>Natl Goal</b>	<b>Natl Avg</b>	<b>State N</b>	<b>State D</b>	<b>State %</b>
5a Two-year inspection coverage of operating TSDFs [GOAL]	100%	87.6%	5	5	100%
5b Annual inspection of LQGs using BR universe [GOAL]	20%	16.8%	9	43	20.9%
5b1 Annual inspection coverage of LQGs using RCRAinfo universe [GOAL]	20%	8.8%	9	33	27.3%
5d1 Number of SQGs inspected			23		23
6a Inspection reports complete and sufficient to determine compliance [GOAL]	100%		27	27	100%
6b Timeliness of inspection report completion [GOAL]	100%		26	27	96.3%

**State Response:** No comment provided

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

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#### **Finding 3-1**

Meets or Exceeds Expectations

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#### **Summary:**

VT DEC does an excellent job of identifying violations from its inspections and makes accurate compliance determinations from the relevant case facts. VT DEC also does a good job of accurately determining SNCs.

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#### **Explanation:**

EPA evaluated the inspection reports/checklists, enforcement documents, and enforcement actions for violations resulting from compliance determinations. VT DEC identified violations at a rate well above the national average and was within range of the typical SNC determination rate.

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#### **Relevant metrics:**

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<b>Metric ID Number and Description</b>	<b>Natl Goal</b>	<b>Natl Avg</b>	<b>State N</b>	<b>State D</b>	<b>State %</b>
7a Accurate compliance determinations [GOAL]	100%		27	27	100%
7b Violations found during CEI and FCI inspections		39%	45	72	62.5%
8a SNC identification rate at sites with CEI and FCI		1.8%	2	132	1.5%
8c Appropriate SNC determinations [GOAL]	100%		6	6	100%

**State Response:** No comment provided

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

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

Area for Attention

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#### **Summary:**

Neither of the two SNC determinations were identified within 150 days of Day Zero of the inspection.

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#### **Explanation:**

Although VT DEC did not meet the 150-day time limit for either of its SNC determinations for FY22, EPA did not determine that this is necessarily indicative of any serious deficiencies in VT DEC's adherence to the SNC timeliness policy. VT DEC informed the EPA that, during the period of review, VT DEC was understaffed and undergoing a RCRA rule-making process concurrent with the period of review. EPA believes, therefore, that there were mitigating factors in trying to adhere to this policy. Additionally, one of the SNC determinations was for an inspection that was referred to the Vermont Attorney General's Office and the other was carried out in conjunction with the VT CAA program, both of which delayed the final SNC determination. Although SNC determinations were not made within 150 days, the actions to address the SNCs were issued well within the 360 day timeframe. As VT DEC has already implemented a new enforcement recommendation memo policy, under which SNC determinations are made at the point of being referred to offices whose timelines are beyond the control of VT DEC, EPA has no comments other than that it expects VT will adhere to that policy. Following FY22, Vermont has increased its hiring and is now at full staffing capacity, and therefore, in conjunction with its adherence to the enforcement recommendation memo policy, EPA does not anticipate that SNC determinations will be delayed beyond the 150-day time limit. VT DEC also noted to EPA that standardized national requirements regarding the assignation of an SNY determination will ensure time limits are being enforced uniformly.

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**Relevant metrics:**

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State %
8b Timeliness of SNC determinations [GOAL]	100%	90.9%	0	2	0%

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**State Response:** No comment provided

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**RCRA Element 4 - Enforcement**

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**Finding 4-1**

Meets or Exceeds Expectations

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**Summary:**

VT DEC actions were issued well within 150 days of Day Zero for FY22. Although EPA reviewed files from previous fiscal years where the final formal action took several years to resolve, EPA does not have any recommendations regarding these actions as the initial informal actions taken in these cases were both timely and sufficient to return facilities to compliance and as these cases contained multi-media components that were beyond VT DEC's control. VT DEC makes it a policy to issue informal actions promptly after inspections in order to return facilities to compliance regardless of whether a formal action is ultimately assessed for the facility in question.

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**Explanation:**

Twenty-seven files were reviewed by EPA where formal, informal, and no actions were taken against facilities. All cases where violations were found had sufficient documentation to substantiate the alleged violations. For cases in which no violations were observed, the inspection reports were also sufficient to demonstrate this conclusion. VTDEC does an excellent job in providing thorough inspection reports, determining violations, and returning facilities to compliance.

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**Relevant metrics:**

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<b>Metric ID Number and Description</b>	<b>Natl Goal</b>	<b>Natl Avg</b>	<b>State N</b>	<b>State D</b>	<b>State %</b>
9a Enforcement that returns sites to compliance [GOAL]	100%		27	27	100%
10a Timely enforcement taken to address SNC [GOAL]	80%		2	2	100%
10b Appropriate enforcement taken to address violations [GOAL]	100%		27	27	100%

**State Response:** No comment provided

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### **RCRA Element 5 - Penalties**

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#### **Finding 5-1**

Meets or Exceeds Expectations

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#### **Summary:**

Following the implementation of its penalty calculation policy in response to recommendations from previous SRFs, VT DEC has both considered and documented economic benefit in its most recent formal enforcement actions. Both penalty cases from FY22 adequately considered economic benefit in penalty calculation.

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#### **Explanation:**

EPA has determined during this review that, following implementation of a working penalty calculation policy which requires the consideration of economic benefit in penalty actions, VT DEC has taken on the previous SRF recommendations regarding the inclusion of economic benefit in penalty calculation. As per SRF guidance, since the universe of formal action files was two, which is less than 5, EPA reached back to review files prior to FY22. The enforcement and penalty information for the four additional files reviewed had been addressed in the prior SRF review of VTDEC's program and are not included in metric 6b.

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#### **Relevant metrics:**

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Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State %
11a Gravity and economic benefit [GOAL]	100%		2	2	100%

**State Response:**

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**RCRA Element 5 - Penalties**

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**Finding 5-2**

Area for Attention

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**Summary:**

From the 6 penalty cases reviewed, VT DEC appears to offer 25% penalty reductions to all facilities, regardless of the nature of violations, which they say is in recognition of the general litigation risks associated with penalty actions and the desire for an expedient resolution of the matter. While EPA does not have any comments on penalty reduction based on litigation risk and expediency, VT DEC, for one of its penalty actions, negotiated a final penalty that was higher than the presumably final offer listed in the final penalty form following this standard 25% penalty reduction.

Additionally, in one of the reviewed cases, EPA observed a deterrent penalty applied to the final penalty for a facility with no justification or explanation attached to this increase in assessed penalty.

For all 6 of the penalty cases reviewed by the EPA, VT DEC had grouped at least three violations into a single calculated violation without any justification for this grouping. Although two of the cases reviewed were handled by the Vermont Attorney General's office, EPA recommends that Vermont institute a policy requiring an explanation for any consolidation of violations into a single penalty count.

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**Explanation:**

All of the final case closure forms offer a 25% reduction to the penalty as a matter of course, which is not justified in the language of the form beyond the expression "standard settlement amount", which is clarified on the form with an instruction to perform a standard 25% penalty reduction. Additionally, for one of the penalty cases, although the final case closure form lists a standard settlement amount which factors in this standard 25% reduction, the final settlement amount cited on this form is higher than the calculated settlement amount. This increase in penalty is not documented on the form beyond a note that the facility had agreed to the final settlements. Additionally, for one of the penalty cases reviewed, which was referred to the Attorney General's

office, there was no documentation of why the final penalty was less than the assessed penalty from the various penalty forms. From the last SRF follow-up communication, EPA and VT DEC created model language for the justification of 25% reductions to penalties, when applied, and discussed the use of the form's comment box to discuss any deviation from this practice of reducing the penalty amount for litigation risk and expedient settlement. EPA believes that VT DEC will use this agreed upon language for the 25% reduction to reflect that the 25% reduction is not applied indiscriminately. EPA also believes that, if the final negotiated penalty differs from the standard 25% reduction policy in place in Vermont, Vermont will include a description in the comment box of its final case closure form of why this reduction was not applied. Lastly, EPA believes that Vermont will not include a calculated standard settlement amount that is lower in value to the final assessed penalty in future cases.

For the case in which a deterrent penalty was applied, the case folder did not offer any explanation for this increase in penalty. Although VT DEC explained that the deterrent penalties are applied on a case-by-case basis and applied to facilities based on previous, similar violations and are scaled depending on the size of the facility, these considerations must be noted in any case documentation as penalty increases cannot appear to be arbitrarily decided owing to a lack of thorough documentation. VT DEC noted to the EPA that any failure to include this justification would be an inadvertent omission. As above, EPA believes that VT DEC, if deterrent penalties are levied in future cases, will specify the calculations used to arrive at any such penalty in the existing comment boxes in Vermont's penalty calculation documents.

From the six penalty actions reviewed as part of this SRF, Vermont grouped at least three and as many as nine violations into at least one single count as part of the final penalty calculation. Although some of the counts that were grouped together were from the same part of the regulations, this was not the norm as, for five of the cases reviewed, there were violations from disparate sections of the regulations. Additionally, several of the violations that were consolidated into a single count did not have an obvious reason for this consolidation. An example of this is the consolidation of labeling requirements, storage in excess of 180 days, storage in excess of the generator's weight limit, storage not on an impermeable surface, storage not adequately protected from the elements, spill and fire equipment requirements, dating of containers of hazardous waste, aisle space requirements, and open containers into a single count of "container management". Vermont noted to EPA that "ANR may, in its discretion, treat each group of violations as a single violation or assess separate penalties for each violation. Factors considered may include but are not limited to whether the activity results in a multiple violation of the same statute, rule, or permit or violations of different statutes, rules, or permits; whether the violations involve the same or similar types of regulated activities or arise from separate actions; whether the activity results in varying degrees of actual or potential harm to different aspects of human health or the environment; whether the purposes of 10 V.S.A. Chapter 201 are served by treating multiple violations as a single violation for purposes of the penalty assessment, and other considerations on a case-by-case basis. Typically the rationale would be noted on the form, and so if it isn't present on any reviewed [files], it would be an inadvertent omission." After discussion with VT DEC, EPA believes that Vermont will use its existing penalty calculation forms to justify the consolidation of any violations into a single count, which will be bolstered by Vermont's general best practice of how violations are consolidated.

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**Relevant metrics:**

<b>Metric ID Number and Description</b>	<b>Natl Goal</b>	<b>Natl Avg</b>	<b>State N</b>	<b>State D</b>	<b>State %</b>
12a Documentation of rationale for difference between initial penalty calculation and final penalty [GOAL]	100%		4	5	80%

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**State Response:**

No comment provided.

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**RCRA Element 5 - Penalties**

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**Finding 5-3**

Meets or Exceeds Expectations

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**Summary:**

VTDEC provides clear documentation on the penalties collected and documentation on the status of any uncollected penalties.

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**Explanation:**

Six final penalty actions were reviewed by EPA. All penalty actions that have officially been levied against facilities have been collected, for which Vermont maintains a spreadsheet record. One of the files reviewed has yet to be finalized into a final action and therefore penalty collection has yet to occur.

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**Relevant metrics:**

<b>Metric ID Number and Description</b>	<b>Natl Goal</b>	<b>Natl Avg</b>	<b>State N</b>	<b>State D</b>	<b>State %</b>
12b Penalty collection [GOAL]	100%		5	5	100%

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**State Response:** No comment provided.