

STATE REVIEW FRAMEWORK

Kentucky

**Clean Water Act, Clean Air Act, and
Resource Conservation and Recovery Act
Implementation in Federal Fiscal Year 2024**

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

**Final Report
August 13, 2026**

I. Introduction

A. Overview of the State Review Framework

The State Review Framework (SRF) is a key mechanism for the 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, the EPA periodically reviews such programs using a standardized set of metrics to evaluate their performance against performance standards laid out in federal statute, the 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 the 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 the 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 the EPA until completed and program performance improves.

The SRF is currently in its 5th Round (FY2024-2028) of reviews, preceded by Round 4 (FY2018-23), 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 the EPA and program contact information, metric values, performance findings and explanations,

program responses, and the 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 the 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 purpose of conducting a standardized review, SRF categorizes performance into three findings levels:

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

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

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

C. Recommendations for Corrective Action

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

III. Review Process Information

Key Dates:

CAA Virtual file review: August – October 2025

CWA Virtual file review: August – September 2025

RCRA Virtual file review: October 2025

Commonwealth and EPA Contacts for the review:

	Kentucky Department for Environmental Protection Division of Enforcement	EPA
SRF Contact		Denis B. Kler, SRF Coordinator
CAA	Mark J. Cleland Jarrod Bell Courtney Shattuck Jonathan Barker Troy Tabor	Denis B. Kler, Policy Oversight & Liaison Office Andrew Mills, Air Enforcement Branch
CWA	Mark J. Cleland	Laurie Jones, Policy Oversight & Liaison Office Dennis Sayre, Water Enforcement Section
RCRA	Mark J. Cleland Jesse Sandlin Scott Gerstner Jarrod Bell Philip Kejzlar	Dave Hoffman, OECA Kayla Acosta, RCRA Enforcement Section Alexis Wilson, RCRA Enforcement Section Raj Aiyar, RCRA Enforcement Section

Executive Summary

Clean Water Act (CWA)

Areas of Strong Performance

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

The Kentucky Department for Environmental Protection (KY DEP) met the national goals for the entry of permit limits and discharge monitoring reports into the national Integrated Compliance Information System (ICIS) database for National Pollutant Discharge Elimination System (NPDES) major and non-major facilities. In addition, data accuracy between files reviewed and data reflected in the national data system also met the national goal.

Priority Issues to Address

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

Metric 11a file review shows that the KY DEP CWA program does not consistently document adequate rationale for the economic benefit component in penalty. This metric was an Area for Attention in Round 4 of the SRF.

The KY DEP met most of its FY 2024 inspection commitments but did not meet its FY 2024 inspection commitment for pretreatment audits and pretreatment compliance inspections.

Clean Air Act (CAA)

Areas of Strong Performance

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

The KY DEP was timely in reporting compliance monitoring minimum data requirements (MDRs) and enforcement MDRs in ICIS-Air.

Priority Issues to Address

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

The KY DEP was not timely in reporting stack tests and stack test results in ICIS-Air. The KY DEP also had discrepancies in the accuracy of MDRs entered in ICIS-Air.

Resource Conservation and Recovery Act Findings (RCRA)

Areas of Strong Performance

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

The KY DEP's RCRA MDRs for compliance monitoring and enforcement activities were complete in RCRA Info.

The KY DEP met national goals for inspection coverage at treatment, storage, and disposal facilities (TSDFs), large quantity generators (LQGs) and reverse distributor (RD) universes combined.

The KY DEP's hazardous waste program inspection reports were complete, timely and provided appropriate documentation to determine compliance with the facilities.

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

The KY DEP consistently issues enforcement responses that returned or will return a facility in SNC or secondary violation (SV) to compliance.

Priority Issues to Address

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

The KY DEP did not consistently document economic benefit in penalty calculations reviewed.

End Executive Summary

Clean Water Act Findings

CWA Element 1 - Data

Finding 1-1

Meets or Exceeds Expectations

Recurring Issue:

No

Summary:

The KY DEP met the national goals for the entry of permit limits and discharge monitoring reports into the national ICIS database for National Pollutant Discharge Elimination System (NPDES) major and non-major facilities. In addition, data accuracy between files reviewed and the data reflected in the national data system also met the national goal.

Explanation:

The KY DEP met or exceeded National Goals for the entry of key data metrics (1b5 and 1b6) for major and non-major facilities. For the FY 2024 period of review, the KY DEP entered 100% of their permit limits and 97.3% of discharge monitoring reports for NPDES major and non-major facilities. Metric 2b measures the accuracy of data reflected between the files and the ICIS database and showed that the data was accurately reflected in 91.7% of the files, also meeting the national goal. Metric 2b was an Area for Attention in Round 4, so this Round shows improvement.

Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State Numerator (N)	State Denominator (D)	State %
1b5 Permit limit data entry rate for major and non-major facilities	95%	99.9%	1271	1271	100%
1b6 Discharge monitoring report (DMR) data entry rate for major and non-major facilities.	95%	95.9%	29470	30275	97.3%
2b Files reviewed where data are accurately reflected in the national data system [GOAL]	100%	N/A	33	36	91.7%

State Response:

CWA Element 2 - Inspections

Finding 2-2

Area for Improvement

Recurring Issue:

No

Summary:

The KY DEP met most of its FY 2024 inspection commitments but did not meet its FY 2024 inspection commitment for pretreatment audits and pretreatment compliance inspections.

Explanation:

Metrics 4a1 – 4a10 measure the planned inspections completed and metrics 5a1 and 5b1 measure the inspection coverage for NPDES majors and non-majors. The National Goal for these metrics is 100% of state specific Compliance Monitoring Strategy (CMS) Plan commitments. The FY 2024 inspection commitments listed in the table below are from the CWA § 106 Workplan end of year (EOY) report. For FY 2024, the KY DEP had an approved alternate CMS Plan for coal industrial stormwater inspections, with a requirement to conduct 62 inspections, which was met and is included in Metric 4a8 in the table below. Based on review of the KY DEP CWA §106 Workplan EOY report, the KY DEP met its CMS Plan inspection commitments in FY 2024,

except for pretreatment. For pretreatment facilities, the KY DEP committed to 30 compliance inspections and 15 audits (which are combined in the table below under Metric 4a8), however, the KY DEP conducted 12 and 1, respectively, which equates to 28.9% of the required 100% of commitment.

Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State %
4a1 Number of pretreatment compliance inspections and audits at approved local pretreatment programs. [GOAL]	100% CMS	N/A	13	45	28.9%
4a4 Number of CSO inspections. [GOAL]	100% CMS	N/A	2	2	100%
4a5 Number of SSO inspections. [GOAL]	100% CMS	N/A	12	11	109.1%
4a7 Number of Phase I and II MS4 audits or inspections. [GOAL]	100% CMS	N/A	23	21	109.5%
4a8 Number of industrial stormwater inspections. [GOAL]	100% CMS	N/A	305	303	100.7%
4a9 Number of Phase I and Phase II construction stormwater inspections. [GOAL]	100% of commitments	N/A	258	252	102.4%
5a1 Percentage of NPDES major facilities with individual or general permits inspected	100% CMS	N/A	69	68	101.5%
5b Inspections coverage of NPDES non-majors (individual and general permits) [GOAL]	100% CMS	N/A	197	190	103.7%

State Response:

Recommendation:

Rec #	Due Date	Recommendation
1	02/29/2028	By October 1, 2026, the KY DEP should develop and submit to the EPA, a plan for procedures to ensure that it has the resources in place to conduct the required number of pretreatment inspections for the FY 2026 and FY 2027 fiscal years. The EPA will review the KY DEP's CMS Plan and will evaluate its progress through review of the FY 2026 and FY 2027 CMS end of year reports. When the KY DEP has met its annual CMS pretreatment inspection commitments for either FY 2026 or FY 2027, this recommendation will be considered complete.

CWA Element 3 - Violations

Finding 3-1

Meets or Exceeds Expectations

Recurring Issue:

No

Summary:

The KY DEP's inspection reports consistently documented accurate compliance determinations.

Explanation:

Metric 7e measures whether accurate compliance determinations were made based on a file review of inspections reports and other compliance monitoring activity. The file review indicated that 96.7% of the files reviewed consistently documented accurate compliance determinations.

Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State %
7e Accuracy of compliance determinations [GOAL]	100%	N/A	29	30	96.7%

State Response:

CWA Element 4 - Enforcement

Finding 4-1

Meets or Exceeds Expectations

Recurring Issue:

No

Summary:

The KY DEP consistently takes enforcement responses which promote a return to compliance and were found to be timely and appropriate.

Explanation:

The file review indicated that the KY DEP consistently takes enforcement responses which returned a facility to compliance. File metric 9a indicated that 92.9% of the enforcement responses reviewed did return, or were expected to return, a facility to compliance. File metric 10b indicated that 85.5% of enforcement responses reviewed had a timely and appropriate enforcement response.

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%	N/A	52	56	92.9%
10b Enforcement responses reviewed that address violations in a timely and appropriate manner.	100%	N/A	59	69	85.5%

State Response:

CWA Element 5 - Penalties

Finding 5-1

Meets or Exceeds Expectations

Recurring Issue:

No

Summary:

The Round 5 file review found that the KY DEP consistently includes documentation in the files of the rationale for difference between the initial penalty calculation and final penalty calculation, and sufficient documentation that all final assessed penalties were collected.

Explanation:

Metric 12a measures the percentage of enforcement files which document the rationale for difference between initial penalty calculation and final penalty calculation. Metric 12b measures the percentage of enforcement files reviewed that document the collection of the assessed penalty. Metrics 12a and 12b indicated that 88.2% and 94.1% of files reviewed included adequate documentation required under each of these metrics, respectively.

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%	N/A	15	17	88.2%
12b Penalties collected [GOAL]	100%	N/A	16	17	94.1%

State Response:**CWA Element 5 - Penalties****Finding 5-2**

Area for Improvement

Recurring Issue:

Recurring from Round 3

Summary:

Metric 11.a. file review shows that the KY DEP CWA program does not consistently document adequate rationale for the economic benefit (EB) component in penalty. This metric was an Area for Attention in Round 4 of the SRF.

Explanation:

The documented calculation of gravity and economic benefit in penalty calculations was an area for improvement during the SRF Round 3 evaluation, and an area for attention in Round 4. In response to the finding, KY DEP developed a Penalty Calculation Tool. The Round 5 SRF file review metric 11a showed 29.4% of files included or documented EB. The review found that while the State's Penalty Calculation Tool has input lines designated for including EB, KY DEP is still not consistently including EB or documenting that EB was negligible/de minimis. Therefore, this element is an Area for Improvement.

Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State %
11a Penalty calculations reviewed that document and include gravity and economic benefit [GOAL]	100%	N/A	5	17	29.4%

State Response:

Recommendation:

Rec #	Due Date	Recommendation
1	03/26/2027	By October 1, 2026, the KY DEP should develop and implement procedures to ensure that staff are trained to consider and document the economic benefit component portion of the penalty. By November 30, 2026, the KY DEP should conduct internal audits to ensure that documentation of economic benefit component is being consistently documented in the penalty files. By March 26, 2027, the EPA will review the KY DEP orders and penalty calculations to ensure the calculation/consideration of the economic benefit of noncompliance. If appropriate improvement is observed upon completion of the EPA's review (71% or above), this recommendation will be considered complete.

Clean Air Act Findings

CAA Element 1 - Data

Finding 1-1

Meets or Exceeds Expectations

Recurring Issue:

No

Summary:

The KY DEP was timely in reporting compliance monitoring minimum data requirements (MDRs) and enforcement MDRs in ICIS-Air.

Explanation:

Data metrics 3b1 (89.6%) and 3b3 (98.5%) indicated that the KY DEP was timely in reporting compliance monitoring MDRs and enforcement MDRs in ICIS-Air.

Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State %
3b1 Timely reporting of compliance monitoring MDRs [GOAL]	100%	78.2%	561	626	89.6%
3b3 Timely reporting of enforcement MDRs [GOAL]	100%	82.6%	64	65	98.5%

State Response:

CAA Element 1 - Data

Finding 1-2

Area for Attention

Recurring Issue:

No

Summary:

The EPA was unable to evaluate data metric 3a2 for the timely reporting of high priority violations (HPVs) in ICIS-Air.

Explanation:

Data metric 3a2 (NA) could not be evaluated based on the lack of data in ICIS-Air due to the KY DEP data system communication issues with ICIS-Air. In August 2022, the EPA conducted the annual data metric analysis of the ICIS-Air data, and identified that federally reportable violation data, high priority violation data, stack test data, enforcement data, title V annual compliance certification data, full compliance evaluation data, and civil penalty data were reported as zero in ICIS-Air. In September 2022, the EPA management and the KY DEP management began discussions concerning the ICIS-Air data issues, and it was determined that the KY DEP data system was not communicating properly with ICIS-Air, which prevented the KY DEP data from uploading to the EPA ICIS-Air data system. In December 2022, KY DEP received information technology resources to address communication issues between the KY DEP data system and the EPA ICIS-Air data system. In 2023, the KY DEP continued to investigate and review the communication issues and determined that additional resources were needed to address the programming issues. The KY DEP started the coding project in January 2024 and completed the project in March 2024. The KY DEP continued to test and troubleshoot the communication issues. On July 1, 2025, the KY DEP had a successful data transfer between the KY DEP data system and the EPA ICIS-Air data system.

The SRF CAA Round 5 evaluation used FY 2024 frozen ICIS data, so the data system project had not been completed, and the enforcement case data was not available in ICIS-Air. The KY DEP SRF coordinator indicated that the enforcement case file data was not available in ICIS-Air, but the data was available in the KY DEP data system. In an email dated February 13, 2026, the KY DEP confirmed that communication issues existed during the SRF Round 4 evaluation, and like the SRF Round 4 evaluation, the KY DEP provided the EPA with data from the KY DEP data system. The KY DEP data indicated that the KY DEP was tracking informal enforcement actions and formal enforcement actions. In addition, the EPA conducted a review of the FY 2025 data for data metric 3a2 and the metric showed improvement of 100%. The EPA recommends

that this data metric be identified as an Area for Attention, and the metric should be reviewed during the next SRF evaluation.

Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State %
3a2 Timely reporting of HPV determinations [GOAL]	100%	53.4%	0	0	0

State Response:

CAA Element 1 - Data

Finding 1-3

Area for Improvement

Recurring Issue:

Recurring from Round 3

Summary:

The KY DEP was not timely in reporting stack tests and stack test results in ICIS-Air. The KY DEP also had discrepancies in the accuracy of MDRs entered in ICIS-Air.

Explanation:

Data metric 3b2 indicated that the KY DEP was not timely in reporting stack tests and stack test results in ICIS-Air. The KY DEP SRF Round 4 report (using frozen FY 2018 data), also identified data metric 3b2 (50%) as a finding of Area for Improvement (CAA Finding 1-2, Recommendation #1). In the KY DEP's response to the Round 4 finding for data metric 3b2, the KY DEP stated that the KY DEP conducts an extensive review of the stack tests, and since many of the EPA regulations allows sources 60-days to submit the stack test report, it makes it difficult for the KY DEP to complete an extensive review of the stack test report and enter the data into ICIS-Air by the 120-day time period specified in data metric 3b2. The KY DEP also stated that they would continue to implement procedural changes to assist in meeting the 120-day deadline. The ICIS-Air data from previous fiscal years shows the data metric 3b2 percentages to be 66.9% for FY 2023; 18.3% for FY 2022; 45.9% for FY 2021; 37.3% for FY 2020; and 24.5% for FY 2019. The EPA appreciates the actions taken by the KY DEP, and the KY DEP has demonstrated significant improvement in the timely reporting of stack test data in ICIS-Air; however, the

percentages are below 71% so the SRF Round 4 recommendation for data metric 3b2 has not been closed. The Round 4 recommendation will remain open in Round 5.

File review metric 2b indicated that the KY DEP had one or more discrepancies between the information in the files and the data entered in ICIS-Air. Some of the discrepancies were that the KY DEP did not properly code enforcement case files, coded synthetic minor compliance certifications as a title V annual compliance certification and entered incorrect title V annual compliance certification received dates. Incorrect data has the potential to hinder the EPA's oversight and targeting efforts and may result in inaccurate information being released to the public. The KY DEP SRF Round 4 report also identified file review metric 2b (55.9%) as a finding of Area for Improvement (CAA Finding 1-2, Recommendation #1), and this Round 4 recommendation for file review metric 2b has not been closed. The Round 4 recommendation will remain open in Round 5.

Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State %
2b Files reviewed where data are accurately reflected in the national data system [GOAL]	100%	N/A	15	27	55.6%
3b2 Timely reporting of stack test dates and results [GOAL]	100%	51.8%	68	107	63.6%

State Response:

KY DEP stack tests are extensively reviewed before the final compliance status is reported to ICIS-Air. Many EPA regulations allow sources 60 days from the date of the test to submit the test report and this makes it difficult for KY DEP to adequately review and report the results by the 120-day expectation.

KY DEP has continued to implemented process and procedural changes to report results as “pending” earlier in the process but the final results of the test are not input to our database after a thorough review. An increase in testing volume and unusually high turnover rate for staff during the evaluation period also contributed to the extended timeframe noted in this round. The current staff levels and process changes should be adequate to approach the 120-day expectation. However, KY DEP recommends that the metric be re-evaluated to consider the need for thorough engineering review of test result data prior to entry into the national database as balanced against the 120-day expectation.

Recommendation:

Rec #	Due Date	Recommendation
1	03/08/2027	Data metric 3b2: By October 1, 2026, the KY DEP will provide to the EPA a written description of what measures and/or procedures have been implemented to ensure the timely reporting of stack tests and stack test results in ICIS-Air and provide a written description of any additional measures taken (other than the measures identified in SRF Round 4 report). By March 8, 2027, the EPA will review data for metric 3b2 to ensure the information is timely reported in ICIS-Air. Once data metric 3b2 indicates 71.0% or greater of data entry, then this recommendation will be considered complete.
2	03/08/2027	File Review Metric 2b: By October 1, 2026, the KY DEP will provide to the EPA a written description of the root causes for the inaccurate data entry, and a written description of what measures and/or procedures have been implemented to ensure accurate entry of data in ICIS-Air and provide a written description of any additional measures taken (other than the measures identified in SRF Round 4 report). By March 8, 2027, the EPA will review a random selection of facility files and evaluate file metric 2b (title V annual compliance certification, federally reportable violations, and high priority violations), to ensure data entry has improved. Once file metric 2b indicates a 71.0% or greater data entry accuracy, then this recommendation will be considered complete.

CAA Element 2 - Inspections

Finding 2-1

Meets or Exceeds Expectations

Recurring Issue:

No

Summary:

The KY DEP met the negotiated frequency for inspections of SM-80 sources, provided the necessary documentation for Full Compliance Evaluations (FCEs), and provided the necessary documentation for the Compliance Monitoring Reports (CMRs) to determine compliance.

Explanation:

Data metric 5b (87.8%) indicated that the KY DEP provided adequate inspection coverage for SM-80 sources during the FY 2024 review year by ensuring that an FCE onsite evaluation was completed at each SM-80 source at least once every 5 years.

File review metrics 6a (100%) and 6b (100%) indicated that the KY DEP provided adequate documentation of the FCE elements identified in the CAA Stationary Source Compliance Monitoring Strategy (CMS Guidance) and provided adequate documentation in the CMRs to determine the compliance status of the facility. The EPA recommended that KY DEP make sure the topics outlined in sections V (items that are included in an FCE) and IX (items that should be addressed in the compliance monitoring reports) of the CMS plan are covered in the inspection reports, specifically the reports should include information concerning previous enforcement actions. The KY DEP stated that the enforcement action information is available in the Kentucky data system, and that the KY DEP would discuss the issue with management.

Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State %
5b FCE coverage: SM-80s [GOAL]	100%	91.7%	86	98	87.8%
6a Documentation of FCE elements [GOAL]	100%	N/A	20	20	100%
6b Compliance monitoring reports (CMRs) or facility files reviewed that provide sufficient documentation to determine compliance of the facility [GOAL]	100%	N/A	20	20	100%

State Response:

CAA Element 2 - Inspections

Finding 2-2

Area for Attention

Recurring Issue:

No

Summary:

The KY DEP had discrepancies with meeting the negotiated frequency for inspections of Title V sources and had discrepancies with completing reviews of the Title V Annual Compliance Certifications.

Explanation:

Data metric 5a indicated that the KY DEP did not have adequate inspection coverage for Title V sources during the FY 2024 review year, as the ICIS-Air data showed that the KY DEP completed only 97 out of 159 FCEs during the review period. In the KY DEP response to the draft file review summary spreadsheet, the KY DEP stated that the CMS Title V source universe as reported by the KY DEP in ICIS-Air was not accurate as several of the Title V sources had either ceased operations or were no longer categorized as Title V sources. The KY DEP has indicated that the Title V source universe in 2024 was 116 (rather than 159) and therefore if the data metric analysis used the smaller Title V universe, the percentage would change from 61% to 84% during the review year. The KY DEP is currently correcting the operational status and source categorization status in the Kentucky database and in ICIS-Air. Since the KY DEP is working to address the issue, and the revised percentage of FCE completion for Title V sources is 84%, the EPA recommends a finding for data metric 5a to be an Area for Attention.

Data metric 5e indicated that the KY DEP had discrepancies with completing the reviews of the Title V annual compliance certifications. During the opening meeting, the KY DEP stated that the Kentucky data system transferred incorrect data to ICIS-Air, that the KY DEP will review the Kentucky data system logic to identify the cause of the issue, and the KY DEP will implement measures to correct the data transfer issue.

Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State %
5a FCE coverage: majors and mega-sites [GOAL]	100%	86.1%	97	159	61%
5e Reviews of Title V annual compliance certifications completed [GOAL]	100%	82.8%	177	210	84.3%

State Response:

CAA Element 3 - Violations

Finding 3-1

Meets or Exceeds Expectations

Recurring Issue:

No

Summary:

The KY DEP made accurate compliance determinations and accurate HPV determinations.

Explanation:

File review metrics 7a (100%) and 8c (92.9%) indicated that the KY DEP made accurate compliance determinations and made accurate HPV determinations. For file review metric 7a, the KY DEP made accurate compliance determinations, based on the documentation in the file and in the compliance monitoring report. For file review metric 8c, one file had a federally reportable violation that was not properly identified as a high priority violation. The file indicated that the alleged violation was associated with an emission limit exceedance of a new source performance standard, which meets criterion 3 (violation of emission standard of New Source Performance Standards) in the HPV policy dated August 25, 2014, and should have been identified as an HPV.

Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State %
7a Accurate compliance determinations [GOAL]	100%	N/A	27	27	100%
8c Accuracy of HPV determinations [GOAL]	100%	N/A	13	14	92.9%

State Response:

CAA Element 3 - Violations

Finding 3-2

Area for Improvement

Recurring Issue:

No

Summary:

The EPA was unable to evaluate data metric 13.

Explanation:

Data metric 13 (NA) could not be evaluated based on the lack of data in ICIS-Air due to the KY DEP data system communication issues with ICIS-Air. In August 2022, the EPA conducted the annual data metric analysis of the ICIS-Air data, and identified that federally reportable violation data, high priority violation data, stack test data, enforcement data, title V annual compliance certification data, full compliance evaluation data, and civil penalty data were reported as zero in ICIS-Air. In September 2022, the EPA management and the KY DEP management began discussions concerning the ICIS-Air data issues, and it was determined that the KY DEP data system was not communicating properly with ICIS-Air, which prevented the KY DEP data from uploading to the EPA ICIS-Air data system. In December 2022, KY DEP received information technology resources to address communication issues between the KY DEP data system and the EPA ICIS-Air data system. In 2023, KY DEP continued to investigate and review the communication issues and determined that additional resources were needed to address the programming issues. The KY DEP started the coding project in January 2024 and completed the project in March 2024. The KY DEP continued to test and troubleshoot the communication issues. On July 1, 2025, the KY DEP had a successful data transfer between the KY DEP data system and the EPA ICIS-Air data system.

The SRF CAA Round 5 evaluation used FY 2024 frozen ICIS data, so the data system project had not been completed, and the enforcement case data was not available in ICIS-Air. The KY DEP SRF coordinator indicated that the enforcement case file data was not available in ICIS-Air, but the data was available in the KY DEP data system. In an email dated February 13, 2026, the KY DEP confirmed that communication issues existed during the SRF Round 4 evaluation, and like the SRF Round 4 evaluation, the KY DEP provided the EPA with data from the KY DEP data system. The KY DEP data indicated that the KY DEP was tracking informal enforcement actions and formal enforcement actions. The EPA conducted a review of the FY 2025 data for data metric 13 and the metric showed no HPVs were identified.

Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State %
13 Timeliness of HPV Identification [GOAL]	100%	80.3%	0	0	0

State Response:

Recommendation:

Rec #	Due Date	Recommendation
1	03/08/2027	Data metric 13: October 1, 2026, the KY DEP will provide to the EPA a written description of what measures and/or procedures have been implemented to ensure the HPV data is uploaded to ICIS-Air, and to ensure that KY DEP timely identified HPVs. By March 8, 2027, the EPA will review data for metric 13 to ensure the information is timely reported in ICIS-Air. Once data metric 13 indicates a 71.0% or greater of data entry, then this recommendation will be considered complete.

CAA Element 4 - Enforcement

Finding 4-1

Meets or Exceeds Expectations

Recurring Issue:

No

Summary:

The KY DEP issued formal enforcement actions that returned facilities to compliance.

Explanation:

File review metric 9a (100%) indicated that the formal enforcement actions returned the facilities to compliance.

Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State %
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%	N/A	11	11	100%

State Response:

CAA Element 4 - Enforcement

Finding 4-2

Area for Attention

Recurring Issue:

No

Summary:

The EPA was unable to evaluate file review metrics 10a (timeliness of addressing HPVs), 10b (appropriately addressing HPVs) or 14 (alternatively having a Case Development Resolution Timeline (CDRT) in place in accordance with the HPV policy).

Explanation:

File review metrics 10a (NA), 10b (NA) and 14 (NA) could not be evaluated based on the lack of data in ICIS-Air due to the KY DEP data system communication issues with ICIS-Air. In August 2022, the EPA conducted the annual data metric analysis of the ICIS-Air data, and identified that federally reportable violation data, high priority violation data, stack test data, enforcement data, title V annual compliance certification data, full compliance evaluation data, and civil penalty data were reported as zero in ICIS-Air. In September 2022, the EPA management and the KY DEP management began discussions concerning the ICIS-Air data issues, and it was determined that the KY DEP data system was not communicating properly with ICIS-Air, which prevented the KY DEP data from uploading to the EPA ICIS-Air data system. In December 2022, KY DEP received information technology resources to address communication issues between the KY DEP data system and the EPA ICIS-Air data system. In 2023, the KY DEP continued to investigate and review the communication issues and determined that additional resources were needed to address the programming issues. The KY DEP started the coding project in January 2024 and completed the project in March 2024. The KY DEP continued to test and troubleshoot

the communication issues. On July 1, 2025, the KY DEP had a successful data transfer between the KY DEP data system and the EPA ICIS-Air data system.

The SRF CAA Round 5 evaluation used FY 2024 frozen ICIS data, so the data system project had not been completed, and the enforcement case data was not available in ICIS-Air. The KY DEP SRF coordinator indicated that the enforcement case file data was not available in ICIS-Air, but the data was available in the KY DEP data system. In an email dated February 13, 2026, the KY DEP confirmed that communication issues existed during the SRF Round 4 evaluation, and like the SRF Round 4 evaluation, the KY DEP provided the EPA with data from the KY DEP data system. The KY DEP data indicated that the KY DEP was tracking informal enforcement actions and formal enforcement actions. The EPA recommends that these file review metrics be identified as an Area for Attention, and the file review metrics would be reviewed during the next SRF evaluation.

Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State %
10a Timeliness of addressing HPVs or alternatively having a case development and resolution timeline in place	100%	N/A	0	0	0
10b Percent of HPVs that have been addressed or removed consistent with the HPV Policy [GOAL]	100%	N/A	0	0	0
14 HPV case development and resolution timeline in place when required that contains required policy elements [GOAL]	100%	N/A	0	0	0

State Response:

The KY DEP executed settlement documents for 12 air quality cases in FFY2024. Three of these cases were for Federally Reportable Violations (FRV). The average number of days between when the cases reached the Division of Enforcement and the execution of the settlement documents is 349 days, with a medium of 133 days. For the FRV cases, the average elapsed time was 73 days.

The KY DEP's Division of Enforcement is a multi-media division. In FFY2024, the KY DEP executed 150 case settlements for all programs. The average elapsed time was 416 days. The medium elapsed time was 200 days.

The KY DEP's civil settlements return the regulated entities to compliance.

CAA Element 5 - Penalties

Finding 5-1

Meets or Exceeds Expectations

Recurring Issue:

No

Summary:

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

Explanation:

File review metrics 12a (100%) and 12b (100%) indicated that the KY DEP provided rationale for differences between the initial penalty amount and the final penalty amount and provided documentation that the penalties were collected.

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%	N/A	9	9	100%
12b Penalties collected [GOAL]	100%	N/A	9	9	100%

State Response:

CAA Element 5 - Penalties

Finding 5-2

Area for Improvement

Recurring Issue:

No

Summary:

The KY DEP did not provide penalty calculation worksheets that addressed both gravity and economic benefit components.

Explanation:

The documented calculation of the gravity component and the economic benefit component in the penalty calculations was an area for improvement during the SRF CAA Round 3 evaluation, and an area for attention in SRF CAA Round 4 evaluation. In response to the Round 4 finding, the KY DEP developed a Penalty Calculation Tool. The Round 5 SRF CAA file review metric 11a showed 33.3% of files included or documented the economic benefit component. The file review found that while the Penalty Calculation Tool has input lines designated for including the economic benefit component, the KY DEP is still not consistently including the economic benefit component or documenting that the economic benefit component was negligible/de minimis. Therefore, this element is an Area for Improvement.

Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State %
11a Penalty calculations reviewed that document gravity and economic benefit [GOAL]	100%	N/A	3	9	33.3%

State Response:

Recommendation:

Rec #	Due Date	Recommendation
1	03/08/2027	File review metric 11a: By October 1, 2026, the KY DEP will provide to the EPA a written description of the root causes for the economic benefit component not being included in the penalty calculation worksheet, and a written description of what measures and/or procedures have been implemented to ensure the economic benefit component is included in the penalty calculation worksheet. By March 8, 2027, the EPA will review a random selection of facility files and evaluate file review metric 11a to ensure the penalty calculations include both gravity components and economic benefit components. Once file review metric 11a indicates a 71.0% or greater of complete penalty calculation worksheets, then this recommendation will be considered complete.

Resource Conservation and Recovery Act Findings

RCRA Element 1 - Data

Finding 1-1

Meets or Exceeds Expectations

Recurring Issue:

No

Summary:

The KY DEP's RCRA Minimum Data Requirements for compliance monitoring and enforcement activities were complete in RCRA Info.

Explanation:

Metric 2b measures data accuracy and completeness in RCRA Info with information in the facility files. Thirty-four (34) files were selected and reviewed to determine completeness of the minimum data requirements. The data was found to be accurate in 34 of the 34 files (100%).

Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State %
2b Complete and accurate entry of mandatory data.	100%	N/A	34	34	100%

State Response:

RCRA Element 2 - Inspections

Finding 2-1

Meets or Exceeds Expectations

Recurring Issue:

No

Summary:

The KY DEP met national goals for inspection coverage at treatment, storage, and disposal facilities (TSDFs), large quantity generators (LQGs) and reverse distributor (RD) universes combined.

Explanation:

Metrics 5a and 5b measure the percentage of TSDF, LQG and RD universes with a Compliance Evaluation Inspection (CEI) during the two-year and one-year periods of review, respectively. The KY DEP met the national goal for two-year inspection coverage of TSDFs by inspecting 100% of the TSDF universe and exceeded the national goal for annual inspection coverage of LQGs and RDs combined by inspecting 40.2% the LQG and RDs universes.

Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State %
5a Two-year inspection coverage of operating TSDFs [GOAL]	100%	88%	11	11	100%
5b Annual inspection coverage of LQGs and reverse distributor (RD) universes combined using BR universe. [GOAL]	20%	18.6%	100	249	40.2%

State Response:

RCRA Element 2 - Inspections

Finding 2-2

Meets or Exceeds Expectations

Recurring Issue:

No

Summary:

The KY DEP's hazardous waste program inspection reports were complete, timely and provided appropriate documentation to determine compliance at the facility.

Explanation:

Metric 6a measures the percentage of on-site inspection reports reviewed that are complete and provide sufficient documentation to determine compliance. 100% of the onsite inspection reports reviewed were complete and provided sufficient documentation to determine compliance.

Metric 6b measures the percentage of inspection reports reviewed that are completed in a timely manner per the national standard. Metric 6b indicated that 100% of the KY DEP's onsite inspection reports reviewed were completed in a timely manner per the national standard, with an average of 22 days to finalize and return the report to the facility.

Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State %
6a Inspection reports sufficient to determine compliance.	100%	N/A	29	29	100%
6b Timeliness of inspection report completion [GOAL]	100%	N/A	29	29	100%

State Response:

RCRA Element 3 - Violations

Finding 3-1

Meets or Exceeds Expectations

Recurring Issue:

No

Summary:

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

Explanation:

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

Metric 8b measures the percentage of SNC determinations made within 150 days of the first day of inspection (Day Zero). The data metric analysis (DMA) indicated that 7 out of 8 or 87.5% of SNC determinations were made within 150 days. The single SNC determination beyond 150 days was due to an unavoidably length corrective action process, including multiple NODs and extension requests. KY DEP used multiple methods to address the non-compliance with informal actions; however, the facility didn't cooperate in a timely manner and ultimately KY DEP made the SNC determination and issued appropriate formal action.

Metric 8c measures the percentage of files reviewed in which SNC status was appropriately determined during the review period. The file review indicated the KY DEP made appropriate SNC determinations in 100% of the files reviewed.

Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State %
7a Accurate compliance determinations [GOAL]	100%	N/A	28	28	100%
8b Timeliness of SNC determinations [GOAL]	100%	86.5%	7	8	87.5%
8c Appropriate SNC determinations [GOAL]	100%	N/A	25	25	100%

State Response:

RCRA Element 4 - Enforcement

Finding 4-1

Meets or Exceeds Expectations

Recurring Issue:

No

Summary:

The KY DEP consistently issues enforcement responses that returned or will return a facility in SNC or secondary violation (SV) to compliance.

Explanation:

Metric 9a measures the percentage of enforcement responses that have returned or will return sites in SNC or SV to compliance. A total of twenty-eight (28) files were reviewed that included informal or formal enforcement actions. 96.4% of the enforcement responses returned the facilities to compliance with the hazardous waste requirements.

Metric 10a measures the percentage of SNC violations addressed with a formal action or referral during the year reviewed and within 360 days of Day Zero. The DMA indicated that 89% of the FY 2024 enforcement actions met the Hazardous Waste Enforcement Response Policy (ERP) timeline of 360 days.

Metric 10b measures the percentage of files with enforcement responses that are appropriate to the violations. A total of twenty-eight (28) files were reviewed with concluded enforcement responses. 100% of the files reviewed contained enforcement responses that were appropriate to the violations.

Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State %
9a Enforcement that returns violators to compliance.		N/A	27	28	96.4%
10a Timely enforcement taken to address SNC [GOAL]	80%	83.8%	8	9	88.9%
10b Appropriate enforcement taken to address violations [GOAL]	100%	N/A	28	28	100%

State Response:

RCRA Element 5 - Penalties

Finding 5-1

Meets or Exceeds Expectations

Recurring Issue:

No

Summary:

The KY DEP consistently considered gravity when calculating penalties and included documentation in files documenting collection of final assessed penalties.

Explanation:

Metric 12a measures the percentage of penalties reviewed that document the rationale for the final value assessed when it is lower than the initial calculated value. Metric 12a indicated that the KY DEP documented the difference between the initial and final penalty assessed in 100% of the penalty calculations reviewed.

Metric 12b measures the percentage of enforcement files reviewed that document the collection of a penalty. There was documentation verifying the KY DEP collected penalties assessed in 100% of the final enforcement actions reviewed.

Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State %
12a Documentation of rationale for difference between proposed penalty calculation and final penalty.	100%	N/A	9	9	100%
12b Penalty collection [GOAL]	100%	N/A	10	10	100%

State Response:

RCRA Element 5 - Penalties

Finding 5-2

Area for Improvement

Recurring Issue:

No

Summary:

The KY DEP didn't consistently document economic benefit in penalty calculations reviewed.

Explanation:

The documented calculation of the gravity component and the economic benefit component in the penalty calculations was an area for improvement during the SRF RCRA Round 3 evaluation, and an area for attention in SRF RCRA Round 4 evaluation. In response to the Round 4 finding, the KY DEP developed a Penalty Calculation Tool. The Round 5 SRF RCRA file review metric 11a showed 40% of files included or documented the economic benefit component. The file review found that while the Penalty Calculation Tool has input lines designated for including the economic benefit component, the KY DEP is still not consistently including the economic benefit component or documenting that the economic benefit component was negligible/de minimis. Therefore, this element is an Area for Improvement.

Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State %
11a Gravity and economic benefit [GOAL]	100%	N/A	4	10	40%

State Response:

Recommendation:

Rec #	Due Date	Recommendation
1	03/08/2027	File review metric 11a: By October 1, 2026, the KY DEP will provide to the EPA a written description of the root causes for the economic benefit component not being included in the penalty calculation worksheet, and a written description of what measures and/or procedures have been implemented to ensure the economic benefit component is included in the penalty calculation worksheet. By March 8, 2027, the EPA will review a random selection of facility files and evaluate file review metric 11a to ensure the penalty calculations include both gravity components and economic benefit components. Once file review metric 11a indicates a 71.0% or greater of complete penalty calculation worksheets, then this recommendation will be considered complete.