



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029

OCT 18 2017

Jayme Graham, Air Director  
Air Quality Program  
Allegheny County Health Department  
301 39th Street, Building #7  
Pittsburgh, PA 15201-1891

Dear Mr. Graham:

The U.S. Environmental Protection Agency, Region III (EPA) conducted the State Review Framework (SRF) Round Three review of the Allegheny Health Department's (ACHD) Clean Air Act Stationary Source (CAA) compliance assurance program. The review evaluated enforcement data and files from for Fiscal Year 2015.

The enclosed report summarizes findings from the review, along with planned actions to facilitate program improvements. The review determined that ACHD's compliance assurance program met program expectations in all areas of the review with the exception of data. While the majority of the data issues were in regards to data accuracy, there were some issues in regards to the timeliness of data entry. As noted in the report, we appreciate the efforts of your staff for their immediate attention and action to make changes to improve data quality. We look forward to continuing collaboration efforts to improve data quality as well as other matters that may arise affecting compliance assurance program.

If you have any questions, please do not hesitate to contact me or have your staff contact Ms. Sasha Brown, EPA's Pennsylvania Liaison, at 215-814-5404.

Sincerely,

A handwritten signature in blue ink that reads "Cosmo Servidio" followed by a horizontal line.

Cosmo Servidio  
Regional Administrator

Enclosure





# **STATE REVIEW FRAMEWORK**

## **Pennsylvania (Allegheny Health Department Only)**

### **Clean Air Act Implementation in Federal Fiscal Year 2015**

**U.S. Environmental Protection Agency  
Region 3, Philadelphia**

**Final Report  
September 12, 2017**

# **Executive Summary**

## **Introduction**

EPA Region 3 enforcement staff conducted a State Review Framework (SRF) enforcement program oversight review of the Allegheny County Health Department (ACHD).

EPA bases SRF findings on data and file review metrics, and conversations with program management and staff. EPA will track recommended actions from the review in the SRF Tracker and publish reports and recommendations on EPA's Enforcement Compliance History Online (ECHO) web site.

## **Most Significant CAA Stationary Source Program Issues**

Less than 2/3 of the MDR data was found to be accurate in ICIS-Air and not reported in a timely manner. ACHD to conduct analysis to determine "root cause" of inaccurate and untimely data and develop protocols (e.g., data management plan, SOP) to address issues and ensure timely and accurate data entry into ICIS-Air.

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# I. Background on the State Review Framework

The State Review Framework (SRF) is designed to ensure that EPA conducts nationally consistent oversight. It reviews the following local, state, and EPA compliance and enforcement programs:

- Clean Water Act National Pollutant Discharge Elimination System
- Clean Air Act Stationary Sources (Title V)
- Resource Conservation and Recovery Act Subtitle C

Reviews cover:

- **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, determination of significant noncompliance (SNC) for the CWA and RCRA programs and high priority violators (HPV) for the CAA program, and accuracy of compliance determinations
- **Enforcement** — timeliness and appropriateness, returning facilities to compliance
- **Penalties** — calculation including gravity and economic benefit components, assessment, and collection

EPA conducts SRF reviews in three phases:

- Analyzing information from the national data systems in the form of data metrics
- Reviewing facility files and compiling file metrics
- Development of findings and recommendations

EPA builds consultation into the SRF to ensure that EPA and the state or local agency understand the causes of issues and agree, to the degree possible, on actions needed to address them. SRF reports capture the agreements developed during the review process in order to facilitate program improvements. EPA also uses the information in the reports to develop a better understanding of enforcement and compliance nationwide, and to identify issues that require a national response.

Reports provide factual information. They do not include determinations of overall program adequacy, nor are they used to compare or rank state programs.

Each local or state's programs are reviewed once every five years. The first round of SRF reviews began in FY 2004. The third round of reviews began in FY 2013 and will continue through FY 2017.

## **II. SRF Review Process**

**Review period: Fiscal Year 2015**

**Key dates: May 23 – 25, 2016 On-site file review conducted**

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

**EPA Region III: Betty Barnes, Region III SRF Coordinator**

**Air Contacts:**

**EPA Region III: Kurt Elsner, State Oversight Team Leader, Office of Air Permits and State Programs**

**ACHD: Dean DeLuca, Air Quality Enforcement (Chief)**

### III. SRF Findings

Findings represent EPA’s conclusions regarding state or local agency performance and are based on findings made during the data and/or file reviews and may also be informed by:

- Annual data metric reviews conducted since the state’s last SRF review
- Follow-up conversations with state agency personnel
- Review of previous SRF reports, Memoranda of Agreement, or other data sources
- Additional information collected to determine an issue’s severity and root causes

There are three categories of findings:

**Meets or Exceeds Expectations:** The SRF was established to define a base level or floor for enforcement program performance. This rating describes a situation where the base level is met and no performance deficiency is identified, or a state or local agency performs above national program expectations.

**Area for Attention:** An activity, process, or policy that one or more SRF metrics show as a minor problem. Where appropriate, the state or local agency should correct the issue without additional EPA oversight. EPA may make recommendations to improve performance, but it will not monitor these recommendations for completion between SRF reviews. These areas are not highlighted as significant in an executive summary.

**Area for Improvement:** An activity, process, or policy that one or more SRF metrics show as a significant problem that the agency is required to address. Recommendations should address root causes. These recommendations must have well-defined timelines and milestones for completion, and EPA will monitor them for completion between SRF reviews in the SRF Tracker.

Whenever a metric indicates a major performance issue, EPA will write up a finding of Area for Improvement, regardless of other metric values pertaining to a particular element.

The relevant SRF metrics are listed within each finding. The following information is provided for each metric:

- **Metric ID Number and Description:** The metric’s SRF identification number and a description of what the metric measures.
- **Natl Goal:** The national goal, if applicable, of the metric, or the CMS commitment that the state has made.
- **Natl Avg:** The national average across all states, territories, and the District of Columbia.
- **State N:** For metrics expressed as percentages, the numerator.
- **State D:** The denominator.
- **State % or #:** The percentage, or if the metric is expressed as a whole number, the count.



## Clean Air Act Findings

### CAA Element 1 — Data

Finding 1-1	Area for Improvement
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<b>Summary</b>	Less than 2/3 of the MDR data was found to be accurate in ICIS-Air and not reported in a timely manner.
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<b>Explanation</b>	Only 62.5% of the facility files were found to be accurate when comparing the file to what was reported to the national data base, Integrated Compliance Information System-Air (ICIS-Air). The majority of the inaccurate data involved stack tests. In addition, some formal and informal enforcement actions were found to be inaccurate when comparing the files to ICIS-Air.
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Due to the delay in the Pennsylvania Department of Environmental Protection's (PADEP) uploading data to ICIS-Air, (PADEP did not start flowing data to ICIS-Air via Electronic Data Transfer (EDT) until February 2016), ACHD did not decide to become a direct user of ICIS-Air until April 2015. ACHD subsequently began to enter data into ICIS-Air in May 2015. Prior to becoming direct users of ICIS-Air, ACHD uploaded their data to PADEP's eFACTs data system whose data was subsequently uploaded to EPA's National Database (AFS prior to October 2014 and ICIS after October 2014).

While the majority of the untimely data entry was due to the delay in the decision to become direct users of ICIS-Air, there was still some untimely data reported to ICIS-Air after ACHD started to input data into ICIS-Air. While the timeliness of the FY2016 data has improved, there is still some MDR data that is not being entered timely. In particular, stack test and enforcement MDRs. FY2016 to date as of 10/02/16 shows the following performance of the data metrics related to timeliness:

- 1) Metric 3a2 (HPV Determinations): 100% (2/2)
- 2) Metric 3b1 (Compliance Monitoring MDRs): 100% (59/59)
- 3) Metric 3b2 (Stack Test Dates and Results): 60.0% (12/20)
- 4) Metric 3b3 (Enforcement MDRs): 79.7% (19/24)

Finally, it should be noted that that the EPA review team believes the inaccuracy and untimeliness involving stack tests is primarily not a workload issue. The other reason is that ACHD did not have a centralized way to track the stack tests' progress so oversight or review

was very difficult. They had tracking for FCEs, TV certification reviews, and enforcement actions, but not stack tests.

Metric ID Number and Description	Natl	Natl Avg	State N	State D	State % or #
2b Accurate MDR data in AFS	100%	NA	10	16	62.5%
3a2 Timely reporting of HPV determinations	100%	99.6%	0	0	0%
3b1 Timely reporting of compliance monitoring MDRs	100%	64.2%	30	47	63.8%
3b2 Timely reporting of stack test dates and results	100%	64.5%	25	42	59.5%
3b3 Timely reporting of enforcement MDRs	100%	56.4%	11	35	31.4%

**State response**

ACHD has improved their tracking using an Excel tracking spreadsheet and is currently taking steps to purchase database software which will dramatically improve tracking capability beyond just the MDRs. All MDRs (enforcement activity, FCEs, Title V certifications, and stack tests) now have specifically listed ICIS-Air entry due dates in the Excel tracking spreadsheet being used by all ACHD enforcement staff. The addition of stack testing to the tracking spreadsheets has shown improvement in accuracy and timeliness and will continue to do so going forward.

**Recommendation**

- 1) ACHD will conduct an analysis to determine the “root cause” of inaccurate and untimely data within 3 months after the date of the final report. ACHD will send to EPA a report and/or email detailing their findings;
- 2) ACHD will develop protocols (e.g., data management plan, SOP) to address issues and ensure timely and accurate data entry into ICIS-Air within 6 months after the date of the final report. EPA to review and approve the final protocols;
- 3) EPA will conduct quarterly data reviews in conjunction with T&A meetings for 2 years after EPA approval of the protocols developed in recommendation # 2; and
- 4) EPA will provide training for ACHD data entry personnel within one year after the date of the final report as needed.

## CAA Element 2 — Inspections,

### Finding 2-1 Meets or Exceeds Expectations

**Summary** ACHD met the negotiated frequency for compliance evaluations of the CMS sources. In addition, the EPA review team found the CMRs to be extremely well written and organized. All Title V Annual Compliance Certifications received in FY 2015 were reviewed.

**Explanation** ACHD completed all CMS commitments for majors and SM-80s in FY 2015.

Based on recommendations made in the Round 2 SRF review, ACHD developed and implemented the use of an inspection report template for Compliance Monitoring Reports (CMRs). The EPA review team found the CMRs to be extremely well written and organized, and believe that the format used in completing the CMRs could be used as a model for other states/local agencies.

The initial results for Metric 5e (Review of Title V Annual Compliance Certifications (TVACCs) showed that there were twelve (12) facilities that were scheduled to have a TVACC reviewed in FY 2015 but did not. However, the EPA Review Team determined that all Title V Sources scheduled to have a TVACC reviewed in FY 2015, 23 did indeed have a TVACC reviewed in FY 2015. For Metric 5e, the latest Clean Air Act (CAA) Plain Language Guide says the performance of this metric may need to be revised (from the results in the initial Data Metric Analysis). Specifically, the CAA Plain Language Guide says that “The metric includes all Title Sources added during the review year. A Title V certification may not have been required from these sources; therefore, it may appear not all certifications were reviewed. This should be considered during the review.” As per ACHD management, seven (7) of these facilities were not scheduled (i.e., required) to have a TVACC reviewed during FY 2015. In addition, there was another Title V source who submitted their TVACC on 10/27/15 which was two (2) months late (i.e., after the end of FY 2015). The remaining four (4) facilities that did not have TVACCs reviewed during FY 2015 according to the initial Data Metric Analysis, did indeed have TVACCs reviewed in FY 2015 when the EPA Review Team reviewed ICIS-Air. The EPA Review Team could not determine why the four (4) TVACCs for these facilities did not have a TVACC reviewed in FY 2015 as per the initial results of the Data Metric Analysis as their data entries in ICIS-Air appeared to be accurate and timely.

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**Relevant metrics**

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
5a FCE coverage: majors and mega-sites	100%	63.20%	16	16	100%
5b FCE coverage: SM-80s	100%	79.50%	6	6	100%
5c FCE coverage: minors and synthetic minors (non-SM 80s) that are part of CMS plan or alternative CMS Plan.	100%	NA	NA	NA	NA
5e Review of Title V annual compliance certifications	100%	39.10%	23	23	100%
6a Documentation of FCE elements	100%	NA	12	12	100%
6b Compliance monitoring reports (CMRs) or facility files reviewed that provide sufficient documentation to determine compliance of the facility	100%	NA	12	12	100%

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**State response**

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**Recommendation** None

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## CAA Element 3 — Violations

### Finding 3-1 Meets or Exceeds Expectations

**Summary** ACHD did a thorough and comprehensive job in making High Priority Violation (HPV) determinations and accurately reporting HPV and Federally Reportable Violations (FRV) violations to ICIS-Air.

**Explanation** ACHD identified zero (0) HPVs in FY 2015. However, all 14 violations reviewed by the EPA review team were accurately identified as non-HPV Federally Reportable Violations (FRVs) by ACHD. Additionally, all 21 compliance determinations reviewed were accurately reported to ICIS-Air. Finally, because ACHD did not identify any HPVs in FY 2015, metric 13 (timeliness of HPV determinations) was “NA”.

Relevant metrics	Metric ID Number and Description	Natl	Natl	State	State	State
		Goal	Avg	N	D	% or #
	7a Accuracy of compliance determinations	100%	NA	21	21	100%
	8c Accuracy of HPV determinations	100%	NA	14	14	100%
	13 Timeliness of HPV determinations	100%	82.6%	0	0	0%

### State response

**Recommendation** None



**CAA Element 4 — Enforcement**

**Finding 4-1 Meets or Exceeds Expectations**

**Summary** ACHD included corrective actions in formal responses.

**Explanation** All formal enforcement responses reviewed required the facility to return to compliance if they had not already done so at the time of the execution of the Consent Agreement. Finally, it should be noted that ACHD did not address any HPVs in FY 2015 and there were no unaddressed HPVs that required HPV Case Development and Resolution Timeframes during FY 2015.

**Relevant metrics**

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
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.	100%	NA	6	6	100%
10a Timeliness of addressing HPVs or alternatively having a case development and resolution timeline in place.	100%	NA	0	0	0%
10b Percent of HPVs that have been have been addressed or removed consistent with the HPV Policy.	100%	NA	0	0	0%
14 HPV Case Development and Resolution Timeline In Place When Required that Contains Required Policy Elements	100%	NA	0	0	0%

**State response**

**Recommendation** None

## CAA Element 5 — Penalties

### Finding 5-1 Meets or Exceeds Expectations

**Summary** ACHD did a thorough and comprehensive job in documenting penalty calculations. The difference between the initial and final penalties were included, where applicable.

**Explanation** All of the penalty calculations reviewed included the gravity and economic benefit components and where applicable, documented the difference between the initial and final penalties. In general, the EPA review team found the penalty files to be complete and thorough. Finally, all documentation of the penalties collected in FY 2015 was found in the files.

Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State EPA % or #
	11a Penalty calculations reviewed that document gravity and economic benefit	100%	NA	13	13	100%
12a Documentation of rationale for difference between initial penalty calculation and final penalty	100%	NA	13	13	100%	
12b Penalties collected	100%	NA	15	15	100%	

### State response

**Recommendation** None







UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029

OCT 18 2017

Mr. Kassahun Sellassie, Ph.D., P.E.  
Program Director  
Philadelphia Air Management Services  
Department of Public Health  
321 University Ave., 2nd Floor  
Philadelphia, PA 19104

Dear Dr. Sellassie:

The U.S. EPA conducted the third round State Review Framework (SRF) review of the Philadelphia Air Management Services' (AMS) Clean Air Act (CAA) Stationary Source compliance assurance program. The review evaluated enforcement data and files from Fiscal Year 2015.

The enclosed report summarizes findings from the review, along with planned actions to facilitate program improvements. As noted in this report, we are concerned with data quality and the backlog of Notice of Violations (NOVs) to address non-compliance. We appreciate the efforts of your staff to improve data in the national data base especially given the problems we encountered with the new requirements to report into the Integrated Compliance Information System (ICIS) and to address the backlog of NOVs. We look forward to collaborating with AMS to improve matters identified in this report affecting the compliance assurance program.

If you have any questions, please do not hesitate to contact me or have your staff contact Ms. Sasha Brown, EPA's Pennsylvania Liaison, at 215-814-5404.

Sincerely,

A handwritten signature in blue ink, appearing to read "Cosmo Servidio".

Cosmo Servidio  
Regional Administrator

Enclosure





# **STATE REVIEW FRAMEWORK**

## **Pennsylvania (Philadelphia Air Management Services Only)**

### **Clean Air Act Implementation in Federal Fiscal Year 2015**

**U.S. Environmental Protection Agency  
Region 3, Philadelphia**

**Draft Report  
September 12, 2017**

# Executive Summary

## Introduction

EPA Region 3 enforcement staff conducted a State Review Framework (SRF) enforcement program oversight review of the Philadelphia Air Management Services (AMS). The review year is Fiscal Year 2015.

EPA bases SRF findings on data and file review metrics, and on conversations with program management and staff. EPA will track recommended actions from the review in the SRF Tracker and publish reports and recommendations on EPA's ECHO web site.

## Areas of Strong Performance

- EPA found AMS Compliance Monitoring Reviews (CMRs) to be well-written and organized.

## Priority Issues to Address

- AMS did not consistently identify Federally Reportable Violations (FRVs) and High Priority Violations (HPVs). AMS failed to identify nine (9) FRVs and three (3) HPVs. At the time of the review, 12 Notice of Violations (NOVs) have been waiting six (6) months to one (1) year for enforcement follow-up. EPA is recommending that AMS take action to eliminate the enforcement backlog, giving priority to the three (3) HPVs. Additionally, EPA will provide training to AMS on the revised FRV and HPV policies.

## Most Significant CAA Stationary Source Program Issues

- The majority of stack test and enforcement minimum data requirements (MDRs) were not entered in a timely fashion in the Integrated Compliance Information System (ICIS-Air). Stack tests and enforcement data were untimely because the personnel responsible for entering them were unfamiliar with the time sensitivity of stack test data and the lack of oversight of ICIS entries. EPA is recommending that AMS develop protocols (e.g., data management plan and Standard Operating Procedure(s) (SOPs) to address issues and ensure accurate data entry into ICIS-Air.
- AMS did not have documentation in the files of the rationale for the difference between the initial penalty calculation and the final penalty. AMS will develop an SOP to address this issue.

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# I. Background on the State Review Framework

The State Review Framework (SRF) is designed to ensure that EPA conducts nationally consistent oversight. It reviews the following local, state, and EPA compliance and enforcement programs:

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- Analyzing information from the national data systems in the form of data metrics
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Each local or state's programs are reviewed once every five years. The first round of SRF reviews began in FY 2004. The third round of reviews began in FY 2013 and will continue through FY 2017.

## **II. SRF Review Process**

**Review period: Fiscal Year 2015**

**Key dates: May 31 – June 2, 2016 On-site file review conducted**

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

**EPA Region III:** Samantha Beers, Director, Office of Enforcement, Compliance and Environmental Justice; Betty Barnes, Region III SRF Coordinator

**Air Contacts:**

**EPA Region III:** Danielle Baltera, State Oversight Team Leader, Office of Air Permits and State Programs

**AMS:** Keith Lemchak, City of Philadelphia Department of Public Health Air Management Services, Facility Compliance and Enforcement (Chief)

### III. SRF Findings

Findings represent EPA's conclusions regarding state or local agency performance and are based on findings made during the data and/or file reviews and may also be informed by:

- Annual data metric reviews conducted since the state's last SRF review
- Follow-up conversations with state agency personnel
- Review of previous SRF reports, Memoranda of Agreement, or other data sources
- Additional information collected to determine an issue's severity and root causes

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**Area for Attention:** An activity, process, or policy that one or more SRF metrics show as a minor problem. Where appropriate, the state or local agency should correct the issue without additional EPA oversight. EPA may make recommendations to improve performance, but it will not monitor these recommendations for completion between SRF reviews. These areas are not highlighted as significant in an executive summary.

**Area for Improvement:** An activity, process, or policy that one or more SRF metrics show as a significant problem that the agency is required to address. Recommendations should address root causes. These recommendations must have well-defined timelines and milestones for completion, and EPA will monitor them for completion between SRF reviews in the SRF Tracker.

Whenever a metric indicates a major performance issue, EPA will write up a finding of Area for Improvement, regardless of other metric values pertaining to a particular element.

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- **State D:** The denominator.
- **State% or#:** The percentage, or if the metric is expressed as a whole number, the count.



## Clean Air Act Findings

### CAA Element 1 — Data

Finding 1-1	Area for Improvement
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<b>Summary</b>	Less than 20% of the facility files reviewed were found to be accurate in ICIS-Air. In addition, less than 33% of the stack test and enforcement MDRs were reported timely to ICIS-Air.
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<b>Explanation</b>	Only three (3) of the 16 facility files reviewed were found to be accurate when comparing the file to what was reported to ICIS-Air. The majority of inaccurate data involved three (3) missing stack tests and nine (9) FRV case files that were not created in ICIS-Air.
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AMS did not “fully” commit to be a direct user of ICIS-Air until the Spring 2015. Prior to ICIS-Air, AMS uploaded their data to the Pennsylvania Department of Environmental Protection’s (PADEP) eFACTs data system, whose data was subsequently uploaded to AFS. AMS delayed their decision to become direct users of ICIS-Air because they were waiting for PADEP to begin uploading data from eFACTs to ICIS-Air. PADEP did not begin uploading data to ICIS-Air until February 2016.

The majority of the untimely enforcement MDR data entry was due to the delay in the decision to become direct users of ICIS-Air, however, the untimely data reporting continued after AMS started to input data into ICIS-Air. A review of FY16 data conducted in September, 2016 shows that metric 3b2 is 78% and 3b3 is 84%, meaning untimely data entry continues to be an area for improvement for AMS. Historically, the mini-DMA’s show that metric 3b3 was at 63-72%.

Additionally, stack test MDRs were not reported timely to ICIS-Air. Only two (2) of 30 entries were timely. This occurred because stack test data is entered by the Source Registration group, which is outside of compliance and enforcement, and reports to a different supervisor. The EPA review team believes this was not a workload issue in the Source Registration group, but rather, as stated by AMS management, a situation where the group was not fully aware of the limited timeframe for stack test data entry. A review of FY16 data in October 2016 shows that metric 3b2 is 78% (18/23). An improvement over FY2015, but remains an area for improvement for AMS.

Not including the issues involved with switching to exclusively using ICIS, AMS told EPA that the root cause of the untimely entries into ICIS for source tests and enforcement cases can be contributed to a few factors. The main factor was due to the lack of oversight of ICIS entries. Other contributing factors include AMS internal procedures for activity entry were not updated to incorporate ICIS and their new internal tracking system did not have any fields created to ensure ICIS entry. Specifically, with regards to enforcement, AMS entered Notices of Violation (NOVs) into their internal database but didn't enter the actions into ICIS. Finally, with regard to source tests, they were not being tracked in a database and sometimes test reports were not given to staff to review.

**Relevant metrics**

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
2b Accurate MDR data in AFS	100%	NA	3	16	18.8%
3b2 Timely reporting of stack test dates and results	100%	64.5%	2	30	6.7%
3b3 Timely reporting of enforcement MDRs	100%	56.4%	33	102	32.4%

**State response**

AMS agrees that this is a problem, and will work with EPA to address it in the upcoming year. ICIS entries were not being tracked, and AMS staff were not familiar with the MDR requirements and the FRV/HPV policy.

During FY15, ICIS was a new system in its early stages with limited training and confusion about data entry. AMS was entering data into PADEPs eFACTS system and expected data to be uploaded along with PADEPs data uploads. AMS decided to change to manual uploads in the middle of 2015 when PADEP had unexpected delays. The learning time associated with a transition to a new system, along with staff changes contributed to the data entry problem during 2015.

To address this issue, AMS will hold periodic trainings for AMS staff on the MDR requirements and FRV/HPV policies. AMS will also update its internal procedures to cover ICIS data entry, modify its tracking system to record ICIS data entry for stack tests and enforcement actions. AMS's Quality Assurance Unit will review data entry into ICIS to ensure it is entered properly and in a timely manner.

With regards to enforcement, one problem was that AMS entered Notices of Violation (NOVs) into our internal database but didn't enter the actions into ICIS. To correct this, we added the field "ICIS Enforcement Action ID" that must be entered when a NOV is created in

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our internal tracking system. This ensures the NOV is entered into ICIS when its created in our own database.

With regards to the source tests, they weren't being tracked in a database and sometimes test reports weren't given to staff to review. To correct this, AMS has added a stack test activity to our tracking database that includes a ICIS entry requirement. We have also included an ICIS entry field into our monthly stack test reports. Another reason data wasn't entered on time was due to facilities submitting test reports late and after the deadline. Entries into ICIS occurred after the test review which was after the due date.

Internal procedures for NOV and source test entry will be updated to incorporate ICIS requirements. A training session will be held after the procedures are updated and continue periodically for new staff.

To make sure these changes are effective, AMS now has a Quality Assurance section that reviews the agencies activities and entries into their associated databases. They compare entries into ICIS to our own databases/spreadsheets/internal reports. This will help ensure data is entered into ICIS in a timely manner.

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**Recommendation**

1) AMS to develop protocols (e.g., data management plan, SOP) to address issues and ensure timely and accurate data entry into ICIS-Air within three (3) months after the date of the final report. Protocol to outline procedures to improve coordination between the Source Registration Group and the Compliance and Enforcement staff. EPA to review and approve final protocols;

2) EPA to conduct quarterly data reviews in conjunction with T&A meetings for two (2) years after EPA approval of the protocols developed in recommendation # 1;

3) Missing and inaccurate data identified should be corrected within 60 days of the final report; and

4) EPA to provide training for data entry personnel for 2 years following the approval of the protocols.

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**CAA Element 1 — Data**

**Finding 1-2 Meets or Exceeds Expectations**

**Summary** AMS reported HPV determinations and compliance monitoring MDRs timely.

**Explanation** For the two (2) HPVs that were identified in FY15, AMS reported them timely to ICIS-Air. Additionally, the majority of compliance monitoring MDRs were entered timely in ICIS-Air. The majority of the seven (7) untimely compliance monitoring MDRs occurred prior to AMS deciding to be direct users of ICIS-Air (i.e., Spring 2015). As of September 2016, metrics 3b1 is at 97.1% (67/69).

Relevant metrics	Metric ID Number and Description	Natl	Natl	State	State	State
		Goal	Avg	N	D	% or #
	3a2 Timely reporting of HPV determinations	100%	99.6%	2	2	100%
	3b1 Timely reporting of compliance monitoring MDRs	100%	64.2%	54	61	88.5%

**State response** AMS agrees with EPA’s findings.

**Recommendation** None

## CAA Element 2 — Inspections

### Finding 2-1 Meets or Exceeds Expectations

**Summary** AMS met the negotiated frequency for compliance evaluations of the Compliance Monitoring Strategy (CMS) sources. Additionally, all CMRs reviewed provided sufficient documentation to determine facility compliance and document the FCE elements. The EPA review team found the CMRs to be well written and organized. AMS also reviewed all of the Title V Annual Compliance Certifications that were scheduled to be reviewed in FY2015.

**Explanation** AMS completed all CMS commitments for compliance evaluations for majors and SM-80s in FY 2015. The initial results for Metric 5e (Review of Title V Annual Compliance Certifications (TVACCs) showed that there were seven (7) facilities that were scheduled to have a TVACC reviewed in FY 2015 but did not. However, the EPA Review Team determined that all Title V Sources scheduled to have a TVACC reviewed in FY 2015 – 32 – did indeed have a TVACC reviewed in FY 2015. For Metric 5e, the latest CAA Plain Language Guide says the performance of this metric may need to be revised (from the results in the initial Data Metric Analysis). Specifically, the CAA Plain Language Guide says that “The metric includes all Title Sources added during the review year. A Title V certification may not have been required from these sources; therefore, it may appear not all certifications were reviewed. This should be considered during the review.” Therefore, the EPA review team determined that all TVACCs submitted during FY 2015 were reviewed by AMS.

#### Relevant metrics

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
5a FCE coverage: majors and mega-sites	100%	63.2%	18	18	100%
5b FCE coverage: SM-80s	100%	79.5%	2	2	100%
5c FCE coverage: minors and synthetic minors (non-SM 80s) that are part of CMS plan or alternative CMS Plan	NA	NA	NA	NA	NA
5e Review of Title V annual compliance certifications	100%	39.1%	32	32	100%
6a Documentation of FCE elements	100%	NA	11	11	100%
6b Compliance monitoring reports (CMRs) or facility files reviewed that provide sufficient documentation to determine compliance of the facility	100%	NA	11	11	100%

**State response** AMS agrees with EPA’s findings.

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**Recommendation**   None

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## CAA Element 3 — Violations

### Finding 3-1 Area for Improvement

**Summary** AMS did not consistently identify FRVs and HPVs.

**Explanation** AMS failed to identify nine (9) FRVs and three (3) HPVs in FY2015. At the time of the file review, 12 NOVs have been waiting from six (6) months to over one (1) year for enforcement follow-up. This many open enforcement cases is a concern to the EPA review team as there is no assurance that these facilities have returned to compliance. Discussions with the enforcement branch chief revealed that there is an enforcement backlog due to vacancies.

### Relevant metrics

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
7a Accuracy of compliance determinations			12	21	57.17%
8c Accuracy of HPV determinations			11	14	78.6%

### State response

AMS agrees with EPA that FRVs and HPVs were not consistently identified in ICIS. However, this does not mean Notices of Violation (NOVs) were not being issued. Rather such NOVs were not documented as FRVs in ICIS due to AMS staff's unfamiliarity with the FRV/HPV policy and ICIS system.

AMS disagrees with EPA's conclusion that three (3) HPVs in FY15 were not properly identified. Only one (1) of the three (3) NOVs reviewed by EPA should have been classified as HPVs.

For the one (1) NOV that AMS agrees should have been classified as a HPV, after further review, AMS has determined that additional violations occurred and should have been documented. Accordingly, a new NOV will be issued. The facility has already addressed the outstanding and new violations and has returned to compliance. The facility implemented upgrades to their control device and improved recordkeeping procedures after the NOV was issued. Testing witnessed by AMS after NOV issuance verified compliance with control device requirements. The outstanding issue is the assessment and collection of a civil penalty.

The purported second HPV NOV pertained to failure to meet emission limitations discovered during a source test. After further review, the

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NOV was issued in error. The NOV was issued based upon the review of the source test but the review was incorrect. The emission limits the test results were compared to were incorrect and the source was operating in compliance during the test. The NOV has been rescinded.

The purported third HPV NOV pertained to an operator's failure to meet data availability requirements for a continuous emission monitor. This citation did not warrant a HPV classification because the missing data didn't interfere with AMS's ability to determine whether the facility's complied with its emission limits. Without CEM data the facility supplied operational and historical data to justify and demonstrate compliance with emission limits. In addition, the facility is no longer in operation as of April 2017.

The enforcement and resolution of NOVs is an important goal for AMS. Delays in resolving NOVs issued during the audit period were attributable to a shortage of personnel at AMS. Since that time, AMS has retained additional enforcement staff, and has begun to address the backlog of unresolved NOVs. The facilities with unresolved violations have taken corrective action to ensure they returned to compliance and the remaining issue is the assessment and collection of a civil penalty by AMS.

As discussed in prior responses, AMS will hold periodic trainings for AMS staff on the MDR requirements and FRV/HPV policy, update its internal procedures to cover ICIS data entry, and modify its tracking system to record ICIS data entry for stack tests and enforcement actions.

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**Recommendation**

- 1) AMS to update enforcement SOP to address the process of identifying FRVs and HPVs within six (6) months of the date of the final report. EPA to review and approve final SOP.
- 2) EPA to provide training to AMS on revised FRV and HPV policies within 1 year of the final report issuance.
- 3) EPA conduct quarterly data reviews in conjunction with T&A meetings for two (2) years after EPA approval of the protocols developed in recommendation # 1.
- 4) AMS should take action to eliminate the enforcement backlog that has developed. In order to assure timely and appropriate enforcement for the three (3) HPVs identified at this time, EPA and AMS will work together to assure appropriate escalation of these cases.



**CAA Element 3 — Violations**

**Finding 3-2**      **Meets or Exceeds Expectations**

**Summary**      AMS made timely HPV determinations for two (2) HPVs identified in FY15.

**Explanation**      AMS made timely HPV determinations for two (2) HPVs in FY15 (i.e.; within 90 days after the discovery action that provides information indicating a violation has occurred).

<b>Relevant metrics</b>	<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 % or #</b>
		13 Timeliness of HPV determinations	100%	NA	2	2

**State response**      AMS agrees with EPA’s findings.

**Recommendation**      None

**CAA Element 4 — Enforcement**

**Finding 4-1 Meets or Exceeds Expectations**

**Summary** AMS included corrective action in formal responses.

**Explanation** All formal enforcement responses reviewed required the facility to return to compliance if they had not already done so at the time of the execution of the Consent Agreement. It should be noted that AMS addressed two (2) HPVs before Day 180 so there were no unaddressed HPVs that required an HPV Case Development and Resolution Timeframe during FY 2015.

**Relevant metrics**

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
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.	100%	NA	7	7	100%
10a Timeliness of addressing HPVs or alternatively having a case development and resolution timeline in place.	100%	NA	2	2	100%
10b Percent of HPVs that have been have been addressed or removed consistent with the HPV Policy.	100%	NA	2	2	100%
14 HPV Case Development and Resolution Timeline In Place When Required that Contains Required Policy Elements	100%	NA	0	0	0%

**State response** AMS agrees with EPA’s findings.

**Recommendation** None

## CAA Element 5 — Penalties

### Finding 5-1 Meets or Exceeds Expectations

**Summary** The majority of the penalty calculations reviewed documented gravity and economic benefit. Additionally, copies of checks were found in all files reviewed documenting that penalties were collected.

**Explanation** Five (5) of the six (6) files reviewed contained detailed penalty calculation worksheets that documented gravity and economic benefit. Only one (1) file reviewed did not contain a penalty calculation. The EPA review team believes this is an isolated incident and not a systemic problem.

Relevant metrics	Metric ID Number and Description	Natl	Natl	State	State	State
		Goal	Avg	N	D	% or #
	11a Penalty calculations reviewed that document gravity and economic benefit	100%	NA	5	6	83.3%
	12b Penalties collected	100%	NA	6	6	100%

**State response** AMS agrees with EPA that the closed file that lacked the necessary penalty calculations was an aberration. AMS's standard practice is to maintain penalty calculations, and any penalty demand letter sent to a violator, as part of a facility's file.

**Recommendation** None

**CAA Element 5 — Penalties**

**Finding 5-2                      Area for Improvement**

**Summary**                      AMS did not have documentation of the rationale for the difference between the initial penalty calculation and the final penalty.

**Explanation**                      None of the six (6) files reviewed contained documentation of the rationale for the difference between the initial penalty calculation and the final penalty. Discussion with AMS staff indicated that this was an oversight. The enforcement branch chief indicated that calculations will be included in the future.

Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
	12a Documentation of rationale for difference between initial penalty calculation and final penalty	100%	NA	0	6	0%

**State response**                      AMS agrees with EPA’s findings. To address this issue, AMS has added a field to its tracking database, and updated its enforcement operating procedure, so that justification for any reduction in the final penalty is recorded.

- Recommendation**
- 1) Within six (6) months of the date of the final report, AMS to develop an SOP to document the rationale for the difference between the initial penalty calculation and the final penalty. EPA to review and approve final SOP.
  - 2) EPA conduct quarterly data reviews in conjunction with T&A meetings for two (2) years after EPA approval of the protocols developed in recommendation # 1.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029

OCT 26 2017

Honorable Patrick McDonnell  
Secretary  
Pennsylvania Department of Environmental Protection  
Rachel Carson State Office Building  
400 Market Street  
Harrisburg, PA 17101

Dear Secretary McDonnell:

The U.S. EPA conducted the third round of the State Review Framework (SRF) review of Pennsylvania Department of Environmental Protection's (PADEP) Clean Air Act (CAA) Stationary Source, Resource Conservation and Recovery Act (RCRA), and Clean Water Act National Pollutant, Discharge, Elimination System (NPDES) compliance assurance programs including municipal and industrial wastewater, industrial and construction stormwater, and mining. The review evaluated enforcement data and files from Fiscal Year 2015.

The enclosed report summarizes findings from the review, along with planned actions to facilitate program improvements. This review along with previous reviews have identified various data improvement needs. As noted in this report, we appreciate the efforts of your staff for their continued attention and efforts to make changes that have resulted in improved data quality especially given the changes due to new requirements to report into EPA's national databases. We look forward to continuing collaboration efforts to improve data quality as well as other matters that may arise affecting these compliance assurance programs.

If you have any questions, please do not hesitate to contact me or have your staff contact Ms. Sasha Brown, EPA's Pennsylvania Liaison, at 215-814-5404.

Sincerely,

A handwritten signature in blue ink, appearing to read "Cosmo Servidio", followed by a horizontal line.

Cosmo Servidio  
Regional Administrator

Enclosure



# **STATE REVIEW FRAMEWORK**

## **Pennsylvania**

### **Clean Water Act, Clean Air Act, and Resource Conservation and Recovery Act Implementation in Federal Fiscal Year 2015**

**U.S. Environmental Protection Agency  
Region 3, Philadelphia**

**Final Report  
August 2, 2017**

# Executive Summary

## Introduction

In 2016, EPA Region III enforcement staff conducted a State Review Framework (SRF) enforcement program oversight review of the Pennsylvania Department of Environmental Protection (PADEP). The Region reviewed enforcement files from Fiscal Year 2015 for the Clean Water Act (CWA) -National Pollution Discharge Elimination System (NPDES) Clean Air Act -Stationary source program (CAA), and the Resource Conservation Recovery Act (RCRA). The CWA-NPDES section of report includes findings for the following NPDES sector programs: municipal and industrial wastewater; industrial and construction stormwater; and mining. In addition to the PADEP review, the Air Protection Division reviewed the two (2) local Pennsylvania air agencies. Allegheny County Health Department (ACHD) and Philadelphia Air Management Services (AMS) were reviewed separately, the Region prepared a separate report for each agency.

EPA bases SRF findings on data and file review metrics, and conversations with program management and staff. EPA will track recommended actions from the review in the agency's SRF Tracker and publish reports and recommendations on EPA's Enforcement Compliance History Online (ECHO) web site.

## Areas of Strong Performance

EPA acknowledges PADEP's significant qualitative and quantitative program advances in its NPDES programs. Over the last several years, PADEP has worked closely with EPA to address recommendations from the 2014 PA SRF Round 2 Final Report and the 2013 PA Mining Program Review. Activities undertaken by the Bureau of Clean Water and the Bureau of District Mining Operations have resulted in substantial program improvements in several critical areas. For example, PADEP has made considerable resource investments to enhance NPDES data management capabilities in both the Clean Water and Mining programs. PADEP also developed multiple NPDES program standard operating procedures (SOP) to increase efficiency and consistency of NPDES program implementation in the Regional and District mining offices. Additionally, EPA recognizes PADEP's efforts to strengthen the Municipal Separate Storm Sewer Systems (MS4) compliance monitoring and enforcement program through specialized MS4 inspector trainings, outreach to the regulated community to further understanding of MS4 permit requirements, and a heightened general enforcement field presence.

PADEP's Air Quality Program was thorough and comprehensive in making High Priority Violation (HPV) determinations as well as accurately reporting HPV and Federally Reportable Violations (FRV) violations to the Integrated Compliance Information System (ICIS).

EPA found PADEP's RCRA program inspection reports were well-written and organized. The majority of the reports included a detailed narrative and checklist. Building off of progress started in previous SRF reviews, EPA observed significant improvements in the level of detail included in the inspection reports.

**Priority Issues to Address:** EPA’s SRF Round 3 review did not identify priority issues affecting PADEP’s program performance.

### **Most Significant CWA-NPDES Program Issues<sup>1</sup>**

The SRF Round 3 file review of PADEP’s municipal and industrial wastewater, and construction stormwater enforcement files identified deficiencies with the penalty documentation contained in individual enforcement files. PADEP did not include penalty calculation sheets or other documentation in the enforcement files sufficient to document that the initial penalty calculation considered gravity and economic benefit components. In addition, the file review determined that PADEP does not provide sufficient documentation of the difference and/or rationale for any reduction from the initial and final penalty.

EPA will work with PADEP to ensure sufficient information is included in penalty calculation documentation to determine PADEP’s compliance with federal/state penalty requirements. EPA will also work with PADEP program managers to ensure adequate SOPs are in place and training is provided to the PADEP’s Regional Office staff. Additionally, EPA will monitor the PADEP’s progress through quarterly enforcement management calls, and confirm completion of the recommendation through a limited desktop enforcement file review of PADEP’s penalty documentation.

### **Most Significant CAA Stationary Source Program Issues**

EPA is recommending that PADEP determine the root cause of the inaccurate reporting of stack test results. PADEP will provide a report to EPA for review, and will work with EPA to implement corrective measures.

EPA will conduct quarterly data reviews in conjunction with Timely & Appropriate (T&A) meetings for two (2) years after EPA approval of the corrective measures.

### **Most Significant RCRA Subtitle C Program Issues: None**

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<sup>1</sup> EPA’s “National Strategy for Improving Oversight of State Enforcement Performance” identifies the following as significant recurrent issues: “Widespread and persistent data inaccuracy and incompleteness, which make it hard to identify when serious problems exist or to track state actions; routine failure of states to identify and report significant noncompliance; routine failure of states to take timely or appropriate enforcement actions to return violating facilities to compliance, potentially allowing pollution to continue unabated; failure of states to take appropriate penalty actions, which results in ineffective deterrence for noncompliance and an unlevel playing field for companies that do comply; use of enforcement orders to circumvent standards or to extend permits without appropriate notice and comment; and failure to inspect and enforce in some regulated sectors.”



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# I. Background on the State Review Framework

The State Review Framework (SRF) is designed to ensure that EPA conducts nationally consistent oversight. It reviews the following local, state, and EPA compliance and enforcement programs:

- Clean Water Act National Pollutant Discharge Elimination System
- Clean Air Act Stationary Sources (Title V)
- Resource Conservation and Recovery Act Subtitle C

Reviews cover:

- **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, determination of significant noncompliance (SNC) for the CWA and RCRA programs and high priority violators (HPV) for the CAA program, and accuracy of compliance determinations
- **Enforcement** — timeliness and appropriateness, returning facilities to compliance
- **Penalties** — calculation including gravity and economic benefit components, assessment, and collection

EPA conducts SRF reviews in three (3) phases:

- Analyzing information from the national data systems in the form of data metrics
- Reviewing facility files and compiling file metrics
- Development of findings and recommendations

EPA builds consultation into the SRF to ensure that EPA and the state understand the causes of issues and agree, to the degree possible, on actions needed to address them. SRF reports capture the agreements developed during the review process in order to facilitate program improvements. EPA also uses the information in the reports to develop a better understanding of enforcement and compliance nationwide, and to identify issues that require a national response.

Reports provide factual information. They do not include determinations of overall program adequacy, nor are they used to compare or rank state programs.

Each state's programs are reviewed once every five (5) years. The first round of SRF reviews began in FY 2004. The third round of reviews began in FY 2013 and will continue through FY 2017.

## II. SRF Review Process

**Review period: FY 2015**

**Key dates:**

CWA-NPDES File Reviews:

PADEP-Bureau of Mining, Cambria District Mining Office 6/15/16

PADEP-Southeast Regional Office 6/27/16

PADEP-Southwest Regional Office 7/6/16

Air File Reviews:

PADEP Southeast Regional Office 6/13-14/16

PADEP Northwest Regional Office 7/11-13/16

RCRA File Reviews:

PADEP South Central Regional Office 7/12-13/16

PADEP Southwest Regional Office 7/18-19/16

PADEP Southeast Regional Office 8/1/16

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

**EPA Region III:** Samantha Beers, Director, Office of Enforcement, Compliance and Environmental Justice and Betty Barnes, Region III SRF Coordinator

**NPDES Program Contacts:**

**EPA Region III:** Christopher Menen, State Oversight Team Leader, Office of NPDES Permits and Enforcement

**PADEP Clean Water Bureau:** Sean Furjanic, P.E., PADEP-Central Office, Bureau of Clean Water, Divisions of Monitoring, Operations and Data Systems (Chief)

**PADEP Bureau of Mining:** Thomas Callaghan, P.G., PADEP-Central Office, Bureau of Mining Programs (Office Director), William Allen, PADEP-Central Office, Bureau of Mining Programs, William Plassio, Bureau of District Mining Operations (Bureau Director), Daniel Sammarco, P.E., District Mining Manager, Cambria District Mining Office

**PADEP-Southeast Regional Office:** Robert Bauer, Water Quality Specialist, Clean Water Program and Frank DeFrancesco, Compliance Specialist, Water Quality Program

**Air Contacts:**

**EPA Region III:** Kurt Elsner, State Oversight Team Leader, Office of Air Permits and State Programs

**PADEP Central Office:** Susan Foster Central Office, Division of Compliance and Enforcement (Chief)

**PADEP Southeast Regional Office:** Jim Rebarchak, Program Manager, Air Quality Program and Bill Stroble, Operations Section Chief

**PADEP Northwest Regional Office** Cristina Nagy, Program Manager Air Quality Program and Lori McNabb, Operations Section Chief, Air Quality Program

**RCRA Contacts:**

**EPA Region III:** Stacie Pratt, Team Leader, Office of State Programs, Land and Chemicals Division, and Sara Kinslow, Pennsylvania State Program Manager, Office of State Programs, Land and Chemicals Division, EPA Region III

**PADEP Contact:** Tom Mellott, PADEP, Division of Hazardous Waste Management, Chief

### III. SRF Findings

Findings represent EPA’s conclusions regarding state performance and are based on findings made during the data and/or file reviews and may also be informed by:

- Annual data metric reviews conducted since the state’s last SRF review
- Follow-up conversations with state agency personnel
- Review of previous SRF reports, Memoranda of Agreement, or other data sources
- Additional information collected to determine an issue’s severity and root causes

There are three (3) categories of findings:

**Meets or Exceeds Expectations:** The SRF was established to define a base level or floor for enforcement program performance. This rating describes a situation where the base level is met and no performance deficiency is identified, or a state performs above national program expectations.

**Area for State Attention:** An activity, process, or policy that one (1) or more SRF metrics show as a minor problem. Where appropriate, the state should correct the issue without additional EPA oversight. EPA may make recommendations to improve performance, but it will not monitor these recommendations for completion between SRF reviews. These areas are not highlighted as significant in an executive summary.

**Area for State Improvement:** An activity, process, or policy that one (1) or more SRF metrics show as a significant problem that the agency is required to address. Recommendations should address root causes. These recommendations must have well-defined timelines and milestones for completion, and EPA will monitor them for completion between SRF reviews in the SRF Tracker.

Whenever a metric indicates a major performance issue, EPA will write up a finding of Area for State Improvement, regardless of other metric values pertaining to a particular element.

The relevant SRF metrics are listed within each finding. The following information is provided for each metric:

- **Metric ID Number and Description:** The metric’s SRF identification number and a description of what the metric measures.
- **Natl Goal:** The national goal, if applicable, of the metric, or the CMS commitment that the state has made.
- **Natl Avg:** The national average across all states, territories, and the District of Columbia.
- **State N:** For metrics expressed as percentages, the numerator.
- **State D:** The denominator.
- **State % or #:** The percentage, or if the metric is expressed as a whole number, the count.

## Clean Water Act Findings

CWA Element 1 — Data									
	<p><b>Area for State Attention</b></p> <hr/> <p>PADEP’s NPDES mining program does not currently enter or upload NPDES data into the national data system (metric 2b).</p> <p>PADEP’s NPDES municipal and industrial wastewater program did not consistently enter or upload NPDES MDRs into the national database (metric 10a1)</p>								
	<p>EPA Region III, PADEP Bureau of Clean Water and PADEP Bureau of Mining Programs have been working cooperatively to enhance PADEP’s ability to flow NPDES MDRs to ICIS from the state data system. In addition, Region III and PADEP are implementing an NPDES Data Management Strategy which establishes a plan with milestones for PADEP to meet all federal NPDES data management requirements as set forth by the NPDES Electronic Reporting Rule.</p>								
	<table border="1"> <thead> <tr> <th>Metric ID Number and Description</th> <th>State N</th> <th>State D</th> <th></th> </tr> </thead> <tbody> <tr> <td>10a1 Major facilities with timely action as appropriate</td> <td>1</td> <td>42</td> <td>2.4%</td> </tr> </tbody> </table>	Metric ID Number and Description	State N	State D		10a1 Major facilities with timely action as appropriate	1	42	2.4%
Metric ID Number and Description	State N	State D							
10a1 Major facilities with timely action as appropriate	1	42	2.4%						
<b>State response</b>	<p>As noted above, PADEP and EPA have been working cooperatively for several years on enhancing the data flow to ICIS and, with the implementation of the NPDES eReporting Rule, expects to greatly reduce and ultimately eliminate data upload deficiencies.</p>								
<b>Recommendation</b>	<p>None</p>								

## CWA Element 2 — Inspections

<b>Finding 2-1</b>	<b>Meets or Exceeds Expectations</b>																													
<b>Summary</b>	<p>PADEP met its FY2015 CMS commitments for inspection coverage of NPDES facilities (metrics 4a4, 4a5, 4a7, 4a8, 4a9, 4a10, 5a1, 5b1 and 5b2). There are no metric measures for 4a1 and 4a2 measure since EPA implements the authorized NPDES Pretreatment program in Pennsylvania.</p> <p>PADEP’s NPDES municipal and industrial wastewater programs, industrial storm water, construction storm water, CAFO, and mining programs consistently produced complete inspection reports with sufficient documentation to determine compliance (metric 6a).</p> <p>PADEP’s NPDES municipal and industrial wastewater program, industrial stormwater, construction stormwater, CAFO and mining programs consistently completed inspection reports within the prescribed federal and Pennsylvania state policy timeframes (metric 6b).</p>																													
<b>Explanation</b>	<p>PADEP met all FY2015 CMS compliance monitoring commitments</p> <p>PADEP’s SRF file review determined the following results as measured under metric 6a, complete inspection reports that provided sufficient documentation to determine compliance: municipal and industrial wastewater program 34 out of 40 reports; industrial stormwater 10 out of 10 reports; construction stormwater 10 out of 10 reports; CAFO three (3) out of three (3) reports; and mining 23 out of 23 reports.</p> <p>The SRF file review under metric 6b determined the following program averages for completing an inspection report: the municipal and industrial wastewater program averaged 13 days; the industrial storm water program averaged 11 days; the construction storm water program averaged one (1) day; the CAFO program averaged three (3) days; and the mining program averaged two (2) days for completing a timely inspection report.</p>																													
<b>Relevant metrics</b>	<table border="1"> <thead> <tr> <th data-bbox="479 1495 1027 1577">Metric ID Number and Description</th> <th data-bbox="1027 1495 1203 1577"></th> <th data-bbox="1203 1495 1279 1577">State N</th> <th data-bbox="1279 1495 1356 1577">State D</th> <th data-bbox="1356 1495 1451 1577">State</th> </tr> </thead> <tbody> <tr> <td data-bbox="479 1577 1027 1654">4a4 Major CSO inspections</td> <td data-bbox="1027 1577 1203 1654">PA CMS</td> <td data-bbox="1203 1577 1279 1654">32</td> <td data-bbox="1279 1577 1356 1654">24</td> <td data-bbox="1356 1577 1451 1654">133%</td> </tr> <tr> <td data-bbox="479 1654 1027 1732">4a5 SSO inspections (as needed)</td> <td data-bbox="1027 1654 1203 1732">PA CMS</td> <td data-bbox="1203 1654 1279 1732">17</td> <td data-bbox="1279 1654 1356 1732">17</td> <td data-bbox="1356 1654 1451 1732">100%</td> </tr> <tr> <td data-bbox="479 1732 1027 1810">4a7 Phase I &amp; II MS4 audits or inspections</td> <td data-bbox="1027 1732 1203 1810">PA CMS</td> <td data-bbox="1203 1732 1279 1810">311</td> <td data-bbox="1279 1732 1356 1810">117</td> <td data-bbox="1356 1732 1451 1810">267%</td> </tr> <tr> <td data-bbox="479 1810 1027 1887">4a8 Industrial stormwater inspections (GP)</td> <td data-bbox="1027 1810 1203 1887">PA CMS</td> <td data-bbox="1203 1810 1279 1887">666</td> <td data-bbox="1279 1810 1356 1887">390</td> <td data-bbox="1356 1810 1451 1887">171%</td> </tr> </tbody> </table>					Metric ID Number and Description		State N	State D	State	4a4 Major CSO inspections	PA CMS	32	24	133%	4a5 SSO inspections (as needed)	PA CMS	17	17	100%	4a7 Phase I & II MS4 audits or inspections	PA CMS	311	117	267%	4a8 Industrial stormwater inspections (GP)	PA CMS	666	390	171%
Metric ID Number and Description		State N	State D	State																										
4a4 Major CSO inspections	PA CMS	32	24	133%																										
4a5 SSO inspections (as needed)	PA CMS	17	17	100%																										
4a7 Phase I & II MS4 audits or inspections	PA CMS	311	117	267%																										
4a8 Industrial stormwater inspections (GP)	PA CMS	666	390	171%																										

4a8 Industrial stormwater inspections (Ind permit)	PA CMS	-	119	31	384%
4a10 Medium and large NPDES CAFO inspections	PA CMS	-	268	76	353%
5a1 Inspection coverage of NPDES majors	PA CMS	55.3%	373	408	91.4%
5b1 Inspection coverage of NPDES non-majors with individual permits	PA CMS	26.6%	2114	3844	55%
5b2 Inspection coverage of NPDES non-majors with general permits	PA CMS	6.8%	1334	6230	21.4%
6a Inspection reports complete and sufficient to determine compliance at the facility (Muni/Ind WW)	100%		34	40	85%
6a Inspection reports complete and sufficient to determine compliance at the facility (Ind SW)	100%		10	10	100%
6a Inspection reports complete and sufficient to determine compliance at the facility (Const SW)	100%		10	10	100%
6a Inspection reports complete and sufficient to determine compliance at the facility (CAFO)	100%		3	3	100%
6a Inspection reports complete and sufficient to determine compliance at the facility (Mining)	100%		23	23	100%
6b Inspection reports completed within prescribed timeframe (Muni/Ind WW)	100%		35	39	89.7%
6b Inspection reports completed within prescribed timeframe (Ind SW)	100%		8	10	80%
6b Inspection reports completed within prescribed timeframe (Const SW)	100%		10	10	100%
6b Inspection reports completed within prescribed timeframe (CAFO)	100%		3	3	100%
6b Inspection reports completed within prescribed timeframe (Mining)	100%		23	23	100%
<b>State response</b>					
<b>Recommendation</b>	None				





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appropriate compliance determination guidance and training to the PADEP's MS4 program. EPA will monitor PADEP's progress through quarterly enforcement management calls, and confirm completion of the recommendation through a limited desktop file review of PADEP MS4 compliance monitoring activities within one year of receiving the SOP.

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**CWA Element 3 — Violations**

**Finding 3-1**

**Meets or Exceeds Expectations**

**Summary**

PADEP’s NPDES municipal and industrial wastewater, industrial stormwater, construction stormwater, CAFO and mining programs consistently produce inspection reports with sufficient documentation leading to an accurate compliance determination (metric 7e).

PADEP’s municipal and industrial wastewater program reported 71 NPDES major facilities in SNC during the FY2015 SRF review year (metric 8a2).

**Explanation**

PADEP reported 64.5% of major facilities in noncompliance with discharge monitoring report (DMR) violations (national average is 74.2%) as measured under data metric 7d1.

The file review determined that PADEP’s NPDES municipal and industrial wastewater program made an accurate compliance determination in 34 out of 40 inspection reports; the industrial stormwater program made accurate compliance determinations in nine (9) out of 10 inspections reports; the construction stormwater program made accurate compliance determinations in 10 out of 10 inspection reports; the CAFO program made accurate compliance determinations in three (3) out of three (3) inspection reports; and the mining program made accurate compliance determinations in 22 out of 23 inspection reports as measured under file metric 7e.

PADEP reported 19 NPDES non-major facilities with individual permits in Category 1 noncompliance (metric 7f1).

PADEP reported 60 NPDES non-major facilities with individual permits in Category 2 noncompliance (metric 7g1).

PADEP’s SNC rate of 17% for NPDES majors is within the FY2015 national average (19.2%) as measured by metric 8a2.

<b>Metric ID Number and Description</b>	<b>State N</b>	<b>State D</b>	
7d1 Major facilities in noncompliance	263	408	64.5%
7f1 Non-major facilities in Category 1 noncompliance	19		
7g1 Non-major facilities in Category 2 noncompliance			

	7e Inspection reports reviewed that led to an accurate compliance determination (muni/ind ww)	100%	34	40	85%
	7e Inspection reports reviewed that led to an accurate compliance determination (ind sw)		9	10	90%
	7e Inspection reports reviewed that led to an accurate compliance determination (const sw)	100%	10	10	100%
	7e Inspection reports reviewed that led to an accurate compliance determination(CAFO)	100%-	3	3	100%
	7e Inspection reports reviewed that led to an accurate compliance determination (mining)	100%	22	23	95.7%
	8a2 Percentage of major facilities in SNC (muni/ind ww)	19.2%	71	418	17%
<b>State response</b>					
<b>Recommendation</b>	None				

### CWA Element 3 — Violations

Finding 3-2	Area for State Improvement																		
<p><b>Summary</b></p>	<p>PADEP’s municipal and industrial wastewater program does not identify SEVs as SNC or non-SNC at NPDES major facilities (metric 8b).</p> <p>PADEP does not identify and report on a timely basis SEVs as SNC (metric 8c).</p>																		
<p><b>Explanation</b></p>	<p>PADEP identified SEVs as SNC or non-SNC in zero (0) out seven (7) inspection files reviewed by EPA (metric 8b). At the time of the SRF review, PADEP did not enter/upload SEV data into ICIS.</p> <p>PADEP identified zero (0) out of two (2) SEVs as SNC and reported timely at major facilities (metric 8c). At the time of the SRF review, PADEP did not enter/upload SEV data into ICIS.</p> <p>EPA Region III and PADEP Bureau of Clean Water have been working cooperatively to enhance the PADEP's capability to flow NPDES MDRs to ICIS from their data system (e-FACTS). In addition, Region III and PADEP are implementing an NPDES Data Management Strategy which establishes a plan with milestones for PADEP to meet all federal NPDES data management requirements including entry of SEV data as set forth by the NPDES Electronic Reporting Rule.</p>																		
<p><b>Relevant metrics</b></p>	<table border="1"> <thead> <tr> <th data-bbox="477 1310 1019 1394">Metric ID Number and Description</th> <th data-bbox="1019 1310 1117 1394">Natl Goal</th> <th data-bbox="1117 1310 1198 1394">Natl Avg</th> <th data-bbox="1198 1310 1263 1394">State N</th> <th data-bbox="1263 1310 1328 1394">State D</th> <th data-bbox="1328 1310 1453 1394">State % or #</th> </tr> </thead> <tbody> <tr> <td data-bbox="477 1394 1019 1478">8b Single-event violations accurately identified as SNC or non-SNC (muni/ind ww)</td> <td data-bbox="1019 1394 1117 1478">100%</td> <td data-bbox="1117 1394 1198 1478"></td> <td data-bbox="1198 1394 1263 1478">0</td> <td data-bbox="1263 1394 1328 1478">7</td> <td data-bbox="1328 1394 1453 1478">0%</td> </tr> <tr> <td data-bbox="477 1478 1019 1556">8c Percentage of SEVs identified as SNC reported timely at major facilities (muni/ind ww)</td> <td data-bbox="1019 1478 1117 1556">100%</td> <td data-bbox="1117 1478 1198 1556"></td> <td data-bbox="1198 1478 1263 1556">0</td> <td data-bbox="1263 1478 1328 1556"></td> <td data-bbox="1328 1478 1453 1556"></td> </tr> </tbody> </table>	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #	8b Single-event violations accurately identified as SNC or non-SNC (muni/ind ww)	100%		0	7	0%	8c Percentage of SEVs identified as SNC reported timely at major facilities (muni/ind ww)	100%		0		
Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #														
8b Single-event violations accurately identified as SNC or non-SNC (muni/ind ww)	100%		0	7	0%														
8c Percentage of SEVs identified as SNC reported timely at major facilities (muni/ind ww)	100%		0																
<p><b>State response</b></p>	<p>PADEP is currently finalizing a crosswalk table that assigns violations a SNC status and allows upload to ICIS. This will ensure continued progress toward meeting the requirements including SEV entry as set forth in the eReporting Rule.</p>																		
<p><b>Recommendation</b></p>	<p>PADEP should continue to implement the NPDES Data Management Strategy which establishes a plan with milestones for PADEP to meet all federal NPDES data management requirements including entry of SEV</p>																		

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data as set forth by the NPDES Electronic Reporting Rule. EPA Region III will confirm the completion of the recommendation through periodic data management calls with PADEP and through the PA round 4 SRF review.

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**CWA Element 3 — Violations**

<b>Finding 3-3</b>	<b>Area for State Improvement</b>								
<b>Summary</b>	The PADEP MS4 program does not consistently produce inspection reports with sufficient documentation that would support accurate compliance determinations (metric 7e).								
<b>Explanation</b>	The SRF file review of PADEP’s MS4 Phase II inspection files identified five (5) out of 11 MS4 inspection reports/annual program reports that included sufficient documentation leading to an accurate compliance determination. PADEP failed to make a compliance determination and/or an accurate compliance determination in five (5) out of five (5) FY2015 MS4 annual program reports and one (1) MS4 inspection report reviewed by EPA. In addition to onsite MS4 compliance inspections, PADEP performs desktop compliance reviews of municipalities’ annual MS4 program reports to assist with MS4 compliance determinations.								
	<table border="1"> <thead> <tr> <th><b>Metric ID Number and Description</b></th> <th><b>State N</b></th> <th><b>State D</b></th> <th></th> </tr> </thead> <tbody> <tr> <td>7e Inspection reports reviewed that led to an accurate compliance determination (MS4)</td> <td>5</td> <td>11</td> <td>45.5%</td> </tr> </tbody> </table>	<b>Metric ID Number and Description</b>	<b>State N</b>	<b>State D</b>		7e Inspection reports reviewed that led to an accurate compliance determination (MS4)	5	11	45.5%
<b>Metric ID Number and Description</b>	<b>State N</b>	<b>State D</b>							
7e Inspection reports reviewed that led to an accurate compliance determination (MS4)	5	11	45.5%						
<b>State response</b>									
<b>Recommendation</b>	Within 180 days of transmittal of the final PA SRF report, PADEP should develop or revise MS4 compliance monitoring standard operating procedures (SOP) to establish criteria that ensures consistency and timeliness for desktop reviews of MS4 annual program reports performed for the purpose of making compliance determinations. PADEP should utilize the desktop reviews in conjunction with onsite MS4 inspections using the MS4 annual report reviews as an enforcement targeting tool, and a source of supplemental compliance information when making an MS4 compliance determination. EPA will work with PADEP to provide appropriate compliance determination guidance and training to PADEP’s MS4 program. EPA will monitor PADEP’s progress through quarterly enforcement management calls, and confirm completion of the recommendation through a limited desktop file review of PADEP MS4 compliance monitoring activities.								

## CWA Element 4 — Enforcement

### Finding 4-1

### Meets or Exceeds Expectations

#### Summary

The PADEP NPDES industrial stormwater, construction stormwater, and mining programs consistently address violations with enforcement responses that return or will return a source in violation to compliance (metric 9a).

The PADEP NPDES municipal and industrial wastewater, industrial stormwater, construction stormwater, and mining programs initiate enforcement responses that address violations in an appropriate manner (metric 10b).

#### Explanation

The SRF file review of PADEP's NPDES industrial stormwater program identified one (1) out of one (1) enforcement actions that returned facilities to compliance as measured under metric 9a.

The SRF file review of PADEP's NPDES construction stormwater program identified nine (9) out of 10 enforcement actions that returned facilities to compliance as measured under metric 9a.

The SRF file review of PADEP's NPDES mining program identified 22 out of 22 enforcement actions that returned facilities to compliance as measured under metric 9a.

The SRF file review of PADEP's NPDES municipal and industrial wastewater program identified 27 out of 28 enforcement responses that addressed violations in an appropriate manner as measured under metric 10b.

The SRF file review of PADEP's NPDES industrial stormwater program identified one (1) out of one (1) enforcement responses that addressed violations in an appropriate manner as measured under metric 10b.

The SRF file review of PADEP's NPDES construction stormwater program identified 10 out of 10 enforcement responses that addressed violations in an appropriate manner as measured under metric 10b.

The SRF file review of PADEP's NPDES mining program identified 22 out of 22 enforcement responses that addressed violations in an appropriate manner as measured under metric 10b.



Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
	9a Percentage of enforcement responses that return or will return source in violation to compliance (ind sw)	100%	-	1	1	100%
9a Percentage of enforcement responses that return or will return source in violation to compliance (const sw)	100%	-	9	10	90%	
9a Percentage of enforcement responses that return or will return source in violation to compliance (mining)	100%	-	22	22	100%	
10b Enforcement responses reviewed that address violations in an appropriate manner (muni/ind ww)	100%	-	27	28	96.4%	
10b Enforcement responses reviewed that address violations in an appropriate manner (ind sw)	100%	-	1	1	100%	
10b Enforcement responses reviewed that address violations in an appropriate manner (const sw)	100%	-	10	10	100%	
10b Enforcement responses reviewed that address violations in an appropriate manner (mining)	100%	-	22	22	100%	
<b>State response</b>						
<b>Recommendation</b>	None					

**CWA Element 4 — Enforcement**

<b>Finding 4-2</b>	<b>Area for State Attention</b>																		
<b>Summary</b>	<p>PADEP’s NPDES municipal and industrial wastewater program addresses violations with enforcement responses that return or will return a source in violation to compliance (metric 9a).</p> <p>PADEP’s NPDES municipal and industrial wastewater program did not consistently enter or upload NPDES MDRs into the national database (metric 10a1)</p>																		
<b>Explanation</b>	<p>The SRF file review of PADEP’s NPDES municipal and industrial wastewater program identified 20 out of 28 enforcement actions that returned facilities to compliance as measured under metric 9a. EPA identified noncompliance at eight (8) facilities subsequent to informal and/or formal enforcement actions. The SRF review considered PADEP’s FY2015 enforcement actions and did not track facilities that may have returned to compliance the following fiscal year.</p> <p>PADEP’s NPDES municipal and industrial wastewater program entered/uploaded data into the national database for one (1) out of 42 NPDES major enforcement actions as measured under metric 10a1. PADEP does not consistently enter/upload the NPDES MDRs for timely and appropriate enforcement into the national database as measured under metric 10a1.</p> <p>EPA Region III and PADEP Bureau of Clean Water have been working cooperatively to enhance the PADEP's capability to flow NPDES MDRs to ICIS from the state data system (e-FACTS). In addition, Region III and PADEP are implementing an NPDES Data Management Strategy which establishes a plan with milestones for PADEP to meet all federal NPDES data management requirements including timely and appropriate enforcement data as set forth by the NPDES Electronic Reporting Rule.</p>																		
	<table border="1"> <thead> <tr> <th data-bbox="483 1577 1019 1654"><b>Metric ID Number and Description</b></th> <th data-bbox="1198 1577 1247 1654"><b>State N</b></th> <th data-bbox="1279 1577 1328 1654"><b>State D</b></th> <th data-bbox="1360 1577 1442 1654"></th> </tr> </thead> <tbody> <tr> <td data-bbox="483 1654 1019 1759">9a Percentage of enforcement responses that return or will return source in violation to compliance (muni/ind ww)</td> <td data-bbox="1198 1654 1247 1759">20</td> <td data-bbox="1279 1654 1328 1759">28</td> <td data-bbox="1360 1654 1442 1759">71.4%</td> </tr> <tr> <td data-bbox="483 1759 1019 1829">10a1 Major facilities with timely action as appropriate (muni/ind ww)</td> <td data-bbox="1198 1759 1247 1829">1</td> <td data-bbox="1279 1759 1328 1829">42</td> <td data-bbox="1360 1759 1442 1829">2.4</td> </tr> <tr> <td data-bbox="483 1829 1019 1877">Choose an item.</td> <td data-bbox="1198 1829 1247 1877"></td> <td data-bbox="1279 1829 1328 1877"></td> <td data-bbox="1360 1829 1442 1877"></td> </tr> </tbody> </table>			<b>Metric ID Number and Description</b>	<b>State N</b>	<b>State D</b>		9a Percentage of enforcement responses that return or will return source in violation to compliance (muni/ind ww)	20	28	71.4%	10a1 Major facilities with timely action as appropriate (muni/ind ww)	1	42	2.4	Choose an item.			
<b>Metric ID Number and Description</b>	<b>State N</b>	<b>State D</b>																	
9a Percentage of enforcement responses that return or will return source in violation to compliance (muni/ind ww)	20	28	71.4%																
10a1 Major facilities with timely action as appropriate (muni/ind ww)	1	42	2.4																
Choose an item.																			

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<b>State response</b>	Not all violations result in a formal enforcement action. PADEP does follow-up on all violations, utilizing various compliance assistance tools to ensure permittees return to compliance. PADEP is confident that the final implementation of the NPDES eReporting Rule will resolve the issue of inconsistent uploads of DMRs. The issue currently revolves around permittees utilizing paper DMRs and the manual entry of data in ICIS.
<b>Recommendation</b>	None

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## CWA Element 5 — Penalties

<b>Finding 5-1</b>	<b>Meets or Exceeds Expectations</b>					
<b>Summary</b>	<p>PADEP’s NPDES mining program consistently documents penalty calculations that include gravity and economic benefit (metric 11a).</p> <p>PADEP’s NPDES mining, municipal and industrial wastewater, and construction stormwater programs consistently document collection of penalties (metric 12b).</p>					
<b>Explanation</b>	<p>The SRF file review of PADEP’s NPDES mining program identified 15 out of 15 enforcement files that contained documentation of penalty calculations that included gravity and economic benefit as measured under metric 11a.</p> <p>The SRF file review of PADEP’s mining program identified 11 out of 13 enforcement files that contained documentation of the penalty collection as measured under metric 12b.</p>					
<b>Relevant metrics</b>	<b>Metric ID Number and Description</b>	<b>Natl Goal</b>	<b>Natl Avg</b>	<b>State N</b>	<b>State D</b>	<b>% or #</b>
	11a Penalty calculations reviewed that consider and include gravity and economic benefit (mining)	100%	-	15	15	100%
	12b Penalties collected (mining)	100%	-	11	13	84.6%
	12b Penalties collected (muni/ind ww)	100%	-	15	17	88.2%
	12b Penalties collected (const sw)	100%	-		8	
<b>State response</b>						
<b>Recommendation</b>	None					

**CWA Element 5 — Penalties**

<b>Finding 5-2</b>	<b>Area for State Attention</b>		
<b>Summary</b>	PADEP’s NPDES mining program typically documents the difference between initial and final penalties (metric 12a).		
<b>Explanation</b>	The SRF file review of PADEP’s NPDES mining program identified four (4) out of six (6) enforcement files that contained documentation of the difference between initial and final penalty as measured under metric 12a.		
	<b>Metric ID Number and Description</b>	<b>State N</b>	<b>State D</b>
	12a Documentation of the difference between initial and final penalty and rationale (mining)	4	6 66%
<b>State response</b>			
<b>Recommendation</b>	None		

## CWA Element 5 — Penalties

<b>Finding 5-3</b>	<b>Area for State Improvement</b>
<b>Summary</b>	<p>PADEP’s NPDES municipal and industrial wastewater, and construction stormwater programs do not consistently document penalty calculations that include gravity and economic benefit (metric 11a).</p> <p>PADEP’s NPDES municipal and industrial wastewater, and construction stormwater programs do not consistently document the difference between initial and final penalties (metric 12a).</p>
<b>Explanation</b>	<p>The SRF file review of PADEP’s NPDES municipal and industrial wastewater program identified seven (7) out of 16 enforcement files that contained documentation of penalty calculations that included gravity and economic benefit as measured under metric 11a. PADEP did not routinely include penalty calculation sheets or other documentation in the enforcement files sufficient to document that the initial penalty calculation considered gravity and economic benefit components when calculating a civil penalty to address NPDES violations.</p> <p>The SRF file review of PADEP’s NPDES construction stormwater program identified two (2) out of eight (8) enforcement files that contained documentation of initial penalty calculations that included gravity and economic benefit as measured under metric 11a. EPA determined that the PADEP-Southeast Regional Office (SERO) did not include penalty calculation sheets or other documentation in the four (4) enforcement files sufficient to document that the initial penalty calculation considered gravity and economic benefit components. However, PADEP-Southwest Regional Office (SWRO) did include documentation of penalty calculations in two (2) enforcement files that considered gravity and economic benefit as measured under metric 11a.</p> <p>The SRF file review of PADEP’s NPDES municipal and industrial wastewater program identified zero (0) out of 16 enforcement files that contained documentation of the difference between initial and final penalty as measured under metric 12a. PADEP did not include penalty calculation sheets or other documentation in the enforcement files sufficient to make a determination under metric 12a.</p> <p>The SRF file review of PADEP’s NPDES construction stormwater program identified four (4) out of eight (8) enforcement files that contained documentation of the difference between initial and final penalty as measured under metric 12a. EPA determined that the PADEP-Southeast Regional Office did not include penalty calculation</p>

sheets or other documentation in the four (4) enforcement files sufficient to make a determination under metric 12a. However, PADEP-Southwest Regional Office did include sufficient documentation of any difference between initial and final penalty in all 4 enforcement files reviewed by EPA.

The SRF round 1 and 2 reviews previously identified PADEP’s failure to adequately document penalties in accordance with federal and state guidance. During the SRF Round 2 and 3 reviews, PADEP program management stated to EPA that the program does not include penalty calculation sheets in the publicly available file on the advice of PADEP Counsel.

In response to EPA’s SRF recommendations from Round 2, PADEP Central Office developed a Penalty Summary Spreadsheet and required the regional offices to include a completed spreadsheet in each enforcement file as appropriate. The SRF Round 3 review determined that the PADEP regional offices are not consistently providing complete penalty information when filling out the spreadsheets often omitting pertinent penalty information measured under file metric 11a and 12a.

Metric ID Number and Description		State N	State D	
11a Penalty calculations reviewed that consider and include gravity and economic benefit (muni/ind ww)		7	16	43.8%
11a Penalty calculations reviewed that consider and include gravity and economic benefit (const sw)		2	8	25%
12a Documentation of the difference between initial and final penalty and rationale (muni/ind ww)		0	16	0%
12a Documentation of the difference between initial and final penalty and rationale (const sw)	100%	-	4	8 50%

**State response**

PADEP developed an SOP for penalty calculations that includes retaining electronic files documenting all penalty calculations. The SOP also gravity and economic benefit components. Central Office continues to work with regional staff to ensure that penalty calculations are complete and retained in PADEP’s eFACTS internal electronic files. With that said, calculation of economic benefit continues to be a challenge in enforcement proceedings, especially those involving smaller penalties. Currently, there is no economic benefit calculation that simplifies the process making it effective for implementation. PADEP

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continues to seek assistance on the development of an effective economic benefit tool. PADEP's penalty matrix does have the capability of documenting the difference between the initial and final penalties. Central Office will continue to work with regional staff to ensure the functionality is utilized.

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**Recommendation**

EPA will assess whether PADEP's penalty summary spreadsheets, when fully completed, include sufficient information to determine PADEP's compliance with federal/state penalty guidance as measured by SRF metrics 11a and 12a. EPA will also work with the PADEP program managers to ensure adequate standard operating procedures (SOP) are in place and training is provided to PADEP's regional office compliance staff on the use of the penalty spreadsheets. EPA will monitor PADEP's progress through quarterly enforcement management calls, and confirm completion of the recommendation through a limited desktop enforcement file review of PADEP's penalty documentation within 1 year of transmittal of the final PA SRF report. If EPA determines that PADEP's penalty summary spreadsheets do not provide adequate penalty documentation or if the limited file review identifies ongoing deficiencies/inconsistencies with PADEP penalty documentation, EPA will utilize the national OECA Escalation Policy to engage with PADEP senior management in order to complete the recommendation.

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## Clean Air Act Findings

### CAA Element 1 — Data

<b>Finding 1-1</b>	<b>Area for State Improvement</b>							
<b>Summary</b>	Failed stack tests are not accurately portrayed in Enforcement Compliance History Online (ECHO). All other data types appeared to be accurate when comparing the files to ECHO.							
<b>Explanation</b>	<p>The EPA review team found that for “failed” stack tests identified in the files in one (1) Region, the majority of them showed up as “passed” stack tests in the Air portion of the national database, Integrated Compliance Information System (ICIS) or commonly referred to as ICIS-Air. The other Region on-site file review did not identify any failed stack tests in the files. Subsequently, “failed” stack tests were reviewed for accuracy in ICIS across all of the PADEP Regions going back to 2011. Again, the majority of the “failed” stack tests referenced in Notices of Violation (NOVs) showed as “pass” in ICIS-Air. PADEP’s Central Stack Testing Group, which does the initial review of every stack test for conformity to the proper methods and process conditions, explained to EPA that if their review results in “pass”, then a result of “pass” is inputted into ICIS-Air. The stack test is then forwarded to the PADEP Regional Office for them to review for conformance to the permit limit or applicable standard. If the Regional review results in “fail”, the result was not updated to “fail” in the majority of cases. There were some instances where the Regional Office created an additional stack test entry with a result of “fail”. The date of this stack test was the result of their review. Thus, ICIS-Air portrayed a “failed” stack test that did not actually take place on the identified date.</p>							
	<table border="1"> <thead> <tr> <th data-bbox="483 1373 1175 1446">Metric ID Number and Description</th> <th data-bbox="1183 1373 1417 1446">State N</th> <th data-bbox="1183 1446 1417 1499">State D</th> </tr> </thead> <tbody> <tr> <td data-bbox="483 1446 1175 1499">2b Accurate MDR data in AFS</td> <td data-bbox="1183 1446 1417 1499"></td> <td data-bbox="1183 1446 1417 1499"></td> </tr> </tbody> </table>	Metric ID Number and Description	State N	State D	2b Accurate MDR data in AFS			
Metric ID Number and Description	State N	State D						
2b Accurate MDR data in AFS								
<b>State response</b>	<p>PADEP staff have been evaluating the stack test compliance records and data entry procedures. It has been found that regional staff were not entering eFACTS inspection records for failed stack tests in a consistent way. As a result, a new procedure for eFACTS entry of stack test related inspections has been developed. The new procedure was provided to the regional staff in December 2016 and is being implemented.</p> <p>Stack test data has been an area of difficulty for PADEP in the transition from AFS to ICIS-Air. Even given consist entry of stack test records,</p>							

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extraction from eFACTS of the data elements necessary to complete the ICIS-Air record remains very challenging. Bureau of Air Quality staff and IT support have started developing the additional programming to accurately extract and submit the compliance data for failed stack tests. This work has not yet been completed. Staff will continue to develop the programming necessary for extraction and submission of stack test data and will also continue to evaluate the data entry procedures and accuracy of the stack test data.

Finally, the transition from AFS to ICIS-Air has presented significant technical challenges related to the accurate data extraction and submission of compliance data in the format that EPA requires.

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**Recommendation**

- 1) PADEP to perform a root cause analysis for “failed” stack tests being inaccurately portrayed in ICIS. This should include a review of the current coordination efforts between PADEP’s Central Stack Test Group and the Regional Office to determine if they need to be improved. PADEP to submit the final root cause analysis report to EPA for their review and approval within 60 days after the date of the final report.
  - 2) PADEP to develop protocols (e.g., data management plan, SOP) to address issues and ensure accurate data entry into ICIS-Air for failed stack tests within 120 days after the date of the final report. EPA to review and approve the final protocols.
  - 3) EPA to conduct quarterly data reviews in conjunction with Timely & Appropriate (T&A) meetings for two (2) years after EPA approval of the protocol developed.
-

**CAA Element 1 — Data**

**Finding 1-2 Meets or Exceeds Expectations**

**Summary** The degree to which the state entered MDRs into ICIS-Air in a timely manner.

**Explanation** PADEP submits their data via electronic data transfer (EDT) into the national data system. Due to many issues associated with the initial transfer of data via EDT, PADEP’s initial upload of data via EDT did not take place until February 2016. Therefore, there was no data to review for FY 2015. As an alternative, the EPA Review Team reviewed the FY 2016 data once the FY 2016 data was frozen (February 2017). The FY 2016 data was pulled from ECHO on 02/22/17. The initial results were as follows:

<b>Metric ID Number and Description (FY2016)</b>	<b>State N</b>	<b>State D</b>	<b>State %</b>
3b1 Timely report reporting of compliance monitoring MDRs	1168	1353	86.3%
3b2 Timely reporting of stack test dates and results	348	383	90.0%
3b3 Timely reporting of enforcement MDRs	247	347	71.2%
3a2 Timely reporting of HPV determinations	43	43	100%

As mentioned above, the initial upload of PADEP into ICIS-Air did not take place until February, 2016. For metric 3b1, only six (6) of the 185 untimely entries were entered into ICIS after February 2016. For metric 3b2, only twelve (12) of the 35 untimely entries were entered into ICIS after February 2016. For metric 3b3, only 18 of the 100 untimely entries were entered into ICIS after February 2016. Therefore, the revised FY 2016 metrics would be as follows:

<b>Metric ID Number and Description (FY2016 -Revised excluding untimely entries prior to Feb. 2016)</b>	<b>State N</b>	<b>State D</b>	<b>State %</b>
3b1 Timely report reporting of compliance monitoring MDRs	1168	1174	99.5%
3b2 Timely reporting of stack test dates and results	348	371	93.8%
3b3 Timely reporting of enforcement MDRs	247	265	93.2%
3a2 Timely reporting of HPV determinations	43	43	100%

**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 % or #</b>
3b1 Timely reporting of compliance monitoring MDRs	100%	--	--	--	--

	3b2 Timely reporting of stack test dates and results	100%			
	3b3 Timely reporting of enforcement MDRs		--	--	--
	3a2 Timely reporting of HPV determinations		--	--	--
<b>State response</b>	PADEP greatly appreciates EPA’s flexibility regarding issues with the electronic transfer of data and EPA’s alternative data review”.				
<b>Recommendation</b>	None				

**CAA Element 1 — Data**

<b>Finding 1-3</b>	<b>Area for State Attention</b>							
<b>Summary</b>	The majority of Title V Annual Compliance Certifications show up in EPA’s Enforcement Compliance History Online website as duplicates.							
<b>Explanation</b>	<p>For the majority of facilities with TVACCs during the review year, the ECHO Detailed Facility Report showed two (2) TVACCs completed/facility within a couple of weeks of each other. This occurred for both Regional offices at which the file reviews took place. After reviewing the files for these facilities, the EPA Review Team found only one (1) of the two (2) TVACCs in the file. However, ECHO was showing the TVACC received and reviewed dates as separate entries (instead of a single TVACC). PADEP is an Electronic Data Transfer (EDT) state and use their personnel to enter data into their data system (i.e., eFACTs) and then flows the data to ICIS-Air 2x/month. The EPA subsequently determined PADEP personnel were correctly inputting the received and reviewed date into eFACTs (i.e., as one TVACC entry). However, a programming issue involving the flow of TVACCs from eFACTs to ICIS-Air was the cause of duplicate entries where the TVACC received and reviewed date were going over to ICIS-Air as separate (instead of a single) entry. PADEP has subsequently corrected the programming issue. The EPA Review Team confirmed that the program fix was successful by looking at metric 5e’s performance for FY 2016. According to the metric 5e FY 2016 Annual Data Metric Analysis PADEP reviewed 458 TVACCs in FY 2016. The EPA Review Team reviewed the underlying data and found that there were 458 TVACCs reviewed at 458 facilities.</p>							
	<table border="1"> <thead> <tr> <th>Metric ID Number and Description</th> <th>State N</th> <th>State D</th> </tr> </thead> <tbody> <tr> <td>2b Accurate MDR data in AFS</td> <td></td> <td></td> </tr> </tbody> </table>	Metric ID Number and Description	State N	State D	2b Accurate MDR data in AFS			
Metric ID Number and Description	State N	State D						
2b Accurate MDR data in AFS								
<b>State response</b>	<p>PADEP staff have two comments/clarifications to make on this analysis. There is a requirement for Title V (T5) facilities to submit an annual compliance certification report (TVACC), and an obligation on Air Quality’s report to review this report. The October 4, 2016 Compliance Monitoring Strategy (CMS) requires Air Quality to report both the T5 Annual certification report date received (on TVACC ICIS-Air screen this is called the Compliance Monitoring Actual End Date) and the date the certification report was reviewed. Air Quality enters each of these items separately, and correctly, into eFACTS. The error was that EPA</p>							

	requires both of these pieces of data be put into one record, TVACC. We have corrected our data mapping and download to have this data in the format that EPA requires for ICIS-Air. This correction has been acknowledged and correction confirmed by EPA as noted in the explanation section for this metric.
<b>Recommendation</b>	None

## CAA Element 2 — Inspections

Finding 2-1	Meets or Exceeds Expectations						
Summary	PADEP met the negotiated frequency compliance evaluations for the Synthetic Minor- 80 (SM-80) synthetic minor sources, conducted the vast majority of the Full Compliance Evaluations (FCE) at major sources scheduled and the Title V Annual Compliance Certifications scheduled to be reviewed. All Compliance Monitoring Reports (CMR) reviewed provided sufficient documentation to determine facility compliance and document the FCE elements.						
Explanation	All required FCEs at synthetic minor sources were conducted. In addition, PADEP conducted > 98% of the major sources scheduled to be inspected and reviewed > 95% of the Title V Annual Compliance Certifications scheduled to be reviewed. All CMRs reviewed provided sufficient documentation to determine facility compliance and document the FCE elements, and the EPA review team found the majority of the CMRs reviewed to be well-written.						
Relevant metrics	Metric ID Number and Description		Natl Goal	Natl Avg	State N	State D	State % or #
	5a FCE coverage: majors and mega-sites		100%	63.20%	400	406	98.50%
	5b FCE coverage: SM-80s		100%	79.50%	373	373	100%
	5c FCE coverage: minors and synthetic minors (non-SM 80s) that are part of CMS plan or alternative CMS Plan.		100%	NA	NA	NA	NA
	5e Review of Title V annual compliance certifications		100%	39.10%	480	504	95.24%
	6a Documentation of FCE elements		100%	NA	36	36	100%
	6b Compliance monitoring reports (CMRs) or facility files reviewed that provide sufficient documentation to determine compliance of the facility		100%	NA	36	36	100%
State response							
Recommendation	None						

### CAA Element 3 — Violations

Finding 3-1	Meets or Exceeds Expectations						
Summary	PADEP did a thorough and comprehensive job in making High Priority Violation determinations and accurately reporting High Priority Violations and Federally Reportable Violations into ICIS-Air. However, two (2) failed stack tests found in one (1) regional office were shown as “pass” in ICIS-Air. See recommendation under finding 1-1.						
Explanation	PADEP made accurate HPV determinations on all of the 44 violations reviewed. Additionally, while > 97% of the 67 compliance determinations reviewed were accurately reported to ICIS-Air, there were two (2) instances where “failed” stack tests found in the file were incorrectly reported to ICIS-Air as “pass”. Finally, > 97% of HPV determinations made by PADEP in FY 2015 were made in a timely manner (i.e., within 90 days of the discovery action).						
Relevant metrics	Metric ID Number and Description		Natl Goal	Natl Avg	State N	State D	State % or #
	7a Accuracy of compliance determinations		100%	NA	65	67	97.04%
	8c Accuracy of HPV determinations		100%	NA	44	44	100%
	13 Timeliness of HPV determinations		100%	82.6%	35	36	97.22%
State response							
Recommendation	None						



**CAA Element 4 — Enforcement**

<b>Finding 4-1</b>	<b>Meets or Exceeds Expectations</b>					
<b>Summary</b>	PADEP included corrective actions in formal responses and took timely and appropriate enforcement action consistent with the HPV policy.					
<b>Explanation</b>	All formal enforcement responses reviewed required the facility to return to compliance if they had not already done so at the time of the execution of the Consent Agreement. In addition, all enforcement responses reviewed by the EPA review team were determined to be appropriate. For those HPVs not addressed by Day 180, PADEP had adequate Case Development and Resolution Timelines in place that contained required policy elements.					
<b>State response</b>	<b>Metric ID Number and Description</b>		<b>State N</b>	<b>State D</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.		25	25	100%	
	10a Timeliness of addressing HPVs or alternatively having a case development and resolution timeline in place.		13	13	100%	
	10b Percent of HPVs that have been have been addressed or removed consistent with the HPV Policy.		8	8	100%	
	14 HPV Case Development and Resolution Timeline In Place When Required that Contains Required Policy Elements		100%	NA	8	8
<b>Recommendation</b>	None					

**CAA Element 5 — Penalties**

<b>Finding 5-1</b>	<b>Meets or Exceeds Expectations</b>																
<b>Summary</b>	PADEP did a thorough and comprehensive job in documenting penalty calculations. The difference between the initial and final penalties were included, where applicable.																
<b>Explanation</b>	All of the penalty calculations reviewed included the gravity and economic benefit components and, where applicable, documented the difference between the initial and final penalties. In general, the EPA review team found the penalty files to be complete and thorough. All documentation of the penalties collected in FY 2015 was found in the files.																
	<table border="1"> <thead> <tr> <th><b>Metric ID Number and Description</b></th> <th><b>State N</b></th> <th><b>State D</b></th> <th></th> </tr> </thead> <tbody> <tr> <td>11a Penalty calculations reviewed that document gravity and economic benefit</td> <td>23</td> <td>23</td> <td>100%</td> </tr> <tr> <td>12a Documentation of rationale for difference between initial penalty calculation and final penalty</td> <td>17</td> <td>17</td> <td>100%</td> </tr> <tr> <td>12b Penalties collected</td> <td></td> <td>23</td> <td></td> </tr> </tbody> </table>	<b>Metric ID Number and Description</b>	<b>State N</b>	<b>State D</b>		11a Penalty calculations reviewed that document gravity and economic benefit	23	23	100%	12a Documentation of rationale for difference between initial penalty calculation and final penalty	17	17	100%	12b Penalties collected		23	
<b>Metric ID Number and Description</b>	<b>State N</b>	<b>State D</b>															
11a Penalty calculations reviewed that document gravity and economic benefit	23	23	100%														
12a Documentation of rationale for difference between initial penalty calculation and final penalty	17	17	100%														
12b Penalties collected		23															
<b>State response</b>																	
<b>Recommendation</b>	None																

## Resource Conservation and Recovery Act Findings

RCRA Element 1 — Data																		
<b>Finding 1-1</b>	<b>Area for State Improvement</b>																	
<b>Summary</b>	In 72.7% of the files reviewed, all mandatory data was entered into RCRAInfo, the national database for the RCRA program.																	
<b>Explanation</b>	<p>There were 15/55 instances of which all mandatory data was not entered into RCRAInfo. These instances include:</p> <ul style="list-style-type: none"> <li>- Inspection incorrectly coded into RCRAInfo (entered into RCRAInfo as CEI but appears to be FCI) – one (1) file</li> <li>- Inspection(s) entered into RCRAInfo which was not performed - one (1) file</li> <li>- Inspection(s) performed which was not entered into RCRAInfo - one (1) files</li> <li>- Identified violation(s) which was not entered into RCRAInfo - eight (8) files. Of these eight (8) files, there were five (5) files in which only one violation (of several identified during an inspection) that was not entered into RCRAInfo. For the remaining files, none of the violations identified during inspection were entered into RCRAInfo, however, the reviewers believe this to be a data management oversight rather than a pattern of concern.</li> <li>- Enforcement action(s) which were not entered into RCRAInfo - two (2) files</li> <li>- Incorrect or missing return to compliance (RTC) date(s) – four (4) files</li> <li>- Penalty information which was not entered into RCRAInfo – one (1) file</li> </ul> <p>Data accuracy was raised as an issue in SRF Round 2, however, the review team observed improvement since the previous round. During SRF Round 2, metric 2b was found to be at 55% as compared to 72.7% in SRF Round 3.</p> <p>NOTE: Some files had more than one data quality issue, which causes some double counting.</p>																	
<b>Relevant metrics</b>	<table border="1"> <thead> <tr> <th>Metric ID Number and Description</th> <th>Natl Goal</th> <th>Natl Avg</th> <th>State N</th> <th>State D</th> <th>State % or #</th> </tr> </thead> <tbody> <tr> <td>2a Long-standing secondary violators</td> <td></td> <td></td> <td></td> <td></td> <td>133</td> </tr> </tbody> </table>						Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #	2a Long-standing secondary violators					133
Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #													
2a Long-standing secondary violators					133													

2b Complete and accurate entry of mandatory data	100%		40	55	72.7%
5a Two-year inspection coverage for operating TSDFs	100%	100%	39	39	100%
5b Annual inspection coverage for LQGs	20%	18.3%	292	1004	29.1%
5c Five-year inspection coverage for LQGs	100%	52.5%	540	1004	53.8%
5d One-year inspection coverage for active SQGs		10.2%	959	9788	9.8%
5e1 Number of inspections at conditionally exempt SQGs					696
5e2 Number of inspections at transporters					38
5e3 Number of inspections at non-notifiers					0
5e4 Number of inspections at facilities not covered by metrics 2c through 2f3					997
7b Violations found during inspections		36.5%	238	932	25.5%
8a SNC identification rate		2.2%	3	932	.3%
10a Timely enforcement taken to address SNC	80%	81.4%	1	1	100%

**State response**

PADEP disagrees with EPA’s Finding. PADEP developed and utilizes a RCRAInfo QA/QC Plan as part of the control measure for data management. The ultimate goal of the data management process is to be at or above 95%. As EPA is aware, PADEP does not utilize direct input of data into RCRAInfo. Rather data is entered into Pennsylvania’s Environmental Facility Application Compliance Tracking System (eFACTS). Staff oversee the data translation (from eFACTS to RCRAInfo), which occurs every 2 weeks. For each site where data translation “fails”, a notice is returned to PADEP with notation for which parameters caused the translation to not be successful. These data errors are manually researched and re-entered, and are subsequently resubmitted to RCRAInfo. As part of this effort, the Data Quality Plan will be reviewed and updated. Upon update, the plan will be distributed and reviewed with regional and central office staff involved in the data management process. In addition, each site involved in this SRF assessment will be manually updated to meet data management objectives.

Regarding the specific data related to this SRF review (which EPA does recognize), PADEP data accuracy was noted to be 72.7%, which is an increase of nearly 18% from the previous SRF review period, where data accuracy was noted at 55%. PADEP anticipates meeting our goal prior to the next SRF review. As part of PADEP’s efforts to meet that goal, we have 1) Migrated to OpenNode2 Infrastructure from a now obsolete

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	<p>platform in 2015, 2) Enhanced a manual error tracking system to capture, correct and resubmit errors, and 3) Are soon to implement enhanced error tracking and processing through automated routines that will notify IT and program staff when an error occurs and is (automatically) corrected, or if manual intervention is required. Some of these improvements occurred during the SRF fiscal year being reviewed, so not all of the improvements were captured during this review cycle.</p>
<b>Recommendation</b>	<p>Within 90 days of the SRF report becoming final, PADEP shall examine data entry, file management, and quality control processes to identify potential causes of incompleteness or inaccuracy, including translation errors between the state and national databases. PADEP will provide EPA with any findings and proposed steps to address identified issues.</p>

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## RCRA Element 2 — Inspections

<b>Finding 2-1</b>	<b>Meets or Exceeds Expectations</b>
<b>Summary</b>	Inspections are thorough and completed within timelines established by EPA's Enforcement Response Plan.
<b>Explanation</b>	<p>5c - PADEP and EPA coordinate efforts to maximize resources and ensure coverage of the RCRA inspection goals. PADEP includes EPA's inspection targets when developing their inspection plan. Both EPA and PADEP's inspections count towards the combined goal for RCRA inspections in Pennsylvania. Therefore, 560 of 1004 LQGs were inspected in the five (5) year cycle</p> <p>Furthermore, in response to a national pharmaceutical case, PADEP experienced a significant increase in generators notifying as LQGs. Of the 444 LQGs not inspected, 312 of them are Rite Aid, CVS and COSTCO stores who recently notified as LQGs in response to the national retail pharmacy case. There are an additional 32 facilities that are new to the 2013 biennial reporting (BR) universe and were not present on the 2011 Biannual Report. Taking into account that these facilities are within the five (5) year inspection cycle, since they were not on the 2011 Biannual Report as LQGs, PADEP's five (5) year inspection coverage is approximately 90%.</p> <p>6a – All inspection reports contained a through narrative and appropriate checklist(s); many also contained additional documentation such as photos, copies of training records, copies of manifests, etc. Compared to previous rounds of SRF reviews, reviewers have seen consistent improvement in the number of reports containing both checklists and detailed supporting narratives.</p> <p>There were four (4) instances in which the inspection reports were insufficient to determine compliance. These instances include:</p> <ul style="list-style-type: none"><li>- Comments in two (2) inspection reports allude to potential areas of concern/violation, but no observations or violations were documented in the report.</li><li>- For one (1) facility, PADEP conducted a number of inspections during the review period. For some waste streams, it was unclear if the facility was in violation for failure to make a waste determination/improper disposal. It was also unclear if these possible violations were ongoing and if and when the facility returned to compliance.</li></ul>

- For one (1) facility, the inspection report documented a container violation, and RCRAInfo indicated a return to compliance for this violation as the same day of the inspection. However, it was unclear from the inspection report whether and how the facility returned to compliance.

6b - The number of days to complete inspection reports ranged between one (1) and 235, with the average being 19 days. In only one (1) instance was the 150-day timeliness criteria not met.

Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
	5a Two-year inspection coverage of operating TSDFs				39	39
5b Annual inspection coverage of LQGs				292	1004	29.1%
5c Five-year inspection coverage of LQGs				540	1004	53.8%
5d Five-year inspection coverage of active SQGs				959	9788	9.8%
5e1 Five-year inspection coverage of active conditionally exempt SQGs						696
5e2 Five-year inspection coverage of active transporters						38
5e3 Five-year inspection coverage of active non-notifiers						0
5e4 Five-year inspection coverage of active sites not covered by metrics 2c through 2f3						997
6a Inspection reports complete and sufficient to determine compliance				50	54	92.6%
6b Timeliness of inspection report completion					50	

**State response**

**Recommendation** None

### RCRA Element 3 — Violations

<b>Finding 3-1</b>	<b>Meets or Exceeds Expectations</b>					
<b>Summary</b>	Accurate compliance determinations were made in all instances.					
<b>Explanation</b>	7a – PADEP is thorough in their documentation of violations. The inspection reports document violations which are enforceable and deficiencies which do not rise to the level of enforcement. In addition, complying actions are identified, to effect the change in behavior required for compliance.					
<b>Relevant metrics</b>	<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 % or #</b>
	2a Long-standing secondary violators					133
	7a Accurate compliance determinations	100%		55	55	100%
<b>State response</b>						
<b>Recommendation</b>	None					



## RCRA Element 3 — Violations

<b>Finding 3-2</b>	<b>Area for State Attention</b>																														
<b>Summary</b>	SNC and violation data entry are areas which need renewed State attention.																														
<b>Explanation</b>	<p>There were six (6) facilities for which the reviewers feel the violations rose to the level of SNC. For these six (6) facilities, formal enforcement was taken and a penalty was assessed, although the State did not enter this designation within RCRAInfo or document this determination in the files. Because the enforcement actions taken in these instances were comparable to what would be expected for SNC facilities, we view this as more of a data management issue than an enforcement program implementation problem.</p> <p>7b - As discussed under Finding 1-1, reviewers noted instances where violations were identified during an inspection but were not entered into RCRAInfo. Therefore, we view this as more of a data management issue than an enforcement program implementation problem.</p>																														
<b>Relevant metrics</b>	<table border="1"> <thead> <tr> <th>Metric ID Number and Description</th> <th>Natl Goal</th> <th>Natl Avg</th> <th>State N</th> <th>State D</th> <th>State % or #</th> </tr> </thead> <tbody> <tr> <td>7b Violations found during inspections</td> <td></td> <td>36.5%</td> <td>238</td> <td>932</td> <td>25.5%</td> </tr> <tr> <td>8a SNC identification rate</td> <td></td> <td>2.2%</td> <td>3</td> <td>932</td> <td>.3%</td> </tr> <tr> <td>8b Timeliness of SNC determinations</td> <td>100%</td> <td>79%</td> <td>4</td> <td>4</td> <td>100%</td> </tr> <tr> <td>8c Appropriate SNC determinations</td> <td>100%</td> <td></td> <td>49</td> <td>55</td> <td>89.1%</td> </tr> </tbody> </table>	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #	7b Violations found during inspections		36.5%	238	932	25.5%	8a SNC identification rate		2.2%	3	932	.3%	8b Timeliness of SNC determinations	100%	79%	4	4	100%	8c Appropriate SNC determinations	100%		49	55	89.1%
Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #																										
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8c Appropriate SNC determinations	100%		49	55	89.1%																										
<b>State response</b>	<p>PADEP agrees in part with EPA’s finding and recommendations. PADEP works closely with the regulated community in maintaining and achieving compliance through compliance assistance activities. PADEP intends to review its guidance for identifying facilities in significant non-compliance (SNC). PADEP intends to include EPA in this effort.</p>																														
<b>Recommendation</b>	See Recommendation for Finding 1-1.																														

## RCRA Element 4 — Enforcement

<b>Finding 4-1</b>	<b>Meets or Exceeds Expectations</b>																								
<b>Summary</b>	Enforcement actions taken were appropriate and returned violators to compliance.																								
<b>Explanation</b>	<p>9a – In 19 instances, facilities returned to compliance prior to any enforcement action being taken. Return to compliance was documented in all of these files.</p> <p>In 15 of 18 instances, enforcement was taken that returned violators to compliance. In the three (3) remaining instances, the files lacked sufficient documentation to verify that each facility returned to compliance. For one (1) of these three (3) instances, there were also no return to compliance dates in RCRAInfo for some of the violations. The reviewers view these as issues related more to file and data management, rather than a programmatic inability to promote return to compliance.</p> <p>10b – Reviewers noted three (3) instances where no enforcement was taken, but which may have warranted formal enforcement and follow-up. In two (2) instances, there were facilities in which there was a history of noncompliance for the same violations. In the third instance, the reviewers believed that the nature of the violations warranted formal enforcement. However, these instances do not constitute a pattern (they were in two (2) different regions and involved different types of violations) and are not indicative of the overall appropriateness of enforcement taken to address violations.</p>																								
<b>Relevant metrics</b>	<table border="1"> <thead> <tr> <th>Metric ID Number and Description</th> <th>Natl Goal</th> <th>Natl Avg</th> <th>State N</th> <th>State D</th> <th>State % or #</th> </tr> </thead> <tbody> <tr> <td>9a Enforcement that returns violators to compliance</td> <td>100%</td> <td></td> <td>15</td> <td>18</td> <td>83.3%</td> </tr> <tr> <td>10a Timely enforcement taken to address SNC</td> <td>80%</td> <td>81.4%</td> <td></td> <td></td> <td>100%</td> </tr> <tr> <td>10b Appropriate enforcement taken to address violations</td> <td>100%</td> <td></td> <td>35</td> <td>38</td> <td>92.1%</td> </tr> </tbody> </table>	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #	9a Enforcement that returns violators to compliance	100%		15	18	83.3%	10a Timely enforcement taken to address SNC	80%	81.4%			100%	10b Appropriate enforcement taken to address violations	100%		35	38	92.1%
Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #																				
9a Enforcement that returns violators to compliance	100%		15	18	83.3%																				
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10b Appropriate enforcement taken to address violations	100%		35	38	92.1%																				
<b>State response</b>																									
<b>Recommendation</b>	None																								

## RCRA Element 5 — Penalties

<b>Finding 5-1</b>	<b>Meets or Exceeds Expectations</b>					
<b>Summary</b>	All penalty calculations included gravity and economic benefit and proper documentation of penalty collection was maintained.					
<b>Explanation</b>	Penalties were assessed in seven (7) instances, although one (1) of those instances was still being negotiated at the time of the review. All penalty calculations included documentation of gravity, economic benefit, and other appropriate factors. Documentation of penalty collection was also maintained for all instances where penalties were final and had been collected.					
<b>Relevant metrics</b>	<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 % or #</b>
	11a Penalty calculations include gravity and economic benefit	100%		7	7	100%
	12b Penalties collected	100%		6	6	100%
<b>State response</b>						
<b>Recommendation</b>	None					

## RCRA Element 5 — Penalties

<b>Finding 5-2</b>	<b>Area for State Attention</b>												
<b>Summary</b>	Documentation of difference between initial and final penalty calculations maintained 60% of the time.												
<b>Explanation</b>	<p>Penalties were assessed in seven (7) instances, although one (1) of those instances was still being negotiated at the time of the review. In another instance, the initial assessed penalty calculation was the same as the final penalty amount.</p> <p>Of the five (5) instances that were evaluated, only two (2) files did not include documentation of the difference between the initial and final penalty.</p> <p>At the time of the reviews, reviewers did not observe penalty documentation in any files for which a penalty was assessed. As such, the reviewers discussed with PADEP how penalty calculation documentation is maintained and learned that penalty calculation information is typically maintained separate to the inspection files. Upon request, PADEP provided the penalty calculation information for three (3) files and provided justification for why such documentation was unavailable for an additional file. As a result, reviewers do not view these instances as indicative of a pattern, but rather a minor file management issue.</p>												
<b>Relevant metrics</b>	<table border="1"> <thead> <tr> <th>Metric ID Number and Description</th> <th>Natl Goal</th> <th>Natl Avg</th> <th>State N</th> <th>State D</th> <th>State % or #</th> </tr> </thead> <tbody> <tr> <td>12a Documentation on difference between initial and final penalty</td> <td>100%</td> <td></td> <td>3</td> <td>5</td> <td>60%</td> </tr> </tbody> </table>	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #	12a Documentation on difference between initial and final penalty	100%		3	5	60%
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12a Documentation on difference between initial and final penalty	100%		3	5	60%								
<b>State response</b>	PADEP agrees with EPA’s findings. PADEP believes these instances are happenstance and not indicative of a pattern that would necessitate a significant change in procedure.												
<b>Recommendation</b>	None												